

UNIVERSITY OF GIBRALTAR ACT 2015**Principal Act**

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| Act. No. 2015-10 | <i>Commencement (see LN. 2015/103)</i> | 2.7.2015 |
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AN ACT TO ESTABLISH THE UNIVERSITY OF GIBRALTAR AND FOR CONNECTED PURPOSES.

Short title and commencement.

1.(1) This Act may be cited as the University of Gibraltar Act 2015.

(2) This Act comes into operation on the day appointed by the Minister by notice in the Gazette, and different days may be appointed for different purposes.

**Part 1
Interpretation**

Interpretation.

2. In this Act—

“auditor” means a statutory auditor approved in accordance with the Financial Services (Auditors) Act 2009;

“board” means the Board of Governors of the university;

“chancellor” means the chancellor of the university;

“Director” means the Director of Education as defined in section 2(1) of the Education and Training Act;

“faculty” means an academic administrative division of the university constituted as a faculty;

“faculty member” means a person employed by the university as an instructor, lecturer, assistant professor, associate professor, professor, or in an equivalent position;

“Gibraltar Authority for Standards in Higher Education” means the Gibraltar Authority for Standards in Higher Education established or designated by the Minister under section 46;

“initial governing authority” means the initial governing authority established or designated by the Minister under section 33;

“intellectual property rights” means patents, rights to inventions, copyright and related rights, trademarks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights,

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rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world;

“Minister” means the minister with responsibility for education;

“registrar” means the registrar of the university;

“student” means a person who is presently enrolled at the university as a student or who is designated by resolution of the board and includes a person applying to enrol as a student at the university and a visiting or exchange student from another university;

“student society” means a representative body (whether an association or not) whose principal purposes include representing or promoting the interests of a segment of the student body;

“student union” means an association of the generality of students at the university whose principal purposes include promoting the general interests of students, including in academic, disciplinary or other matters relating to the government of the university;

“university” means the University of Gibraltar;

“vice-chancellor” means the vice-chancellor of the university.

Part 2

Establishment and legal personality

Establishment.

3. There is hereby founded and constituted the University of Gibraltar.

Body corporate.

4. The university is a body corporate, may sue and be sued in its own name, and shall have its own seal.

Part 3

Institutional autonomy and academic freedom

Institutional autonomy.

5. The university, its board and its other constituent bodies shall be free from interference from all external bodies, authorities or agencies in the exercise of the powers conferred by this Act, including as regards the following—

- (a) the formulation and adoption of academic policies and standards;
- (b) the establishment of standards for admission and graduation;
- (c) the selection and appointment of academic staff and students.

Academic freedom.

6.(1) The principles of freedom of inquiry and research, teaching and intramural and extramural expression, shall be respected.

(2) Without limiting subsection (1), the university in performing its functions shall—

- (a) have the right and responsibility to preserve and promote the principles of academic freedom in the conduct of its affairs; and
- (b) be entitled to regulate its affairs in accordance with the principles of academic freedom and of its own ethos, and in doing so it shall have regard to—
 - (i) the promotion and preservation of equality of opportunity and access,
 - (ii) the effective and efficient use of resources, and
 - (iii) its obligations as to public accountability,

and if, in the interpretation of this Act, there is doubt regarding the meaning of any provision, a construction that would promote the principles and ethos referred to in this section shall be preferred to a construction that does not.

(3) A member of the academic staff of the university shall have the freedom within the law in his teaching, research and in any other activities either in or outside the university, to question and test received wisdom, to put forward new ideas and to state controversial or unpopular opinions, and shall not be disadvantaged or subject to less favourable treatment by the university for the exercise of that freedom.

Part 4

Powers, functions and duties of the university

Power to grant degrees etc.

7. The university has in its own right and name the power to grant degrees (including research and honorary degrees), diplomas and certificates in accordance with this Act.

Functions and duties of university.

