

**FIRST SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3985 of 28th February, 2013



I ASSENT,
ADRIAN JOHNS,
GOVERNOR.

27th February, 2013.



GIBRALTAR

No. 4 of 2013

AN ACT to amend the Immigration, Asylum and Refugee Act.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the Immigration, Asylum and Refugee (Amendment) Act 2013 and comes into operation on the day of publication.

Amendment of the Immigration, Asylum and Refugee Act.

- 2.(1) The Immigration, Asylum and Refugee Act is amended as follows.

- (2) In section 2(1) for the definition of “entry permit” substitute—

““entry permit” means an entry permit issued under section 17A;”.

- (3) After section 6 insert—

“Power to require deposit of passport.

6A. The Principal Immigration Officer may require any person seeking any permit under this Act, or to whom a direction made under section 11A(1) applies, to deposit their passport or such other document as the Principal Immigration Officer may specify for such period and with such person as the Principal Immigration Officer may deem appropriate.”.

- (4) In section 11A—

- (a) in subsection (1)—

- (i) for “and” substitute “or”;

- (ii) after “land” insert “, sea”;

- (b) in subsection (3) after “time” insert—

“and may impose restrictions on the period that such persons or categories of person may remain in Gibraltar”;

- (c) after subsection (3) insert—

“(3A) Any direction under subsection (1) which relates to a category of persons described by virtue of their being nationals of particular countries who hold valid multiple entry Schengen Visas shall be published in the Gazette.

(3B) Any direction under subsection (1) to which subsection (3A) applies shall—

(a) include a waiver under subsection (2) of the requirement to be in possession of a valid entry permit under section 12(1);

(b) confirm that a waiver issued under subsection (2) does not entitle the holder to seek employment in Gibraltar or entitle him to have access to publicly funded benefits in Gibraltar;

(c) specify a period that such a person is authorised to remain in Gibraltar which shall not exceed—

(i) 21 days; or

(ii) where the multiple entry Schengen Visa is due to expire before 21 days from the entry of the person into Gibraltar, the remainder of the period of validity of such multiple entry Schengen Visa less 7 days.”;

(d) in subsection (4) for “The” substitute “Subject to section 17A(5), the”;

(e) after subsection (5) insert—

“(6) The Government may direct that particular persons be excluded from the remit of any direction under subsection (1) where it is of the opinion that the exclusion of that person from Gibraltar is conducive to public security.

(7) In coming to its decision the Government may take into account the person’s character, conduct and associations.

(8) The Government shall direct that particular persons be excluded from the remit of any direction under subsection (1) pursuant to subsection (6) where—

- (a) the reason for the exclusion is the safeguarding of the internal security or defence of Gibraltar;
- (b) the reason for the exclusion is of such a nature as to fall within the Governor's constitutional responsibilities; and
- (c) the Governor has informed the Government that such exclusion pursuant to subsection (6) needs to be made.”.

(5) After section 17 insert—

“Entry permits.

17A.(1) The Principal Immigration Officer or the Authority may issue an entry permit, in such form as may be approved from time to time by the Authority, to any person who requires such a permit under this Act.

- (2) A permit issued under this section shall be valid for the period specified therein unless cancelled under the provisions of section 20 and shall be subject to such conditions as the Principal Immigration Officer or the Authority, as the case may be, thinks fit.
- (3) A permit issued under this section shall entitle the holder thereof to enter into Gibraltar and remain in Gibraltar during the period of validity of the permit.
- (4) The holding of an entry permit shall not of itself entitle the holder thereof to undertake employment in Gibraltar or entitle him to have access to publicly funded benefits in Gibraltar.
- (5) Where, from information available to him, an Immigration Officer is of the opinion that—

- (a) it is undesirable to give a person leave to enter into Gibraltar, notwithstanding that such person is a member of a class to which a direction made under section 11A(1) applies; and,
- (b) his opinion is on the ground that the person's exclusion from Gibraltar is conducive to the public good or public security,

the Immigration Officer may—

- (c) refuse that person leave to enter into Gibraltar; and
 - (d) where such refusal takes place, he shall report that exclusion to the Principal Immigration Officer and the Authority.
- (6) Notwithstanding the generality of subsection (5), in coming to his decision the Immigration Officer may take into account the person's character, conduct and associations.
- (7) For the purposes of this section “the Authority” has the same meaning as in section 20(4).”.
- (7) After section 52(1) insert—
- “(1A) The Government shall direct the Principal Immigration Officer to declare to be a prohibited immigrant any non-Gibraltarian where—
- (a) it is necessary for the safeguarding of the internal security or defence of Gibraltar;
 - (b) the declaration is of such a nature as to fall within the Governor's constitutional responsibilities; and
 - (c) the Governor has informed the Government that such a declaration needs to be made.”.
- (8) For the proviso in section 53(1) substitute—

“Provided that the Principal Immigration Officer may—

- (a) where the person is a prohibited immigrant by virtue of a declaration under section 52(1), with the consent of the Government;
- (b) where the person is a prohibited immigrant by virtue of section 52(1A), with the consent of the Governor; or
- (c) where the person is a prohibited immigrant by virtue of section 52A, with the consent of the Minister with responsibility for personal status,

grant a permit to a prohibited immigrant permitting him to enter and remain in Gibraltar for such period and subject to such conditions as the Principal Immigration Officer may direct.”.

Passed by the Gibraltar Parliament on the 22nd day of February, 2013.

M L FARRELL,
Clerk to the Parliament.

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