

**GIBRALTARIAN STATUS ACT****Principal Act**

<b>Act. No. 1962-13</b>	<i>Commencement</i>	1.6.1962
	<i>Enactment</i>	1.5.1962
Amending enactments	Relevant current provisions	Commencement date
Act. 1963-20	ss. 4(1), 8(1), (3), 9-10, 12, 16, 21	
1965-25	s. 8(2)	
Order of 25.11.1969	ss. 4(1), 7-12, 15-18, 22, 23(1), 24(1), 28, 32	

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AN ACT TO DEFINE AND REGULATE GIBRALTARIAN STATUS AND FOR MATTERS INCIDENTAL THERETO AND CONNECTED THEREWITH.

**Short title.**

1. This Act may be cited as the Gibraltarian Status Act.

**Interpretation.**

2. In this Act, unless the context otherwise requires—

“Advisory Committee” means the Advisory Committee established by section 13;

“child” does not include an adopted child;

“Gibraltarian by birth” means a person who is entitled to be registered at the date of his birth;

“legitimate” includes legitimated under the Legitimacy Act;

“register” means the register of Gibraltarians established and maintained under the provisions of this Act;

“registered,” in relation to a person, means to have his name entered in the register;

“registrar” means the Registrar of Gibraltarians appointed under section 12;

“registration” means the entering of the name of a person in the register.

**PART 1**  
**GIBRALTARIANS OF RIGHT**

**Definition of Gibraltarian.**

3. A Gibraltarian is a person who is registered as a Gibraltarian in the register.

**Persons entitled to be registered.**

4.(1) There shall be entitled to be registered at any time any British subject who—

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- (a) was born in Gibraltar on or before the 30th day of June 1925; or
- (b) is the legitimate child of a male person entitled to be registered under paragraph (a) of this subsection; or
- (c) is the descendant by legitimate male descent of a person male entitled to be registered under paragraph (a) or (b) of this subsection and whose father or paternal grandparent was born in Gibraltar; or
- (d) is the wife or widow of a person entitled to be registered under paragraph (a), (b) or (c) of this subsection; or
- (e) is the legitimate child of a male person who has been registered by virtue of an order of the Governor under Part II; or
- (f) is the descendant by legitimate male descent of a male person who has been registered by virtue of an order made by the Governor under Part II and whose father or paternal grandparent was born in Gibraltar; or
- (g) is the wife or widow of a person who has been registered by virtue of an order made by the Governor under Part II or who is entitled to be registered under paragraph (e) or (f) of this subsection; or
- (h) is born in Gibraltar and is the legitimate child of a male person who is registered in the register; or
- (i) is the wife or widow of a person entitled to be registered under paragraph (h) of this subsection.

(2) A British subject who is the descendant by legitimate by legitimate male descent of a male person entitled to be registered under paragraph (a) or (b) of subsection (1) shall not be deprived of his right to be registered by reason only of the birth of his father or paternal grandparent taking place outside Gibraltar during the period beginning on the 1st day of April, 1940, and ending on the 31st day of December, 1949.

(3) A person who is entitled to be registered under subsection (1) shall not be deprived of his right to be registered by reason only of the fact that any other person, upon whom his right to be registered depends, has not been registered, if such other person is entitled to be registered under this section, or would have been entitled to be registered under this section if this Act had been in force immediately before the death of such other person.

**Application to register.**

5. Any person who is entitled to have his name entered in the register by virtue of section 5 shall apply for registration to the registrar in such manner as may be prescribed.

**Married women and children.**

6. It is hereby declared that-

- (a) a Gibraltarian woman who marries or has at any time married a non-Gibraltarian shall not thereby cease or be deemed at any time to have ceased to be a Gibraltarian.
- (b) without prejudice to section 8(2), where a Gibraltarian woman marries a non-Gibraltarian the children of that marriage shall not be entitled to be registered as Gibraltarian under section 4.

**PART II****POWERS OF THE GOVERNOR TO CONFER STATUS OF  
GIBALTARIAN.****Registration of illegitimate children.**

7.(1) The Governor shall order the registrar to register any person who satisfies the Governor that-

- (a) he is a British subject;
- (b) he is over the age of sixteen;
- (c) he was born in Gibraltar;
- (d) he is the illegitimate child of a woman who is a Gibraltarian by birth or who would, had the provisions of this Act been in force at the date of her birth, have been entitled at that date to be registered under the provisions of paragraph (a), (b) or (c) of section 4(1); and
- (e) his permanent home is in Gibraltar.

(2) The Governor may, in his absolute discretion, order the registrar to register any person who satisfies the Governor as to the requirements set out in paragraphs (a), (b), (c) and (d) of subsection (1), although the Governor is not satisfied that the permanent home of such person is in Gibraltar.

