

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**
No. 3678 of 2 October, 2008

LEGAL NOTICE NO. 78 OF 2008.

EMPLOYMENT ACT

**EMPLOYMENT (AMENDMENT) (ASYLUM AND FREE
MOVEMENT) REGULATIONS 2008**

In exercise of the powers conferred on him by section 86 of the Employment Act, and of all other enabling powers, the Minister has made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Employment (Amendment) Regulations 2008 and come into operation on the day of publication.

Amendment of regulation 6 of Employment Regulations 1994.

2. Regulation 6(4) of the Employment Regulations 1994 is amended as follows—

(a) for paragraph (a) substitute—

“(a) is—

- (i) by virtue of his nationality or residence entitled to seek and take up employment in Gibraltar;
- (ii) subject to regulation 7A, an EEA national as defined in the Immigration, Asylum and Refugee Act;
- (iii) subject to regulation 7A(4), a family member of an EEA national as defined in the Immigration, Asylum and Refugee Act; or

- (iv) otherwise entitled by the law of the European Union or of the European Economic Area to seek and take up employment in Gibraltar;”;
- (b) in paragraph (d), for “section 7A(4)” substitute “regulation 7A(4)”;
- (c) in paragraph (e), for “Temporary Protection Act.” substitute “Temporary Protection Act 2005; or”; and
- (d) after paragraph (e), insert–
 - “(f) is an applicant or a dependant family member of the applicant as defined in regulation 2(1) of the Asylum Regulations 2008 and
 - (i) regulation 18(1)(a) of those Regulations applies;
 - (ii) regulation 18(1)(b) of those Regulations applies; or
 - (ii) regulation 18(1)(c) of those Regulations applies; or
 - (g) is–
 - (i) a person with refugee status or subsidiary protection status as defined in the Asylum Regulations 2008; or
 - (ii) a dependant family member, as defined in the Asylum Regulations 2008, of a person listed in paragraph (i).”.

Amendment of regulation 7A of Employment Regulations 1994.

3. Regulation 7A of the Employment Regulations 1994 is amended as follows–

- (a) in sub-regulation (1)(a), for “section 46A(1) of the Immigration Control Act” substitute “section 55X(2) of the Immigration, Asylum and Refugee Act”;

(b) in sub-regulation (1)(b), for “section 46A(1)(b) of the Immigration Control Act” substitute “section 55X(2) of the Immigration, Asylum and Refugee Act”;

(c) in sub-regulation (2) in the definition of “Bulgarian or Romanian transitional period worker”, for “but is not a qualified person as defined in section 43(3) of the Immigration Control Act” substitute–

“but, by virtue of section 55X(4) of the Immigration, Asylum and Refugee Act is not a “worker” or “job seeker” for the purposes of section 55C of the Immigration, Asylum and Refugee Act”;

(d) in sub-regulation (2) in the definition of “relevant accession state worker”, for “but is not a qualified person as defined in section 43(3) of the Immigration Control Act” substitute–

“but, by virtue of section 55X(4) of the Immigration, Asylum and Refugee Act is not a “worker” or “job seeker” for the purposes of section 55C of the Immigration, Asylum and Refugee Act”;

(e) in sub-regulation (4), for “section 39(1) of the Immigration Control Act” substitute “55F of the Immigration, Asylum and Refugee Act”; and

Dated 2nd October, 2008.

L MONTIEL,

Minister with responsibility for employment.

EXPLANATORY MEMORANDUM

These Regulations amend the Employment Regulations 1994 in consequence of the Asylum Regulations 2008 and in order to transpose into the law of Gibraltar Council Directive 2003/9/EC of 27 January 2003 laying down

minimum standards for the reception of asylum applicants, and Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

They also amend the Employment Regulations 1994 in consequence of the Immigration Control (Amendment) Act 2008 in order to clarify the eligibility of certain persons under European law to take employment in Gibraltar without a work permit.