

**INTERPRETATION AND GENERAL
CLAUSES ACT**

Principal Act

Act. No. 1962-08		<i>Commencement</i>	31.5.1962
		<i>Assent</i>	
	Amending enactments	Relevant current provisions	Commencement date
	Act. 1965-14	s. 4	
	1968-06	s. 55	
	1968-30	s. 3	
	Order of 16.9.1969	s. 2	
	Regs. of 28.5.1970	s. 2	
	LN. 1971/020	s. 2	
	Act. 1972-06	s. 2	
	1972-18	s. 5	
	1973-20	s. 55(1)	
	1976-31	s. 43(2)	
	1982-14	s. 54(2)	
	1991-04	ss. 2, 23(b)	4.4.1991
	1992-12	s. 23	31.12.1992
	1993-26	s. 8A	1.12.1993
	1993-25	s. 23	9.12.1993
	1997-35	s. 24	30.10.1997
	2004-22	s. 5A	1.5.2004
	2007-17	ss. 2, 44(1), 70, 73	14.6.2007

English sources

None cited

NOTE. Orders declaring public and bank holidays made under the Banking and Financial Dealings Act and the Interpretation and General Clauses Act appear under the title “Banking and Financial Dealings.” Public holidays are also prescribed by the Employment (Annual and Public Holidays) Order, which appears under the title “Employment.”

RENUMBERING OF SECTIONS

<i>Previous number</i>	<i>New number</i>	<i>Previous number</i>	<i>New number</i>
1	1	35	38
1A	4	36	39
2	2	37	40
2A	3	38	41
2B	5	39	42
3	6	40	43
4	7	41	44
5	8	42	45
6	9	43	46
7	10	44	47
8	11	45	48
9	12	46	49
10	13	47	50
11	14	48	51
12	15	49	52
13	16	50	53
14	17	51	54
15	18	52	55
16	19	53	56
17	20	54	57
18	21	55	58
19	22	56	59
20	23	57	60
21	24	58	61
22	25	59	62
23	26	60	63
24	27	61	64
25	28	62	65
26	29	63	66
27	30	64	67
28	31	65	68
29	32	66	69
30	33	67	70
31	34	68	71
32	35	69	72
33	36	70	73
34	37	71	74

ARRANGEMENT OF SECTIONS.

Section

1. Short title.

PART I.

GENERAL PROVISIONS OF INTERPRETATION.

2. Interpretation of specific words and phrases.
3. References to Secretary of State for the Colonies.
4. Reference to Admiralty, War Department, Air Ministry, etc.
5. References to European Communities, treaties and institutions.
- 5A. References to European Economic Area Agreement.
6. Grammatical and cognate expressions.
7. Gender and number.
8. Meaning of service by post.
- 8A. Rectification and correction of registers.

PART II.

GENERAL PROVISIONS AS TO ACTS.

9. Acts to be public Acts.
10. Sections to be substantive enactments.
11. Mode of citing Acts.
12. Collective titles.
13. Marginal notes.
14. References in Acts, etc.
15. Meaning of any reference to the number of a line.
16. Construction of amending Act with amended Act.
17. Reference to amended Act.
18. Division of Act into Parts.
19. Construction of preamble and Schedules of Act.
20. Forms.

PART III.

SUBSIDIARY LEGISLATION.

21. Construction of subsidiary legislation.
22. Exercise of statutory powers between passing and commencement of Act.
23. Provisions respecting the making of subsidiary legislation.
24. Retrospective effect of subsidiary legislation.
25. Acts done under subsidiary legislation to be deemed done under Act by which subsidiary legislation authorised.
26. Fees.

This version is out of date

- 27. References to Acts to include references to subsidiary legislation.
- 28. Power of Assembly in relation to subsidiary legislation.

PART IV.

COMMENCEMENT AND REPEALS.

- 29. Time when Act or instrument comes into operation.
- 30. Commencement of subsidiary legislation.
- 31. Repeal of a repealing Act.
- 32. Repeal and substitution.
- 33. Effect of repeal.
- 34. Effect of repeal of Act on subsidiary legislation.
- 35. Effect of repeal on amending legislation.

PART V.

ACTS AND ORDERS IN COUNCIL.

- 36. Acts to be read with necessary modification.
- 37. Reference in Act to provision of Act or Order in Council.
- 38. General provisions as to Acts and Orders in Council.

PART VI.

PUBLIC OFFICERS.

- 39. Public officers.
- 40. Change in title of public office.
- 41. Power to provide for execution of duties of public officer during temporary absence or inability.
- 42. Power to appoint substantively pending retirement, etc., of existing holder.
- 43. Power to appoint public officer as such to serve on board.
- 44. Delegation by public officer.

PART VII.

POWERS AND APPOINTMENTS.

- 45. Appointment of officers by name of office.
- 46. Power to appoint to include power to suspend or dismiss.
- 47. Construction of provisions as to exercise of powers and duties.
- 48. Power of Governor to delegate authority.
- 49. Appointments to boards, etc.
- 50. Power of boards, etc., not affected by vacancy, etc.
- 51. Power of majority of more than two persons.
- 52. Construction of enabling words.
- 53. Act for which payment is required.

This version is out of date

PART VIII.

TIME, DISTANCE AND PUBLIC HOLIDAYS.

- 54. Computation of time.
- 55. Provisions when no time prescribed.
- 56. Measurement of distances.
- 57. Summer time.
- 58. Public holidays.

PART IX.

LEGAL PROCEEDINGS.