(3) The Governor may, in his absolute discretion, order the registrar to register any person who satisfies the Governor that-

- (a) he is a British subject;
- (b) he is over the age of sixteen;
- (c) he was born in Gibraltar;
- (d) he is the illegitimate child of a woman who-
  - (i) was a Gibraltarian at the date of his birth; or
  - (ii) would, had the provisions of this **Act** been in force at the date of his birth, have been entitled at that date to be registered under the provisions of paragraph (a), (b), (c) or (d) of section 4(1); or
  - (iii) has been registered by virtue of an order made by the Governor under Part II or under paragraph (e), (f) or (g) of section 4(1); and
- (e) his permanent home is in Gibraltar.

## **Registration of adopted children.**

8.(1) The Governor may, in his absolute discretion, order the registrar to register any person who satisfies the Governor that –

- (a) he is a British subject, and
- (b) he has been legally adopted by –
  - (i) a married couple, both of whom is a Gibraltarian; or
  - (ii) an unmarried person who is Gibraltarian; or

(2) The Governor may, in his absolute discretion, order the registrar to register any person who satisfies the Governor that-

- (a) he is a British subject;
- (b) he is the legitimate child of a Gibraltarian woman and a non-Gibraltarian British subject;

- (c) he is of good character;
- (d) he has a sufficient knowledge of the English language;
- (e) he was born in Gibraltar, or was born outside Gibraltar during the period beginning on the 1st day of April, 1940, and ending on the 31st day of December, 1949;
- (f) he has his permanent home in Gibraltar;
- (g) he has resided in Gibraltar for not less than ten years; and
- (h) he intends to make his permanent home in Gibraltar.

(3) The Governor may, in his absolute discretion, order the registrar to register any person who satisfies the Governor that –

- (a) he is a British subject; and
- (b) he is the legitimate child of a male person who is registered under paragraph (c) or (f) of section 5(1) if such child is not himself entitled to be otherwise registered under paragraph (c) or (f) of section 5(1).

**Registration of other persons.**

9. The Governor may, in his absolute discretion, order the registrar to register any person who satisfies the Governor that –

- (a) Gibraltar or Great Britain is his country of origin;
- (b) he is a British subject;
- (c) he is of good character;
- (d) he has sufficient knowledge of the English language;
- (e) he has his permanent home in Gibraltar;
- (f) he has been resident in Gibraltar for periods amounting to not less than twenty-five years in the aggregate including the whole of the period of ten years immediately preceding the date of application;
- (g) he intends to make his permanent home in Gibraltar.



(2) *Omitted.*

## **Grant of certificate of permanent residence in lieu of registration.**

10. The Governor may, in his absolute discretion, grant a certificate of permanent residence under the Immigration Control Act to any applicant under this Part provided that the Governor would have been empowered under this Part of this Act to order the registrar to register such person.

## **Deletion of names of persons registered under Part II.**

11. The Governor may, in his absolute discretion, order that the registrar shall delete from the register the name of any person who has been registered by virtue of an order made by the Governor under this Part if the Governor is satisfied that such person-

- (a) has, within ten years of being so registered, shown himself by act or speech to be disloyal or disaffected towards Her Majesty; or
- (b) has, within five years of being so registered, been sentenced in any country to imprisonment for a term of not less than twelve months.

## **Governor to take advice of Advisory Committee.**

12. The Governor shall, before ordering the registration of any person under this Part or in lieu of registration granting a certificate of permanent residence under the Immigration Control Act, first consider and take into account the report of the Advisory Committee on the application of such person for registration submitted by the Advisory Committee under the provisions of Part III of this Act, but shall not be bound to follow any advice tendered therein.

## **PART III ADVISORY COMMITTEE.**

### **Establishment and membership.**

13.(1) There is hereby established an Advisory Committee.

(2) The Advisory Committee shall consist of such number of persons, being not less than three, as the Governor may from time to time appoint.

(3) The Governor shall appoint a member of the Advisory Committee to be the Chairman.

(4) A member of the Advisory Committee shall hold office for one year from the date of his appointment or such lesser period as the Governor may specify in any particular case, but shall be eligible for re-appointment and may resign at any time.

(5) The Governor shall appoint a person to be secretary to the Advisory Committee.

**Procedure.**

14.(1) The functions of the Advisory Committee may be exercised by any three or more of its members.

(2) Subject to any rules which may be made under section 32, the Advisory Committee may regulate its own procedure in any matters considered by it in the exercise of its functions.

**Functions.**

15. It shall be the function of the Advisory Committee to consider any application which is made by or on behalf of any person seeking an order for registration by the Governor under Part II.

**Duty to report to Governor.**

16. The Advisory Committee shall, after considering any application made for registration under Part II, forward a report thereon to the Governor. In such report the Advisory Committee shall express its opinion as to whether or not the person applying for an order for registration by the Governor under Part II should or should not be registered, or whether in lieu of registration a certificate of permanent residence should or should not issue.

**Report confidential and privileged.**

17.(1) Any report prepared by the Advisory Committee for submission to the Governor in accordance with the provisions of section 16 shall be forwarded to the Governor and the contents thereof shall not be disclosed to nor made available to any other person, except such other persons as the Governor may specify.