8.(1) The functions of the university are as follows–

- (a) to establish and maintain–
 - (i) faculties, including faculties of health studies, sports science, business, life and earth sciences, Gibraltar studies, Mediterranean studies, and tourism and hospitality,
 - (ii) institutes, including an institute of professional development and continuing education,
 - (iii) departments,
 - (iv) schools,
 - (v) colleges,
 - (vi) academic chairs,
 - (vii) centres, including a centre for the teaching of English as a foreign or business language, and
 - (viii) courses of instruction, including courses in the law of Gibraltar and in Gibraltar taxation;
- (b) to provide instruction in the various branches of knowledge, including where appropriate through the facilitation of instruction in conjunction with other universities;
- (c) to establish facilities for the pursuit of original research in the various branches of knowledge;
- (d) to establish fellowships, scholarships, exhibitions, bursaries, prizes, rewards and pecuniary and other aids to facilitate or encourage proficiency in the subjects taught in the university and original research in the various branches of knowledge;

- (e) to provide courses of study or instruction to meet Gibraltar's needs and aspirations; and
- (f) generally to promote and carry on the work of the university.

(2) The functions of the university shall be fulfilled through the cooperative effort of the vice-chancellor, board and other constituent parts of the university.

Part 5 Chancellor

Chancellor.

9.(1) The university shall have a chancellor, who is appointed by the Minister, and who shall be the titular head of the university.

(2) A chancellor holds office for a term of three years and is eligible for reappointment for successive or non-successive terms.

(3) A chancellor shall not be an employee of the university while he holds office.

Vacancy in office of chancellor.

10.(1) If the office of chancellor becomes vacant for any reason before the expiration of the chancellor's term of office, the vacancy shall be filled as soon as practicable pursuant to section 9(1).

(2) A person appointed under subsection (1) holds office for the unexpired term of the predecessor in office.

Part 6 Governance

Vice-chancellor and Registrar

Powers of vice-chancellor.

11.(1) There shall be a vice-chancellor of the university, who is to be the chief executive officer and who shall set the strategic direction of the university and provide it with academic leadership.

(2) The vice-chancellor is appointed by the board with the consent of the Minister.

(3) Without limiting subsection (1), the vice-chancellor has the following powers—

- (a) to recommend appointments, promotions and removal of members of the teaching and administrative staffs and the officers and employees of the university;
- (b) to summon meetings of a faculty when he considers it necessary or advisable to do so, and at his discretion to convene meetings of all or any of the faculties;
- (c) to authorise lectures and instruction in any faculty to be given by persons other than the appointed members of the teaching staff;
- (d) to establish such committees as he considers necessary or advisable.

Suspension or dismissal of staff member.

12.(1) The vice-chancellor has the power to suspend or dismiss any member of the teaching and administrative staffs and any officer or employee of the university.

(2) On the exercise of the power in subsection (1), the vice-chancellor shall promptly report the action to the board with a statement of his reasons.

(3) A person who is suspended or dismissed under this section has a right of appeal to the board, whose decision shall be final.

Suspension or expulsion of student.

13.(1) The vice-chancellor has power to suspend or expel a student and to deal summarily with any matter of student discipline.

(2) On the exercise of the power in subsection (1), the vice-chancellor shall promptly report the action to the board with a statement of his reasons.

(3) A student who is suspended or expelled under this section has a right of appeal to the board, whose decision shall be final.

Duties of vice-chancellor.

14.(1) The vice-chancellor shall—

- (a) prepare and publish an annual report on the progress of the university,

- (b) make any necessary recommendations to the board, and
- (c) report on any matter referred to him by the board.

(2) The vice-chancellor shall prepare an annual budget and submit it to the board and the Minister for approval.

(3) The annual budget prepared under subsection 14(2) shall include a report on the measures taken towards becoming or remaining self-financing pursuant to section 35(2).

Registrar.

15. There shall be a registrar, appointed by the board, who shall keep the records and perform the duties that the board may require.

Acting registrar.

16. If the registrar is unable to act or is absent, the board may appoint an acting registrar, who shall perform the duties of the registrar and has all the powers of the registrar.

Board of Governors

Board of Governors.

17. The university shall have a governing board to be known as the Board of Governors.

Powers of board.

18.(1) The management, administration and control of the property, revenue and business of the university are vested in the board.

