

**SECOND SUPPLEMENT TO THE GIBRALTAR  
GAZETTE**  
No. 3925 of 26 April, 2012

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LEGAL NOTICE NO. 64 OF 2012.

**EMPLOYMENT ACT**

**EMPLOYMENT (INFORMATION AND CONSULTATION OF  
EMPLOYEES) (AMENDMENT) REGULATIONS 2012**

In exercise of the powers conferred on him by section 86(1)(g) of the Employment Act, and in order to partly transpose into the law of Gibraltar Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work, the Minister has made the following Regulations—

**Title and commencement.**

1. These Regulations may be cited as the Employment (Information and Consultation of Employees) (Amendment) Regulations 2012 and come into operation on the day of publication.

**Amendment of regulations.**

2. The Employment (Information and Consultation of Employees) Regulations 2005 (the Principal Regulations) are amended in accordance with the provisions of these Regulations.

**Amendment to regulation 2.**

3. Regulation 2 of the Principal Regulations is amended—

(a) by inserting the following definition before the definition of “consultation”—

““agency worker” has the same meaning as in regulation 3 of the Agency Workers Regulations 2012;”;

(b) by inserting the following definition after the definition of “standard information and consultation provisions”—

““suitable information relating to the use of agency workers” means information as to–

- (a) the number of agency workers working temporarily for and under the supervision and direction of the employer;
- (b) the parts of the employer’s undertaking in which those agency workers are working; and
- (c) the type of work those agency workers are carrying out.”.

**Insertion of regulation 3A.**

4. The Principal Regulations are amended by inserting the following regulation after regulation 3–

**“Agency Workers.**

3A.(1) Subregulations (2) and (3) apply to an agency worker whose contract within regulation 3(1)(b) of the Agency Workers Regulations 2012 (contract with the temporary work agency) is not a contract of employment.

(2) For the purposes of regulations 3, 4 and Schedule 1, any agency worker who has a contract with a temporary work agency shall be treated as being employed by that temporary work agency for the duration of that agency worker’s assignment with the employer.

(3) In these Regulations “assignment” has the same meaning as in regulation 2 and “temporary work agency” has the same meaning as in regulation 4 of the Agency Workers Regulations 2012.”.

**Insertion of regulation 8A.**

4. The Principal Regulations are amended by inserting the following regulation after regulation 8–

**“Pre-existing agreements: agency workers.**

- 8A. Where information about the employment situation is to be provided under a pre-existing agreement by an employer, such information must include suitable information relating to the use of agency workers (if any) in that undertaking.”.

**Amendment to regulation 16.**

5. Regulation 16(1) of the Principal Regulations is amended–

- (a) by omitting “and” at the end of paragraph (e); and
- (b) by substituting “; and” for “.” at end paragraph (f) (ii); and
- (c) by inserting the following paragraph after paragraph (f)–

“(g) provide that where an employer is to provide information about the employment situation, under that agreement or under any part, such information shall include suitable information relating to the use of agency workers (if any) in that undertaking.”.

**Amendment to regulation 20.**

6. Regulation 20(1)(b) of the Principal Regulations is by inserting after “the situation, structure and probable development of employment within the undertaking” the words “(and such information must include suitable information relating to the use of agency workers (if any) in that undertaking)”.

Dated 26th April, 2012.

J J BOSSANO,  
Minister with responsibility for Employment.

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**EXPLANATORY MEMORANDUM**

These Regulations amend the Principal Regulations to provide for agency workers, as required by Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work.