- 59. Fines, penalties and terms of imprisonment.
- 60. Statement of penalty in section to indicate maximum penalty provided for contravention of section.
- 61. Cumulative penalties.
- 62. Proceedings against officials as such.
- 63. Amendment of penalty.
- 64. Payment of portion of penalty by direction of Governor.
- 65. Disposal of forfeits.
- 66. Imposition of penalty not to bar civil action.

PART X.

THE GOVERNOR AND THE CROWN.

- 67. Evidence of signature of Governor.
- 68. References to the Crown.
- 69. Saving of rights of the Crown.
- 70. *Repealed.*

PART XI.

GAZETTE AND REPRINTING.

- 71. Production of Gazette.
- 72. Reprint of amended Act.
- 73. Reprint of Acts.
- 74. Notification of enactment of Acts.

AN ACT TO MAKE FURTHER AND BETTER PROVISION FOR THE INTERPRETATION OF LAWS, FOR SHORTENING THE LANGUAGE USED THEREIN AND FOR MATTERS INCIDENTAL THERETO AND CONNECTED THEREWITH.

Short title.

1. This Act may be cited as the Interpretation and General Clauses Act.

PART I.

GENERAL PROVISIONS OF INTERPRETATION.

Interpretation of specific words and phrases.

2. In this Act and in any other Act, and in all public documents, unless the context otherwise requires,—

“act”, used with reference to an offence or civil wrong, includes a series of acts, and words which refer to acts done extend to illegal omissions;

“Act”, used with reference to legislation, means an Act of the Parliament at Westminster;

“aircraft” includes seaplanes, flying boats, airships and aerial balloons;

“Assembly” means the Gibraltar House of Assembly;

“Attorney-General” means Her Majesty’s Attorney-General for Gibraltar;

“boat” means any description of vessel propelled exclusively by oars or paddles;

“British possession” means any part of Her Majesty’s dominions (other than the United Kingdom) and shall be deemed to include any territory under Her Majesty’s protection and any trust territory;

“Chief Justice” means the Chief Justice of Gibraltar;

“clerk of the Court of First Instance” means the person appointed to be clerk of the Court of First Instance under the provisions of the Court of First Instance Act;

This version is out of date

“clerk of the magistrates’ court” and “clerk to the justices” mean the person appointed to be clerk of the magistrates’ court under the provisions of the Magistrates’ Court Act;

“the Colony” or “this Colony” means Gibraltar;

“commencement”, used with reference to an Act, means the time at which the Act comes into operation;

“Commissioner of Police” means the person appointed to be Commissioner of Police under the Police Act;

“committed for trial”, used in relation to any person, means committed to prison for trial before the Supreme Court by any authority having power so to commit a person, and shall include a person who is admitted to bail upon a recognizance to appear and take his trial before the Supreme Court;

“common law” means the common law of England;

“Consul” or “consular officer” includes Consul-General, Consul, Vice-Consul, Consular Agent and any person for the time being authorised to discharge the duties of a Consul-General, Consul or Vice-Consul;

“constable” means a police officer;

“Constitution” means the Constitution set out in Annex I to the Gibraltar Constitution Order 1969;

“contravene”, in relation to any requirement or condition prescribed in any Act or in relation to any permit, licence or other authority granted under or in pursuance of any Act, includes a failure to comply with that requirement or condition;

“Court of Appeal” means the Court of Appeal for Gibraltar;

“Court of First Instance” means the Court of First Instance established under the Court of First Instance Act;

“court” means any court of competent jurisdiction in Gibraltar;

“counsel” means any barrister or solicitor entitled to practice as such in Gibraltar;

This version is out of date

“Crown Agents” and “Crown Agents for Oversea Governments and Administrations” mean the persons for the time being acting as Crown Agents in England for Oversea Governments and Administrations or any of them;

“daily penalty” means a penalty for each day on which an offence is continued after conviction therefor;

“Deputy Governor” means the person appointed as such by the Governor and includes a person appointed to act as Deputy Governor;

“examining justice” means any justice to whom jurisdiction is given by or who is authorised to act under the Magistrates’ Court Act, or under any other law, and before whom a charge is made against any person for an indictable offence;

“export” means to take or cause to be taken out of Gibraltar by land, sea or air;

“Financial Secretary” means the Financial Secretary to the Government;

“Gazette”, “Gibraltar Gazette” and “Official Gazette” mean the official Gazette of Gibraltar and include any supplement thereto and any Extraordinary Gazette;

“gazetted” means published in the Gazette;

“general notice” means any notice published in the Gazette which is not of a legislative character;

“Gibraltar” means the City of Gibraltar, the sea shore, port and harbour thereof, and so much of the sea adjacent thereto as is subject to the dominion of Her Majesty;

“Gibraltarian” means a person whose name is entered in the Register of Gibraltarians established under the Gibraltarian Status Act²;

“Government” means the Government of Gibraltar;

“Government printer” means any printer authorised by the Government to print laws and other documents of the Government;

“Governor” means the Governor and Commander-in-Chief of Gibraltar and includes any officer for the time being administering the

² 1962-13

This version is out of date

Government and, to the extent to which a Deputy to the Governor is authorised to perform any functions of the Governor, that Deputy;

“house” includes every messuage, part of a messuage, part of a house, building, or other construction (including a military guard room) whether wholly or in part above or below the surface of the ground, inhabited or occupied either by day or night by man, whether beneficially or otherwise, or intended to be so inhabited or occupied;

“import” means to bring or cause to be brought into Gibraltar by land, sea or air;

“immovable property” includes land, benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;

“justice” and “justice of the peace” mean a person appointed to be justice of the peace under the provisions of the Magistrates’ Court Act or any other law, and include the person appointed to be stipendiary magistrate under the said Act;