(2) Without limiting subsection (1) or the general powers conferred on the board by this Act, the board has the following powers—

- (a) to make rules for the meetings of the board and its transactions;
- (b) to appoint a secretary and such committees it considers necessary to carry out the board's functions, including joint committees with other university bodies, and to confer on the committees power and authority to act for the board;
- (c) to maintain and keep in proper order and condition the real property of the university, to erect and maintain the buildings

and structures on it that in the opinion of the board are necessary and advisable, and to make rules respecting the management, government and control of the real property, buildings and structures of the university;

- (d) to establish procedures for the recommendation and selection of candidates for vice-chancellor and for senior academic positions;
- (e) to appoint deans of all faculties, a librarian, a bursar, the professors, lecturers, instructors and other members of the teaching staff of the university, and the officers and employees the board considers necessary for the purposes of the university, and to set their salaries or remuneration, and to define their duties and their tenure of office or employment;
- (f) if the vice-chancellor is absent or unable to act, or if there is a vacancy in that office, to appoint an acting vice-chancellor with the consent of the Minister;
- (g) subject to section 14(2), to receive from the vice-chancellor and adopt with or without modifications the budgets for operating and capital expenditure for the university;
- (h) to set, determine and collect the fees—
 - (i) to be paid for instruction, research and all other activities in the university,
 - (ii) for extramural instruction,
 - (iii) for public lecturing, library fees, and laboratory fees,
 - (iv) for examinations, degrees and certificates,
 - (v) for the use of any student or alumni organisation in charge of student or alumni activities;
- (i) to administer funds, grants, fees, endowments and other assets;
- (j) to select a seal and arms for the university and have sole custody and use of the seal;
- (k) to determine the number of students that may in the opinion of the board, having regard to the resources available, be accommodated in the university, and to make rules considered

advisable for limiting the admission or accommodation of students to the number so determined;

- (l) to enter into agreements on behalf of the university;
- (m) to regulate, prohibit and impose requirements in relation to the use of real property, buildings, structures and personal property of the university, including in respect of—
 - (i) activities and events,
 - (ii) vehicle traffic and parking, including bicycles and other conveyances, and
 - (iii) pedestrian traffic;
- (n) to acquire and deal with—
 - (i) an invention or any interest in it, or a licence to make, use or sell the product of an invention, and
 - (ii) a patent, copyright, trade mark, trade name or other proprietary right or any interest in it;
- (o) to require, as a term of employment, engagement or financial assistance, that a person assign to the board all or any interest in an invention or all or any interest in intellectual property rights or other proprietary right resulting from such an invention,
 - (i) made by that person using the facilities, equipment or financial assistance provided by the board, or
 - (ii) made by that person while acting within the scope of the person's duties, engagement or employment, or resulting from or in connection with the person's duties, engagement or employment as an officer or employee of the university;
- (p) to make rules consistent with the powers conferred on the board by this Act;
- (q) to provide for the hearing and determination of disputes arising in relation to—
 - (i) the contravention of a rule or other instrument made in the exercise of a power under this section,

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- (ii) the imposition of a penalty under sub-paragraph (i), and
- (iii) jurisdictional competences between the constituent bodies of the university;
- (r) to do and perform all other matters and things that may be necessary or advisable for carrying out and advancing, directly or indirectly, the purposes of the university and the performance of any duty by the board or its officers prescribed by this Act.

(3) A person appointed under subsection (2)(f) has, during the period for which he is appointed, all the powers, rights and privileges of the vice-chancellor.

Composition of board.

19.(1) The board of the university shall be composed of up to seven members, as follows—

- (a) the vice-chancellor,
- (b) the Director,
- (c) the university's financial comptroller; and
- (d) up to four persons appointed by the Minister.

(2) The Minister may increase the number of members of the board at its request, and any additional members shall be selected and appointed by the board alone.

(3) The Minister shall appoint a chairperson of the board from among its members.

Best interests of university.

20. The members of the board of the university shall act in the best interests of the university.

Board chairperson.

21. The board shall select a chairperson from among its members to chair a meeting if the person appointed by the Minister pursuant to subsection 19(3) is unable to attend that meeting.

Term of office.

22.(1) A member of the board holds office for a term of three years and is eligible for re-appointment.

(2) The vice-chancellor, the university's financial comptroller and the Director are members of the board for as long as each holds his respective office.

Removal from office.

