

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3566 of 16 November, 2006

LEGAL NOTICE NO. 127 OF 2006.

EMPLOYMENT ORDINANCE

**EMPLOYMENT (BULGARIA AND ROMANIA) (AMENDMENT)
REGULATIONS 2006**

In the exercise of his powers under section 86(1)(g) of the Employment Ordinance, and all other enabling powers, and in connection with the accession of the Republic of Bulgaria and Romania to the European Union the Minister has made the following regulations—

Title and Commencement.

1. These regulations may be cited as the Employment (Bulgaria and Romania) (Amendment) Regulations 2006 and come into operation on 1 January 2007.

Amendment of the Employment Regulations 1994.

2. The Employment Regulations 1994 are amended by substituting for regulation 7A—

**“Workers from Central and Eastern European States (including
Bulgaria and Romania).**

7A.(1) This regulation shall apply—

- (a) in respect of relevant accession State workers, during the transitional period as defined in section 46A(1)(a) of the Immigration Control Ordinance;
- (b) in respect of Bulgarian or Romanian transitional period workers, during the transitional period as defined in section 46A(1)(b) of the Immigration Control Ordinance.

(2) For the purposes of this regulation—

“Bulgarian or Romanian transitional period worker” means a citizen of Bulgaria or Romania who is legally employed in Gibraltar, but is not a qualified person as defined in section 46A(3) of the Immigration Control Ordinance;

“legally employed” means employed under a work permit issued under regulation 7;

“relevant accession state” means the Czech Republic, the Republic of Estonia, the Republic of Hungary, the Republic of Latvia, the Republic of Lithuania, the Republic of Poland, the Slovak Republic, or the Republic of Slovenia; and

“relevant accession state worker” means a citizen of a relevant accession state who is legally employed in Gibraltar but is not a qualified person (as defined in section 46A(3) of the Immigration Control Ordinance).

- (3) Regulation 7, and all references to regulation 7 in regulations 8, 9, 11 and 16, shall apply to a relevant accession state worker and to a Bulgarian or Romanian transitional period worker to the same extent as to a non-entitled worker except that—
 - (a) in regulation 7(3)(h) the words “valid passport” shall, for the purposes of relevant accession state workers or Bulgarian or Romanian transitional period workers, be construed to mean valid passport or valid identity card issued by the government of the relevant accession state, Bulgaria or Romania; and
 - (b) regulation 7(5)(c) shall not apply to a relevant accession state worker or to a Bulgarian or Romanian transitional period worker.
- (4) A family member (as defined in section 39(1) of the Immigration Control Ordinance) of a relevant accession state worker shall be an entitled worker if—
 - (a) the relevant accession state worker concerned is in legal employment in Gibraltar; and

- (b) the family member–
 - (i) was lawfully resident in Gibraltar on 1 May 2004 with the worker and the worker holds a work permit of at least 12 months duration; or
 - (ii) commenced lawful residence in Gibraltar with the worker during the transitional period and has been lawfully resident in Gibraltar for 18 months or is legally resident in Gibraltar on 1 May 2007 whichever is earlier; for the purpose of this subparagraph a family member shall be treated as having been lawfully resident in Gibraltar for 18 months if he was lawfully resident in Gibraltar at the beginning and end of that period and any intervening periods in which he was not resident in Gibraltar do not, in total, exceed 45 days.

- (5) The spouse and dependants under the age of 21 of a worker who is a citizen of Bulgaria or Romania shall be entitled workers if–
 - (a) the worker concerned is in legal employment in Gibraltar; and
 - (b) he is the spouse or dependant under the age of 21 of the worker and–
 - (i) was lawfully resident in Gibraltar on 1 January 2007 with the worker and the worker holds a work permit of at least 12 months duration; or
 - (ii) commenced lawful residence in Gibraltar with the worker during the transitional period and has been lawfully resident in Gibraltar for 18 months, or is legally resident in Gibraltar on 31 December 2009, whichever is earlier, and, for the purpose of this sub-paragraph, a person shall be treated as having been lawfully resident in Gibraltar for 18 months if he was lawfully resident in Gibraltar at the beginning and end of

that period and any intervening periods in which he was not resident in Gibraltar do not, in total, exceed 45 days.”.

Dated this 16th day of November, 2006.

J J HOLLIDAY,

Minister with responsibility for Employment.

EXPLANATORY MEMORANDUM

These regulations make provision in consequence of the accession of Bulgaria and Romania to the European Union on 1 January 2007. The regulations provide that workers who are citizens of Bulgaria or Romania shall be treated as non-entitled workers, and thus require a work permit to work in Gibraltar, during the transitional period as defined in the Immigration Control Ordinance. However, when a citizen of Bulgaria or Romania has worked in Gibraltar with a work permit for an uninterrupted period of 12 months or longer, they shall no longer require a work permit in order to take employment and shall be considered to be entitled workers for the purpose of the Employment Regulations.

These regulations also provide that, in limited circumstances, the spouse and dependants under 21 of a worker from Bulgaria or Romania shall be considered to be entitled workers and thus may work in Gibraltar without a work permit.