“land” and “premises” include all tenements or hereditaments, and also all messuages, houses, buildings, or other constructions, whether the property of Her Majesty, her heirs or successors, or of any corporation, or of any private individual, except where there are words to exclude houses and other buildings;

“law” means any law for the time being in force in Gibraltar and includes Acts, Orders in Council, Letters Patent and Ordinances;

“magistrate” includes a justice, a justice of the peace and the stipendiary magistrate;

“magistrates’ court” means the magistrates’ court constituted under the Magistrates’ Court Act;

“Mayor” means the person elected to be Mayor of Gibraltar under the provisions of the Constitution;

“minor” means a person under the age of eighteen years;

“month” means a month reckoned according to the British calendar;

This version is out of date

“moveable property” means property of every description except immovable property;

“non-Gibraltarian” means any person other than a Gibraltarian;

“oath”, “swear” and “affidavit” include affirmation, declaration, affirming and declaring, in the case of persons by law allowed to declare or affirm instead of swearing;

“occupier” includes in addition to its ordinary signification; any person who uses, inhabits, possesses or enjoys the premises in respect of which that word is used, otherwise than as a mere servant and for the mere purpose of the care, custody and charge thereof;

“to occupy” includes, in addition to its ordinary signification, to use, inhabit, possess or enjoy the premises in respect whereof that verb is used, otherwise than as a mere servant, and for the mere purpose of the care, custody and charge thereof;

“Order in Council” means an Order of Her Majesty in Council, and includes any proclamation, order, rule, regulation, notice or other instrument made under any Order in Council;

“Ordinance” means any Ordinance of Gibraltar and includes subsidiary legislation made thereunder;

“owner” includes any person receiving the rents of the property in respect of which that word is used, from the occupier of such property on his own account, or as trustee or agent for any other person, or as receiver or sequestrator appointed by the Supreme Court or under any order thereof, or who would receive the same if such property were let to a tenant;

“person” includes any corporation either aggregate or sole, and any club, society or other body, or any one or more persons of any age, and either of the male or female sex;

“police officer” means any member of the Gibraltar Police Force established by the Police Act;

“prescribed” means prescribed by the Act in which the words occur or by any subsidiary legislation made thereunder;

“proclamation” means a proclamation of the Governor under the public seal;

This version is out of date

“publication” includes all written and printed matter and any record, tape, wire, perforated roll, cinematograph film or other contrivance by means of which any words or ideas may be mechanically or electrically produced, reproduced, represented or conveyed, and everything, whether of a nature similar to the foregoing or not, containing any visible representation, or by its form, shape or any manner capable of producing, reproducing, representing or conveying words or ideas, and every copy and reproduction of any publication;

“property” includes money, goods, things in action, land and every description of property, whether real or personal; also obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incidental to property as above defined;

“public holiday” means any day which is appointed to be a public holiday under the provisions of section 58;

“public officer” means any person in the service of, or holding office under, the Crown in right of the Government of Gibraltar, whether such service or office be permanent or temporary, or paid or unpaid;

“public place” includes every highway, every footpath, parade, battery, open space or square, public garden, line of defence or fortification, every open barrack, every theatre or place in public entertainment of any kind admission to which is obtained by payment or otherwise, any other place of general resort and any place to which the public have access, whether on payment or otherwise;

“public seal” means the public seal of Gibraltar;

“registrar” means the Registrar of the Supreme Court and includes the Deputy Registrar of the Supreme Court;

“revenue officer” means any member of the revenue department of the Government and includes any other person performing duties in connection with the collecting of the revenues of the Government;

“rules of court”, when used in relation to any court, means rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of such court;

“Secretary of State” means one of Her Majesty’s Principal Secretaries of State for the time being;

“ship” includes every description of vessel not propelled exclusively by oars or paddles;

“sign” with reference to a person who is unable to write his name, includes “mark”;

“standard scale” means the standard scale of fines provided for by section 189 and Schedule 6 of the Criminal Procedure Act⁴ and reference to a “level” on the standard scale is reference to the levels provided for in the left-hand column on the scale and the amounts corresponding thereto in the right-hand column;

“statutory declaration” if made—

- (a) in Gibraltar, means a declaration made under the Statutory Declarations Act, 1835;
- (b) in the United Kingdom or any British possession beyond Gibraltar, means a declaration made before a justice of the peace, notary public, or other person having authority therein under any law for the time being in force therein to take or receive a declaration;
- (c) in any other place, means a declaration made before a British Consul, or before any person having authority under any Act to take or receive a declaration;

“street” or “road” means any street, road, thoroughfare, highway, lane, court, alley, passage or open space used or frequented by the public, or to which the public have or are permitted to have access, whether on payment or otherwise and includes any bridge over which a road passes;

“subsidiary legislation” and “rules” mean any proclamation, order, rule, regulation, bye-law, notice or other instrument made under any Act and having legislative effect;

“summarily”, “in a summary manner” and “on summary conviction” mean before the magistrates’ court;

“Supreme Court” means Her Majesty’s Supreme Court of Gibraltar;

⁴ 1961-24

This version is out of date

“territorial waters” means such part of the sea adjacent to Gibraltar as is subject to the dominion of Her Majesty;

“trust territory” means a territory administered by Her Majesty’s Government in the United Kingdom or by the Government of any part of Her Majesty’s dominions under the trusteeship system of the United Nations;

“United Kingdom” means Great Britain and Northern Ireland;

“vessel” includes any ship, vessel, tug, lighter and boat of any kind whatsoever whether the same is propelled by steam or otherwise or is towed;

“writing” and expressions referring to writing include printing, lithography, typewriting, photography and other modes of representing or reproducing words or figures in visible form;

“year” means a year reckoned according to the British calendar.

References to Secretary of State for the Colonies.

