

**FIRST SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3,237 of 2nd August, 2001



I ASSENT,

P. SPELLER,

ACTING GOVERNOR.

2nd August, 2001.



GIBRALTAR

No. 27 of 2001

AN ORDINANCE to amend the Employment Ordinance so as to transpose into the law of Gibraltar Council Directive 98/49/EC on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community.

ENACTED by the Legislature of Gibraltar.

Employment Ordinance (Amendment) Ordinance, 2001
[No. 27 of 2001]

Citation.

1. This Ordinance may be cited as the Employment Ordinance (Amendment) Ordinance 2001.

Amendment of the Employment Ordinance.

2.(1) The Employment Ordinance shall be amended in accordance with the provisions of this section.

(2) The heading to Part VB (Equal Treatment in Occupational Pension Schemes) shall be amended by inserting after the words “Equal Treatment” the words “and Non-Discrimination”.

(3) After section 52P (reference to Industrial Tribunal) there shall be inserted the following sections–

“Prohibition on different rules for overseas residents etc.

52Q.(1) This section applies where an occupational pension scheme contains provisions contravening subsection (2) or (3).

(2) Except so far as regulations otherwise provide, provisions of an occupational pension scheme contravene this subsection to the extent that they would (apart from this section) have an effect with respect to–

- (a) the entitlement of any person to benefits under the scheme, or
- (b) the payment to any person of benefits under the scheme,

which would be different according to whether or not a place outside Gibraltar is specified by that person as the place to which he requires payments of benefits under the scheme to be made to him.

(3) Except so far as regulations otherwise provide, provisions of an occupational pension scheme contravene this subsection to the

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extent that they would (apart from this section) have an effect with respect to—

- (a) the entitlement of any person to remain a member of the scheme,
- (b) the eligibility of any person to remain a person by or in respect of whom contributions are made towards or under the scheme, or
- (c) the making by or in respect of any person who is a member of the scheme of any contributions towards or under the scheme,

which would be different according to whether that person works wholly in Gibraltar or wholly or partly outside Gibraltar.

(4) Provisions contravening subsection (2) shall have effect, in relation to all times after the coming into force of section 2 of the Employment Ordinance (Amendment) Ordinance 2001, as if they made the same provision in relation to a person who requires payments of benefits to be made to a place outside Gibraltar as they make in relation to a person in whose case all payments of benefits fall to be made to a place in Gibraltar.

(5) Provisions contravening subsection (3) shall have effect, in relation to all times after the coming into force of section 2 of the Employment Ordinance (Amendment) Ordinance 2001, as if they made the same provision in relation to persons working wholly or partly outside Gibraltar as they make in relation to persons working wholly in Gibraltar.

(6) This section—

- (a) shall be without prejudice to any enactment under which any amount is to be or may be deducted, or treated as deducted, from amounts payable by way of benefits under the scheme or treated as so payable; and
- (b) shall not apply in relation to so much of any provision of a scheme as is required for securing compliance

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with the conditions of any approval, exemption or relief given or available under the Income Tax Ordinance.

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Regulations.

52R. The Minister may make regulations prescribing anything that needs to be prescribed, and making such further provision as appears to him necessary or expedient for the purposes of carrying this Part into effect.”

Passed by the Gibraltar House of Assembly on the 23rd day of August, 2001.

D. J. REYES,
Clerk to the Assembly.