23.(1) If the Minister is satisfied that any member of the board—

- (a) has been absent from three consecutive meetings of the board without the permission of the chairperson of the board;
- (b) has become bankrupt;
- (c) has been convicted of a criminal offence punishable by a term of imprisonment of 3 months or more;
- (d) is incapacitated by physical or mental illness;
- (e) is in material breach of the terms under which he was appointed; or
- (f) is otherwise unable or unfit to discharge the functions of a member;

the Minister may, after consultation with the other members of the board, declare that person's office as a member of the board to be vacant and thereupon such office shall become vacant.

(2) The board may, on a resolution passed by the vote of at least a two-thirds majority of its members excluding the member or members to whom the resolution relates, remove for cause any member that it has appointed.

(3) Unless excused by resolution of the board, a member who does not attend at least half of the regular meetings of the board in any year is deemed to have vacated his seat.

Persons not eligible.

24.(1) The following persons are not eligible to be appointed members of the board—

- (a) a Member of the Gibraltar Parliament,

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- (b) a person who is an employee of the university and who has the responsibility, or joint responsibility with others, to—
 - (i) negotiate with the board, on behalf of the academic or non-academic staff association of the university, the terms and conditions of service of members of that association, or
 - (ii) adjudicate disputes regarding members of the academic or non-academic staff association of the university.

(2) A member of the board who ceases to be eligible during his term of office immediately ceases to be a member of the board.

Vacancies on the board.

25.(1) If a vacancy arises on the board because of the death of a member or for any other reason before the end of the term of office for which a member has been appointed, the board shall declare the vacancy in the minutes.

(2) A declaration under subsection (1) is conclusive evidence of the vacancy.

Method of filling vacancies and effect of vacancy.

26.(1) If a vacancy exists in respect of a member appointed by the Minister, the Minister may appoint a person to fill the vacancy.

(2) If a vacancy exists in respect of a member appointed by the board, the board may appoint a person to fill the vacancy.

(3) A vacancy on the board does not impair the authority of the remaining members of the board to act.

Meetings of board.

27.(1) The board shall meet as often as is necessary to transact the business of the board, and in any event at least once every three months.

(2) Three members of the board constitute a quorum for the transaction of business by the board.

(3) The chairperson has the same right to vote as the other members of the board, and, in the case of a tied vote on a motion, the motion is defeated, and the chairperson shall so declare.

Tenure, appointment and removal of teaching staff and others.

28.(1) Unless otherwise provided, the tenure of persons appointed under section 18(2)(e) is during the pleasure of the board.

(2) A member of the permanent teaching staff of the university or of any faculty of the university shall not be promoted or removed except on the recommendation of the vice-chancellor.

Academic governing body

Academic governance of the university.

29.(1) The Minister may pursuant to section 56 establish and provide for an academic board, council, senate or equivalent body to undertake the academic governance functions of the university.

(2) The vice-chancellor shall undertake the university's academic governance functions until such time as the Minister exercises his powers under section (1).

Faculties

Faculties.

30. The faculties of the university shall be constituted by the body established under section 29(1) or, if no such body has been established, the vice-chancellor, and in either case shall take into account the advice of such person as is appointed Director of Academic Programmes and Research.

Advice to vice-chancellor.

31. Any of the faculties may advise the vice-chancellor in any matter affecting the interests of the university, whether academic or disciplinary, but that advice does not limit the powers and authority of the vice-chancellor.

Student Union and Student Societies

Requirements to be observed in relation to the student union and student societies.

32.(1) The board may recognise a student union that requests such recognition, but only one student union shall exist at any one time.

(2) The board shall take such steps as are necessary to secure that the student union and any student society operates in a fair and democratic manner and is accountable for its finances.

(3) The Minister may in consultation with the board make regulations to ensure that the requirements of subsection (2) are observed.

Part 7

Interim governing arrangements

Initial governing authority.

33.(1) The Minister may—

- (a) designate an initial governing authority for the university, consisting of one or more members;
- (b) appoint the member or members of the initial governing authority and if he appoints more than one member he shall designate one of them as its chairperson;
- (c) specify the name of the initial governing authority;
- (d) confer or impose on the initial governing authority any powers or duties he considers necessary in connection with the carrying out of its responsibilities.

(2) The initial governing authority shall exercise its powers and perform its duties until it is dissolved by Minister.