3. Where in any laws there appears a reference to the Secretary of State for the Colonies such reference shall be construed as meaning a Secretary of State.

References to Admiralty, War Department, Air Ministry, etc.

4. Unless the context otherwise requires—

- (a) any reference in any Act to the acquisition, holding, management or disposal of any property by the Admiralty, the War Office, the War Department, the Secretary of State for War or the Air Ministry shall be construed as a reference to the acquisition, holding, management or disposal of any property by the Secretary of State for Defence; and
- (b) any other reference in any Act to the Admiralty, the War Office, the War Department or the Air Ministry shall be construed as a reference to the Ministry of Defence, and any other reference in any Act to the Secretary of State for War shall be construed as a reference to the Secretary of State for Defence;
- (c) any reference in any Act to the Army Council or the Air Council shall be construed as a reference to the Defence Council.

References to European Communities treaties and institutions.

5. In this Act and in any other Act and in all public documents, unless the context otherwise requires, the definitions set out in section 2(1) of and Schedule 1 to the European Communities Act¹ shall have the meanings respectively assigned thereto by that subsection and that Schedule.

References to European Economic Area Agreement

5A. Any reference in any Act to the European Economic Area Agreement shall, unless the context otherwise requires, be construed as referring to the European Economic Area Agreement signed in Oporto on 2 May 1992 as adjusted by the Protocol signed at Brussels on 17 March 1993 and as amended or adjusted from time to time.

Grammatical and cognate expressions.

6. Where any word or expression is defined in any Act, such definition shall extend, *mutatis mutandis*, to the grammatical variations and cognate expressions of such word or expression.

Gender and number.

7. In any Act, unless a contrary intention appears,—

- (a) words importing the masculine gender include females; and
- (b) words in the singular include the plural, and words in the plural include the singular.

Meaning of service by post.

8. Where any Act authorises or requires any document to be served by post, whether the expression “serve”, “give” or “send” or any other expression is used, then, unless a contrary intention appears, the service shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Rectification and correction of registers.

8A.(1) Where under any Act there is a requirement that a register or index be maintained, the Governor may, by regulation, prescribe the persons by

¹ 1972-18

This version is out of date

whom and the method by which material errors in the register may be rectified and such regulations may make different provisions in respect of different errors on a register.

(2) The person charged under any Act to maintain a register or index may correct or cause to be corrected any clerical error or obvious mistake in entering information or inserting in any register for which he is responsible.

PART II.

GENERAL PROVISIONS AS TO ACTS.

Acts to be public Acts.

9. Every Act shall be a public Act and shall be judicially noticed as such, unless the contrary is expressly provided by the Act.

Sections to be substantive enactments.

10. Every section of any Act shall have effect as a substantive enactment without introductory words.

Mode of citing Acts.

11. (1) When any Act is referred to, it shall be sufficient for all purposes to cite such Act either by the short title (if any) by which it is made citable, or by the year in which it was made and its number among the Acts of that year and the references may in all cases be made according to the copies of Acts printed by the Government printer.

(2) In any Act a description or citation of a portion of another Act shall, unless the contrary intention appears, be construed as including the words, section, or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

Collective titles.

12. If it is provided that any Act may, as to the whole or any part thereof, be cited with any group of Acts, that group shall be construed as including that Act or part and, if the collective

title of the group states the first and last year of the group, the year in which the Act is passed shall be substituted for the last year of the group, and so on as often as a subsequent Act or part is added to the group.

Marginal notes.

13. Where any section, subsection or paragraph of any Act is taken verbatim from, or is substantially similar to, any part of any Act, it shall be lawful to add to the marginal note of such section, subsection or paragraph a reference to the relevant part of such Act:

Provided that such reference shall not have any legislative effect and shall not be deemed in any way to vary, limit or extend the interpretation of any Act.

References in Acts, etc.

14. (1) Any reference in any Act to a part, section or schedule shall, unless the context otherwise requires, be construed as a reference to the part, section or schedule of the Act in which the reference occurs.

(2) Any reference in any subsidiary legislation to any rule, regulation, bye-law, part or schedule, shall, unless the context otherwise requires, be construed as a reference to the rule, regulation, bye-law, part or schedule of the subsidiary legislation in which the reference occurs.

Meaning of any reference to the number of a line.

15. A reference in any Act to the number of a line of any section of any Act shall mean such line in the latest official printed copy of such Act at the time of the passing of the Act containing such reference.

Construction of amending Act with amended Act.

16. Where one Act amends another Act the amending Act shall, so far as it is consistent with the tenor thereof, and unless the contrary intention appears, be construed as one with the amended Act.

Reference to amended Act.

17. Any reference in any Act to the provisions of that or any other Act shall be construed as a reference to those provisions as amended, re-enacted or replaced.

Division of Act into Parts.

18. Where any Act is divided into Parts, or other divisions, the fact and particulars of such division shall, with or without express mention thereof in any Act, be taken notice of in all courts and for all other purposes whatsoever.

Construction of preamble and Schedules of Act.

19. (1) The preamble of any Act may be referred to for assistance in explaining the scope and object of the Act.

(2) Every Schedule or Table to any Act or Part of an Act shall, together with any notes thereto, be construed and have effect as part of the Act.

Forms.

20. Whenever forms are prescribed in any Act slight deviations therefrom, not affecting the substance or calculated to mislead, shall not invalidate them.

PART III. SUBSIDIARY LEGISLATION.

Construction of subsidiary Legislation.

21. Expressions used in any subsidiary legislation shall, unless the contrary intention appears, have the same respective meanings as in the Act under which the subsidiary legislation was made.

Exercise of statutory powers between passing and commencement of Act.

