

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 2,799 of 22nd September, 1994.

LEGAL NOTICE No. 100 OF 1994.

EMPLOYMENT ACT.

GIBRALTAR DEVELOPMENT CORPORATION ACT, 1990.

EMPLOYMENT (AMENDMENT) REGULATIONS, 1994.

These regulations are made -

- (a) by the Governor in exercise of the powers conferred on him by sections 12 and 86 of the Employment Act, and of all other enabling powers; and
- (b) by the Government in exercise of the powers conferred on it by section 26 of the Gibraltar Development Corporation Act 1990, and of all other enabling powers; and
- (c) in part, for the purpose of transposing into the national law of Gibraltar Council Directive 91/533/EEC.

Title and commencement.

1. These regulations may be cited as the Employment (Amendment) Regulations 1994 and shall come into effect on the day of this notice.

Amendment to regulation 2.

2. Regulation 2 of the Employment Regulations 1994 (hereinafter called "the principal Regulations") is amended by inserting after the definition of "engagement" the following new definition-

""detached worker" means a person who-

- (a) is not ordinarily resident in Gibraltar, and
- (b) is in employment in a country outside Gibraltar,

and is required by his employer to whom the provisions of paragraphs (a) and (b) also apply to perform work of a

temporary nature in Gibraltar in the course of his employment;"

New regulation 15A.

3. The Employment Regulations are amended by inserting after regulation 15 the following new regulation 15A-

"Application of regulation to detached workers.

15A.(1) Where a detached worker is an entitled worker -

(a) by virtue of failing within one of the paragraphs of regulation 6 (4); or

(b) because his employer is an employer who, by virtue of the application of the law of the European Union or of the European Economic Area is entitled to provide services in Gibraltar,

the employer shall notify the Director no later than five working days before it is proposed that the detached worker commence temporary employment in Gibraltar.

(2) A notification under sub-regulation (1) shall be accompanied by the prescribed fee, and shall be in writing and shall include sufficient details of the employer and the detached worker to enable the Director to satisfy himself that the detached worker in respect of whom the notification is made, is employed by the employer in the State of establishment of the employer and has the benefit of the relevant provisions in that State in respect of industrial injury insurance and medical expenses.

(3) Where the Director is satisfied that the detached worker in respect of whom notification has been made is employed in the State of establishment of the employer and has the benefit specified in sub-regulation (2), the Director shall so advise the employer in writing.

(4) An employer who causes a detached worker to perform work in Gibraltar prior to receiving the written notification specified in sub-regulation (3) and the person to whom that employer is

providing a service (except where that person is a private householder) shall be guilty of an offence punishable on summary conviction by a fine on level 3 on the standard scale.

- (5) Where the detached worker is an entitled worker regulations 4, 5,6 (except sub-regulation (4)) 7,9,9,10,11,12,13 and 15 shall not apply.
- (6) Regulation 14 shall apply subject to the variation that the reference shall be to regulation 15A in place of regulation 11.
- (7) Where an employer proposes to use a detached worker in Gibraltar and that detached worker is not an entitled worker, the provisions of regulation 7 shall apply as if references in that regulation to a proposal to engage a worker were references to proposals to use a detached worker.
- (8) The provisions of these regulations shall apply to a person to whom sub-regulation (7) applies subject to such variations as are necessary to substitute for references to a worker references to a detached worker."

Amendment to Schedule 2.

4. Schedule 2 to the Employment Regulations 1994 is amended by inserting after item 26 the following new item-

"27. Are any of the terms or conditions of employment in respect of the employment covered by this application governed by a collective agreement or by a Conditions of Employment order or by a registered joint industrial council?

If 'yes', specify with which trade union the collective agreement is made (give sufficient detail to identify the relevant agreement) or specify which Conditions of Employment order or which registered joint industrial council is applicable to the employment."

Amendment to Schedule 3.

5. Schedule 3 to the principal regulations is amended by inserting after item 1 the following new item -

"12. Are any of the terms or conditions of employment in respect of the employment covered by this application governed by a collective agreement or by a Conditions of Employment order or by a registered joint industrial council?

If 'yes', specify with which trade union the collective agreement is made (give sufficient detail to identify the relevant agreement) or specify which Conditions of Employment order or which registered joint industrial council is applicable to the employment."

Amendment to Schedule 7.

6. Schedule 7 to the principal Regulations is amended by inserting in Part II a new item 3 as follows-

"3. The fee payable to the Director in respect of a notification or application under regulation 15A £20".

Dated this 22nd day of September, 1994.

By Command,

A. CARTER,

Deputy Governor

J. Moss,

Minister for Education,
Employment and Youth Affairs.