Powers and duties of initial governing authority.

34.(1) Despite anything in this Act and in addition to the powers and duties conferred or imposed on the initial governing authority under section 33(1)(d), the initial governing authority of the university—

- (a) may exercise the powers and perform some or all of the duties of—
 - (i) the vice-chancellor, until the appointment of the first vice-chancellor,
 - (ii) the board, until the commencement of the board's first meeting, and
- (b) may exercise the powers and perform the duties referred to in clause (a) either in its own name or in the name of the vice-chancellor or the board as the case may be.

Part 8

Financing and investments

Annual grant etc.

35.(1) The Government may provide an annual grant, loan or other periodic financial assistance to the university in order to provide for capital, operating or other expenditures.

(2) Notwithstanding subsection (1) the university shall use its best endeavours to become and remain self-financing.

Expenditures.

36.(1) The board shall not incur any liability or make any expenditure in a financial year beyond the amount unexpended of any grant, loan or assistance provided to the university and the estimated revenue of the university up to the end of that financial year, unless an estimate of the increased liability or over-expenditure has been first approved by the Minister.

(2) The board must at all times manage the expenditures of the university prudently.

General borrowing.

37.(1) The university may borrow money, with the approval of the Minister, for the purpose of—

- (a) purchasing or otherwise acquiring land for the use of the university, or
- (b) erecting, repairing, adding to, furnishing or equipping any building or other structure for the use of the university.

(2) The board may—

- (a) enter into any agreement that it may consider necessary or advisable for carrying out the purposes mentioned in this section, and
- (b) execute in the name of the university all agreements, deeds and other instruments considered necessary or advisable to carry into effect the provisions of the instrument.

Short term borrowing.

38.(1) The board may, by resolution, borrow money required to meet the expenditures of the university until the revenues of the current financial year become available but any such borrowing shall not exceed the expected revenues of the current financial year.

(2) Money borrowed under subsection (1) shall be repaid out of current revenues and may be secured.

Investments.

39 Subject only to a contrary intent expressed in a gift, devise, bequest or trust the board—

- (a) may invest money belonging to the university and available for investment, and
- (b) shall, when investing under paragraph (a), make investments that a prudent person would make.

**Part 9
Property**

Property.

40.(1) For the purposes of carrying out and advancing, directly or indirectly, the purposes of the university, the university may acquire, by gift, purchase or any other manner, and hold, property of any kind.

(2) Subject to the prior approval of the Minister and to the terms of any leasehold, grant, conveyance, gift or devise of land, the university may mortgage, sell, transfer, lease or otherwise dispose of its land.

(3) Subject to the prior approval of the Minister and to the terms of any leasehold, grant, conveyance, gift or bequest of any personal property, the university may mortgage, sell, transfer, lease or otherwise dispose of its property.

(4) Every lease made under this section shall contain provisions, satisfactory to the Minister, for re-entry and taking possession by the university of the land leased and all buildings on it.

Exemption from taxation.

41.(1) Unless otherwise provided in an Act, the property vested in the university, and held or used by or on behalf of the university for university purposes, and any university income, is exempt from taxation.

(2) The exemptions referred to in subsection (1) shall also apply to any subsidiary, affiliate or associated company of the university.

Powers regarding certain property.

42. Without limiting its powers to acquire and hold property, the university may acquire, take and hold all property—

- (a) mortgaged or pledged to it by way of security,
- (b) foreclosed, or conveyed to it in satisfaction of debts previously contracted.

Part 10
Accountability and Reporting

Reports to Minister.

43. At the request of the Minister, the university shall provide the Minister with reports and any other information that the Minister considers necessary to carry out the Minister's responsibilities in relation to the university.

Annual report.

44.(1) The vice-chancellor and the board shall provide an annual report to the Minister, in which they shall set out—

- (a) a balance sheet and a statement of revenue and expenditure for the year ending on the preceding December 31,
- (b) the results of the annual audit required under section 45, and,
- (c) other particulars the Minister may require.

(2) A copy of the annual report shall be sent promptly to the chancellor.

Audit.

45. The board shall arrange for an audit of annual accounts or consolidated accounts of the university and shall send a copy of the audited accounts to the Minister promptly.