22. Where any Act is not to come into operation immediately on the passing thereof, and confers power to make any appointment, to make, grant or issue any instrument (that is to say, any subsidiary legislation, warrant, scheme or letters patent, to give notices, to prescribe forms, or to do any other thing for the purposes of this Act) that power may, unless the contrary intention appears, be exercised at any time after the passing of the Act, save that any instrument made under the power shall not, unless the contrary intention appears in the Act, or the instrument is necessary for bringing the Act into operation, have any effect until the Act comes into operation.

Provisions respecting the making of subsidiary legislation.

23. Where an Act confers power on any authority to make subsidiary legislation, the following provisions shall, unless the contrary intention appears, have effect with reference to the making, issue and operation of such subsidiary legislation—

- (a) subsidiary legislation may be at any time amended, varied, suspended, rescinded or revoked by the same authority and in the same manner by and in which it was made.

This version is out of date

- (b) subsidiary legislation may provide in respect of a breach of any of the provisions thereof that the offenders shall be liable to such penalty not exceeding level 3 on the standard scale or such term of imprisonment not exceeding three months, or to both such fine and imprisonment, as may be therein prescribed.
- (c) where any Act confers power on any authority to make subsidiary legislation for any general purpose, and also for any special purposes incidental thereto, the enumeration of the special purposes shall not be deemed to derogate from the generality of the powers conferred with reference to the general purpose.
- (d) no subsidiary legislation shall be inconsistent with the provisions of any Act.
- (e) any breach of any subsidiary legislation may be prosecuted in a summary manner.
- (f) any reference in any subsidiary legislation to “the Act” shall be read and construed as meaning the Act conferring the power to make such subsidiary legislation.
- (g) where in any Act—
 - (i) there is provision giving effect by subsidiary legislation to obligations arising under the Treaties (as defined by section 2 of the European Communities Act¹), that provision shall be construed as—
 - (aa) enabling any such obligation to be implemented or enabling any rights enjoyed or to be enjoyed by Gibraltar under or by virtue of the Treaties to be exercised, or
 - (bb) enabling matters arising out of or related to any such obligation or rights or the coming into force or the operation from time to time of matters contained in such Treaties to be dealt with; andproviding the same powers to give effect to rights, powers, liabilities, obligations and restrictions resulting from the agreement on the European Economic Area (as it has effect on the date on which it comes into effect and

¹ 1972-18

This version is out of date

subsequently) as are contained in sub-paragraphs (aa) and (bb); or

(ii) relating to matters in respect of which rights, powers, liabilities, obligations and restrictions referred to in sub-paragraph (i) arise or have arisen, there is no such provision as is referred to in that subparagraph, that Act may be amended, varied or added to by regulation made by the Government for the purpose of—

(aa) implementing such obligation or of enabling any rights enjoyed or to be enjoyed by Gibraltar under or by virtue of the Treaties to be exercised; or

(bb) dealing with any matter arising out of or related to any such obligation or rights or the coming into force or the operation from time to time of matters falling within the Treaties,

and such amendment or variation may include such repeal of the provisions of that Act as is necessary to give such effect.

(h) where, by virtue of the Agreement on the European Economic Area (as it has effect on the date on which it comes into force) it is necessary that subsidiary legislation made prior to that date by exercise of such a provision as is referred to in paragraph (g)(i), should have effect with modifications that can be ascertained from that Agreement, then on and after that date, such subsidiary legislation shall have effect with those modifications.

Retrospective effect of subsidiary legislation.

24. Where an Act confers power on the Governor the Government or any Minister charged under the Constitution to make subsidiary legislation, such power shall, unless the context otherwise requires, include a power to give such subsidiary legislation retrospective effect:

Provided that, unless such Act otherwise provides,—

- (a) no retrospective effect shall be given to subsidiary legislation such as would give it effect before the commencement of the Act under which it is made; and
- (b) no subsidiary legislation shall impose any retrospective criminal liability or any retrospective charges, penalties or taxation.

Acts done under subsidiary legislation to be deemed done under Act by which subsidiary legislation authorised.

25. An act shall be deemed to be done under an Act or by virtue of the powers conferred by an Act or in pursuance or execution of the powers of or under the authority of an Act if it is done under or by virtue of or in pursuance of any subsidiary legislation made under any power contained in such Act.

Fees.

26. (1) Where an Act confers power on any authority to make subsidiary legislation, and provision may be made thereby in respect of fees or other charges, such subsidiary legislation may provide for all or any of the following matters:—

- (a) specific fees or charges;
- (b) maximum or minimum fees or charges;
- (c) maximum and minimum fees or charges;
- (d) the payment of fees or charges either generally or under specified conditions or in special circumstances;
- (e) the reduction, waiver or refund, in whole or in part, of any such fees or charges, either upon the happening of a certain event or in the discretion of a specified person.

(2) Where any reduction, waiver or refund, in whole or in part, of any fee or charge is provided for, such reduction, waiver or refund may be expressed to apply or be applicable either generally or specifically—

- (a) in respect of certain matters or transactions or classes of matters or transactions;
- (b) in respect of certain documents or classes of documents;
- (c) when any event happens or ceases to happen;
- (d) in respect of certain persons or classes of persons or in respect of any combination of such matters, transactions, documents, events or persons,

This version is out of date

and may be expressed to apply or be applicable subject to such conditions as may be specified in the subsidiary legislation or in the discretion of any person specified therein.

References to Acts to include references to subsidiary legislation.

27. Any reference in any Act to any other Act shall be deemed to include a reference to any subsidiary legislation made under the Act to which reference is made.

Power of Assembly in relation to subsidiary legislation.