(2) For the removal of doubts it is hereby declared that, for the purposes of any law as to defamation, the publication to the Governor and to any other person specified by the Governor under subsection (1) of any such report shall be absolutely privileged.

## **Persons to apply to Advisory Committee.**

18. Any person who seeks an order of the Governor for registration under Part II shall make application to the Advisory Committee, in such manner as may be prescribed.

## **Establishment of register.**

19. There is hereby established a Register of Gibraltarians.

## **Appointment of Registrar of Gibraltarians.**

20. The Governor shall appoint a person to be in charge of the register, and such person shall be known as the Registrar of Gibraltarians.

## **Registrar to maintain register.**

21. The registrar shall establish and maintain the register in such manner as may be prescribed.

## **Duty of registrar to enter names.**

22. The registrar shall enter in the register the name of any person –

- (a) who satisfies the registrar that he is entitled to be registered under the provisions of section 5; or
- (b) whose name he is ordered to enter in the register by the Governor under Part II.

## **Removal of names from register.**

23.(1) The registrar shall delete the name of any person from the register –

- (a) if he is satisfied that such person has ceased to be a British subject;
- (b) if he is satisfied that the name was entered in the register in error;
- (c) if he is satisfied that the name was entered in the register by reason of any fraud or false representation or of any misstatement or concealment of fact whether intentional or otherwise; or

- (d) if ordered so to do by the Governor under the provisions of section 10.

(2) The registrar shall, after deleting the name of any person from the register, inform such person of the deletion and of the reasons therefor.

**Effect of deletion from register.**

24.(1) Notwithstanding any other provision of this Act, where the name of any person is deleted from the register by virtue of any provision of this Act, the registrar shall, with the approval of the Governor, also delete therefrom the names of any other persons registered by reason only of the fact that their right to be registered depends upon the registration of the person whose name is deleted.

(2) Any person whose name is deleted from the register under the provisions of this Act shall cease to be a Gibraltarian from the date of such deletion.

**Correction of register.**

25. The registrar, on being satisfied that an error has been made in the name or description of any person entered in the register, may correct such error in such manner as he may think fit.

**Certificates of registration admissible in evidence.**

26. There shall be admissible in evidence in any proceedings in any court as prima facie evidence of the matters contained therein –

- (a) a certificate of registration, in such form and certified in such manner as may be prescribed; and
- (b) a copy of any entry in the register, in such form and certified in such manner as may be prescribed.

**Appeals from registrar.**

27.(1) A person aggrieved by –

- (a) the refusal of the registrar to enter his name in the register; or
- (b) the deletion of his name from the register by the registrar under section 15(1) (other than a deletion made by the registrar under the provisions of paragraph (d) thereof), may, within fifty-six days after being informed by the registrar of such refusal or

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deletion, appeal to the Supreme Court against such refusal or deletion.

(2) Subject to such rules as the Chief Justice may make, an appeal under this section to the Supreme Court shall, as regards procedure, be conducted in the same manner as an appeal to the Supreme Court from a decision of the magistrates' court in any proceedings under the Maintenance Act.

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(3) The Chief Justice may make rules for the better carrying out of the provisions and objects of this section and, in particular, may modify the procedure directed by subsection (2) to be followed on an appeal under this section.

(4) The Supreme Court may, on an appeal under this section, make such order for the amendment of the register as it thinks proper.

## PART IV GENERAL

### **No appeal from decisions of the Governor, etc.**

28. No report of the Advisory Committee submitted to the Governor under Part III and no decision of the Governor under Part II shall be subject to appeal or shall be questioned in any court.

### **Right to reside.**

29. Any Gibraltarian may, at any time, reside in Gibraltar without any licence or permit to do so.

### **Burden of proof.**

30. If any question arises under this Act or under any other law as to whether or not a person is a Gibraltarian the burden of proving that such person is a Gibraltarian shall be on the person alleging the same.

### **False statements.**

31. A person who, for the purpose of procuring the registration of himself or of any other person, knowingly makes any false statement is guilty of an offence and is liable, on summary conviction, to imprisonment for six months or to a fine of £100 or to both such imprisonment and fine.

### **Rules.**

32. The Governor may make rules for the better carrying out of the provisions and objects of this Act and in particular, but without prejudice to the generality hereof, may make rules—

- (a) for the form of the register;
- (b) for the fees to be charged for registration, inspection of the register, copies of entries therein and any other matters connected with the register;
- (c) for inspection of the register and the obtaining of certificates of registration and copies of any entry therein;
- (d) for the procedure to be followed by a person wishing to apply for an order for registration to be made by the Governor under Part II;
- (e) for the procedure to be followed by persons wishing to apply to the Advisory Committee and the procedure to be followed by such Advisory Committee; and
- (f) prescribing anything which is to be or may be prescribed by the provisions of this Act.