Part 11
Quality Assurance and Regulatory Authority

Gibraltar Authority for Standards in Higher Education.

46.(1) The Minister may establish or designate by order a quality assurance authority to be known as the Gibraltar Authority for Standards in Higher Education.

(2) The purpose of the Gibraltar Authority for Standards in Higher Education is to establish and safeguard academic standards and provide quality assurance in respect of the university's academic programmes.

(3) The Minister may delegate the functions enumerated in section 47 to such body, whether in Gibraltar or abroad, as he considers appropriate.

Functions of the Authority.

47. The functions of the Gibraltar Authority for Standards in Higher Education are—

- (a) to establish criteria for the recognition by the Gibraltar Authority for Standards in Higher Education of qualifications awarded by the university,
- (b) to keep and maintain a register of the university's qualifications,
- (c) generally to promote the quality and standards of university education and training through a system of quality assurance of courses, academic programmes and awards.

Advisory boards.

48.(1) The Gibraltar Authority for Standards in Higher Education may—

- (a) appoint advisory boards consisting either wholly or partly of persons unconnected with the university, on terms and for purposes the Authority may consider advisable, and
- (b) refer to an advisory board any subject or matter that the Authority considers advisable.

(2) The advice and report of an advisory board appointed under subsection (1) shall be considered by the Gibraltar Authority for Standards in Higher Education.

Regulatory Authority.

49.(1) The Minister may establish or designate by order a regulatory authority to be known as the Gibraltar Higher Education Commission.

(2) The Gibraltar Higher Education Commission shall have such powers as the Minister may confer upon it by regulation.

Part 12
Miscellaneous

Use of name and coat of arms, etc.

50.(1) A person other than the university shall not, without the consent of the board, hold himself or itself out as the university or use the title or style of the University of Gibraltar.

(2) A person shall not assume or use, in the course of trade, occupation or calling, or otherwise—

- (a) the coat of arms, logo, insignia or emblem of the university or used in the various offices or departments of the university,
- (b) any design in imitation of that coat of arms, logo, insignia or emblem, or calculated by its resemblance to deceive, or
- (c) any paper or other material on which the coat of arms, logo, insignia or emblem or any design in imitation, or resemblance calculated to deceive, is stamped, engraved, printed or otherwise marked.

No liability for acts of students.

51. No action, prosecution or other proceeding shall lie against the university, the board or the members of the board or faculties, or any officer or employee of the university, or against the initial governing authority or any of its members, directors, officers or employees in respect of any act or omission of a student arising out of an association or activity organised, managed or controlled, in whole or in part, by students of the university or of an affiliated college.

Immunity from suit.

52.(1) No action or proceeding shall be brought against a member of the board or faculties, an officer or employee of the university, or against the initial governing authority or any of its members, directors, officers or employees in respect of an act or omission by any of them which is done or omitted to be done in good faith in the course of the execution of the person's duties on behalf of the university.

(2) The limitations of liability specified in subsection (1) shall not apply to acts or omissions arising from gross negligence.

(3) No action shall lie against the university if it appears that the university acted under the authority of this Act or any other Act.

Execution of documents.

53. All documents required to be in writing, including deeds, transfers, mortgages, instruments or documents required to be in writing to which the university is a party shall be regarded as properly executed by the university only if executed—

- (a) by one member of the board in the presence as witness of either the registrar,
- (b) by two members of the board,
- (c) by two authorised signatories appointed by the board by way of written resolution, or
- (d) by affixing the seal of the university in the presence of two members of the board or any two authorised signatories appointed by the board by way of written resolution.

Charitable status.

54. Nothing in this or any other Act shall restrict the ability of the university to apply for registration under the Charities Act.

Offences.

55. A person who contravenes section 50, or who knowingly provides false or misleading information in a report required to be submitted to the Minister under this Act, commits an offence and is liable on summary conviction to imprisonment for six months or to a fine not exceeding twice level 5 on the standard scale or to both.

Power to make subordinate legislation.

56.(1) The Minister may make such rules, regulations or orders, or provide for such other statutory instruments as he considers necessary or useful to fulfil the purposes and objects of this Act.

(2) The power referred to in subsection (1) may be exercised for the purpose of implementing an EU or international obligation.