28. (1) Where by any Act it is provided that any subsidiary legislation shall be laid before or submitted to the Parliament, whether before or after coming into force, other than subsidiary legislation which requires the approval of the Parliament or a resolution of the Parliament to bring it into force, then, notwithstanding anything in such Act or in any other law to the contrary such subsidiary legislation shall be laid before the Parliament at the meeting thereof next ensuing after such subsidiary legislation has been made; and the Parliament may by resolution, either at such meeting, or, if no resolution affirming, revoking or to annul such legislation is passed thereat, at either of the two meetings of the Parliament next ensuing, revoke such subsidiary legislation which has not come into force, or resolve that any such subsidiary legislation which has come into force shall be annulled.

(2) Where the Parliament passes any resolution under the provisions of this section that any subsidiary legislation shall be annulled the person who or the authority which made the subsidiary legislation shall as soon as practicable thereafter revoke such legislation; and for the avoidance of doubt it is hereby expressly declared that any such resolution and revocation shall be without prejudice to the validity of anything done or suffered under such subsidiary legislation before such legislation is revoked.

(3) Where any subsidiary legislation is revoked under the provisions of this section either by the Parliament or by the person who or the authority which made the same, such revocation shall be without prejudice to the making of any subsidiary legislation, whether in the same terms and to the same effect or otherwise.

PART IV.

COMMENCEMENT AND REPEALS.

Time when Act or instrument comes into operation.

29. Where any Act came or comes into operation on a particular day, it shall be deemed to have come or shall come into operation immediately on the expiration of the day next preceding such day.

Commencement of subsidiary legislation.

30. Subject to the provisions of any other law, all subsidiary legislation shall be published in the Gazette and unless it be otherwise provided therein shall take effect and come into operation as law on the date of such publication.

Repeal of a repealing Act.

31. Where any Act repealing in whole or in part any former Act is itself repealed, such last repeal shall not revive the Act or provisions before repealed, unless words are added reviving such Act or provisions.

Repeal and substitution.

32. Where an Act repeals in whole or in part any former Act and substitutes provisions for the Act repealed, the repealed Act shall remain in force until the substituted provisions come into operation.

Effect of repeal.

33. (1) Where any Act repeals and re-enacts, with or without modification, any provision of any Act in force, references in any Act to the provision so repealed shall, unless the contrary intention appears, be construed as references to the provision so re-enacted.

(2) Where any Act repeals in whole or in part any other Act, then, unless the contrary intention appears, the repeal shall not—

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of any Act so repealed or anything duly done or suffered under any Act so repealed; or
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any Act so repealed; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any Act so repealed; or

This version is out of date

- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Act had not been passed.

Effect of repeal of Act on subsidiary legislation.

34. Where any Act or part of an Act is repealed, any subsidiary legislation made thereunder shall, if in force at the date of such repeal and unless a contrary intention appears, remain in force, so far as it is not inconsistent with the repealing Act, until it has been revoked or amended by subsidiary legislation made under the provisions of the repealing Act, and shall be deemed for all purposes to have been made thereunder.

Effect of repeal on amending legislation.

35. Where any Act which has been amended by any other Act is itself repealed, such repeal shall, unless a contrary intention appears, include the repeal of all those provisions of that other Act by which such first mentioned Act has been amended.

PART V.

ACTS AND ORDERS IN COUNCIL.

Acts to be read with necessary modification.

36. Whenever by any Act or Order in Council or Act any Act is extended or applied to Gibraltar, such Act shall be read with such formal alterations as to names, localities, courts, officers, persons, moneys, penalties, and otherwise as may be necessary to make the same applicable to the circumstances of Gibraltar.

Reference in Act to provision of Act or Order in Council.

37. Where in any Act reference is made to any provision of any Act or Order in Council and that provision is subsequently repealed and re-enacted without substantial modification, the reference in such Act to the provision of the Act or Order in Council so repealed shall, if the context so requires and unless the contrary intention appears, be construed as a reference to the provision so re-enacted.

General provisions as to Acts and Orders in Council.

38. (1) Any Act or Order in Council shall be interpreted in accordance with the provisions thereof and, to the extent to which such Act or Order in Council or any other law does not provide for its interpretation and subject to the provisions of section 36, in accordance with the provisions of this Act as if it were an Act.

(2) Subject to the provisions of this Act and any other law, this Act shall apply to Acts and Orders in Council as it applies to Acts.

PART VI.
PUBLIC OFFICERS.

Public officers.

39. A reference in any Act or in any instrument to any public officer or other officer by the usual or common title of his office shall include a reference to the person for the time being holding or carrying out the duties of that office or any portion of such duties.

Change in title of public office.

40. Whenever any change in title of any public officer or other office referred to in any law occurs, the Governor may by notice in the Gazette declare that such change of title shall take effect from a date specified in such notice, and, with effect from such date, any reference in any Act to the former title of such office shall be read and construed as a reference to that office by such new title as the Governor may declare in such notice.

Power to provide for execution of duties of public officer during temporary absence or inability.

41. Where by any Act any powers are conferred or any duties are imposed upon a public officer, the Governor may direct that if during any period owing to absence or inability to act from illness or any other cause such public officer shall be unable to exercise the powers or perform the duties of his office, such powers shall be had and may be exercised and such duties shall be performed by the person named or by the public officer holding the office designated by the Governor, and thereupon such person or public officer, during any period as aforesaid, shall have and may exercise the powers and shall perform the duties aforesaid, subject to such conditions, exceptions and qualifications as the Governor may direct.

Power to appoint substantively pending retirement, etc., of existing holder.

This version is out of date

42. (1) Where the substantive holder of any public office is on leave of absence pending relinquishment by him of such office, it shall be lawful for another person to be appointed substantively to the same public office.

(2) Where by reason of an appointment made in accordance with the provisions of subsection (1), two or more persons are holding the same public office, then for the purposes of any Act and in respect of any power conferred or duty imposed upon the holder of such office, the person last appointed to such office shall be deemed to be the holder thereof.

Power to appoint public officer as such to serve on board.

43. Where by any Act power is given to the Governor to appoint any persons to be members of any board, commission, committee or similar body it shall be lawful for the Governor, in the absence of any provision to the contrary, to so appoint, by his official designation, any public officer or other officer, and, on such appointment and until such appointment shall be cancelled or otherwise determined, the person for the time being filling the office in question shall be a member of such board, commission, committee or similar body.

Delegation by public officer.

44. (1) Where by any Act the Deputy Governor, the Attorney-General, the Financial Secretary or the Commissioner of Police is empowered to exercise any power or perform any duty, each such public officer may, unless by law expressly prohibited from so doing, depute any person by name or the person for the time being holding any office to exercise such power or perform such duty on his behalf, subject to such conditions, exceptions and qualifications as may be specified and thereupon or from the date specified the person deputed may exercise such power and may perform such duties subject as aforesaid.

(2) The Governor may, by order published in the Gazette, add any public officer to those specified in subsection (1) as empowered to depute and the provisions thereof shall apply to such public officer; and may, in like manner delete the designation of any public officer from subsection (1).

PART VII.

POWERS AND APPOINTMENTS.

Appointment of officers by name of office.

45. Where by any Act the Governor or any public officer or body is empowered to appoint or name a person to have and exercise any powers or perform any duties, the Governor or such public officer or body may either

appoint a person by name or direct the person for the time being holding the office designated by the Governor or by such public officer or body to have and exercise such powers and perform such duties; and thereupon or from the date specified by the Governor or by such public officer or body, the person appointed by name or the person holding the office aforesaid shall have and may exercise such powers and perform such duties accordingly.

Power to appoint to include power to suspend or dismiss.

46. (1) Where by any Act a power to make any appointment is conferred, then unless the contrary intention appears, the authority having power to make the appointment shall also have power to remove, suspend, dismiss, re-appoint or reinstate any person appointed by it in exercise of the power.

(2) Where in making any appointment an authority has consulted any body, whether by reason of a statutory requirement so to do or not, such body, or any similar body, may at any time thereafter make representations to the Governor regarding such appointment with a view to a substitute being appointed.

Construction of provisions as to exercise of powers and duties.

47. (1) Where any Act confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(2) Where any Act confers a power or imposes a duty on the holder of an office, as such, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed by the holder for the time being of the office or by a person appointed to act for him.

Power of Governor to delegate authority.

48. Where by any Act the Governor is empowered to exercise any powers or perform any duties, he may unless by law expressly prohibited from so doing depute any person by name or the person for the time being holding the office designated by him to exercise such powers or perform such duties on his behalf, subject to such conditions, exceptions and qualifications as the Governor may prescribe, and thereupon or from the date specified by the Governor the person so deputed shall have and exercise such powers and perform such duties subject as aforesaid:

Provided that nothing therein contained shall authorise the Governor to depute any person to hear any appeal or to make subsidiary legislation under any power in that behalf conferred upon him by any Act.

Power to appoint chairmen of boards, etc.

49. (1) Where by any Act power is given to the Governor to appoint any board, commission, committee or similar body, it shall be lawful for the Governor, in the absence of any provision to the contrary to appoint a chairman of such board, commission, committee or similar body.

(2) Where by any Act power is conferred to appoint persons as members of any board, committee, commission or similar body, then, unless a contrary intention appears, that power shall include a power to appoint persons as alternate members of such board, committee, commission or similar body.

Power of boards, etc., not affected by vacancy, etc.

50. Where any board, commission, committee or similar body is established under any Act, then, unless the contrary intention appears, the powers of such board, commission, committee or similar body shall not be affected by—

- (a) any vacancy in the membership thereof; or
- (b) any defect afterwards discovered in the appointment or qualification of a person purporting to be a member thereof.

Power of majority of more than two persons.

51. Save as is otherwise expressly provided by any Act, whenever any act or thing is required to be done by more than two persons, a majority of them may do it.

Construction of enabling words.

52. Where by any Act power is given to any person to do or enforce the doing of any act or thing all such powers shall be understood to be also given as are reasonably necessary to enable the person to do or enforce the doing of the act or thing.

Act for which payment is required.

53. (1) Where any person, public officer or any authority is required to do anything for which a fee is to be paid or a charge made under any Act, such person, public officer or authority may decline to do such thing until the fee is paid or until payment of the charge is made or, where the amount of payment to be made cannot be ascertained until the thing has been done,

until there is paid such an amount as may be estimated to be the correct amount by the person, public officer or authority required to do the thing.

(2) Where anything has been done for which an estimated amount has been paid, such amount shall be adjusted to the correct amount either by further payment or by a refund of the amount overpaid.

PART VIII.

TIME, DISTANCE AND PUBLIC HOLIDAYS.

Computation of time.

54. In computing time for the purpose of any Act, unless the contrary intention appears,—

- (a) a period of days from the happening of an event or the doing of any act or thing shall be deemed to be exclusive of the day in which the event happens or the act or thing is done;
- (b) if the last day of the period is Sunday or a public holiday (which days are in this section referred to as excluded days) the period shall include the next following day, not being an excluded day;
- (c) when any act or proceeding is directed or allowed to be done or taken on a certain day, then if that day happens to be an excluded day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being an excluded day;
- (d) when an act or proceeding is directed or allowed to be done or taken within any time not exceeding six days, excluded days shall not be reckoned in the computation of the time.

Provisions when no time prescribed.

55. Where no time is prescribed or allowed within which anything shall be done, such thing shall be done with all convenient speed, and as often as the prescribed occasion arises.

Measurement of distances.

56. In the measurement of any distance for the purpose of any Act, that distance shall, unless the contrary intention appears, be measured in a straight line on a horizontal plane.

Summer time.

This version is out of date

57. (1) Where any expression of time appears in any Act or general notice or in any instrument whatsoever, and whenever the doing or not doing of anything at a certain time of day or night or during a certain part of the day or night has an effect in law, such time shall, unless it is otherwise specifically stated, be held to be standard time as defined by subsection (2).

(2) The expression 'standard time' means standard time as used in Gibraltar, namely—

- (a) one hour in advance of Greenwich Mean Time; or
- (b) such other time, in advance of or behind standard time as defined in paragraph (a), as the Governor may from time to time, by notice in the Gazette, declare to be standard time for such period or periods as are specified in the notice.

(3) Nothing in this section shall affect the use of Greenwich Mean Time for purposes of astronomy, meteorology or navigation, or affect the construction of any document mentioning or referring to time in connection with such purposes.

Public holidays.

58. (1) The Governor may from time to time, by notice in the Gazette, appoint any day to be a public holiday.

(2) If any day which is appointed to be a public holiday falls on a Sunday, then the first day thereafter which is not a public holiday shall be deemed to be a public holiday in lieu thereof.

PART IX. LEGAL PROCEEDINGS.

Fines, penalties and terms of imprisonment.

59. Where any fine or penalty is imposed by or under the authority of any Act, it shall be implied that the amount of such fine or penalty is the maximum amount; and where by any Act any person may be sentenced to any term of imprisonment it shall be implied that such term of imprisonment is the maximum term.

Statement of penalty in section to indicate maximum penalty provided for contravention of section.

60. Where in any Act any fine, penalty or term of imprisonment is set out in any section, the same shall indicate that any contravention of the section whether by act or omission shall be an offence against that Act and shall, unless the contrary intention appears, be punishable by a fine, penalty or term of imprisonment not exceeding the amount or term stated.

Cumulative penalties.

61. Where in any Act more than one penalty is prescribed for an offence, the use of the word “and” shall, unless a contrary intention appears, mean that the penalties may be inflicted alternatively or cumulatively.

Proceedings against officials as such.

62. Any civil or criminal proceedings taken by or against any person by virtue of his office shall not be discontinued or abated by his death, resignation, absence or removal from office, but may be carried on by or against, as the case may be, the person for the time being holding that office.

Amendment of penalty.

63. Where an act or omission constitutes an offence and the penalty for such offence is amended between the time of the commission of such offence and the conviction therefor, the offender shall, in the absence of express provision to the contrary, be liable to the penalty prescribed at the time of the commission of such offence.

Payment of portion of penalty by direction of Governor.

64. Subject to the express provisions of any Act, where any fine or penalty is imposed by or under the authority of any Act, every such fine or penalty shall be payable into the Consolidated Fund, but the Governor may direct the payment to any aggrieved person or to any person whose information or evidence shall have led to the conviction of the offender or the recovery of the fine or penalty of such proportion of the fine or penalty as he may think fit.

Disposal of forfeits.

65. (1) Where under any Act any animal or thing is adjudged by any court or other authority to be forfeited, it shall, unless the contrary is otherwise provided or unless it is expressed by law to be forfeited to any person, be forfeited to the Crown, and the net proceeds thereof, if it is ordered by competent authority to be sold, shall be paid into the Consolidated Fund, unless other provision is made.

This version is out of date

(2) Nothing in this section shall affect any provision in any Act whereby any portion of any fine or forfeit or of proceeds of any forfeit is expressed to be recoverable by any person or may be granted by any authority to any person.

Imposition of penalty not to bar civil action.

66. The imposition of a penalty by any Act, in the absence of express provision to the contrary, shall not relieve any person from liability to answer for damages to a person injured.

PART X.

THE GOVERNOR AND THE CROWN.

Evidence of signature of Governor.

67. Any document purporting to be signed by the Governor shall be admissible as prima facie evidence in all proceedings and for all purposes without further proof being given that the signature thereon is that of the Governor.

References to the Crown.

68. In any Act references to the Sovereign reigning at the time of the passing of the Act or to the Crown shall, unless the contrary intention appears, be construed as references to the Sovereign for the time being.

Saving of rights of the Crown.

69. (1) No Act shall in any manner whatsoever affect the right of the Crown, unless it is therein expressly stated, or unless it appears by necessary implication that the Crown is bound thereby.

(2) This Act shall be binding on the Crown.

70. *Repealed.*

PART XI.

GAZETTE AND REPRINTING.

Production of Gazette.

71. The production of—

- (a) a copy of the Gazette, containing any Act or any general notice;
- or

- (b) a copy of any Act or any general notice purporting to be printed by the Government printer,

shall be prima facie evidence in all courts and for all purposes of the due tenor and making of such Act or general notice.

Reprint of amended Act.

72. Where any Act has been amended, any copy of the Act printed after the commencement of the Act by which the same was amended shall be printed with the necessary additions, omissions, substitutions and amendments.

Reprint of Acts.

73. When any Act is amended, the Government printer may, with the authority of the Minister responsible for justice, print copies of the Act as amended, and such copies shall be deemed to be authentic copies of the Act so amended for all purposes.

Notification of enactment of Acts.

74. Where any Act or other instrument of a public character is required either expressly or by implication to be published or notified in the Gazette, a notice in the Gazette of the Act or other instrument having been enacted or made shall be sufficient compliance with such requirement.