

Gibraltarian Status Act

This version is out of date

Principal Act

Act. No. 1962-13	<i>Commencement</i>	1.6.1962
	<i>Assent</i>	1.5.1962

Amending enactments	Relevant current provisions	Commencement date
Act. 1963-20	ss. 4(1), 8(1), (3), 9-10, 12, 16, 21	
1965-25	s. 8(2)	
Order of 25.11.1969	ss. 4(1), 7-12, 15-18, 22, 23(1), 24(1), 28, 32	
Act. 1999-26	ss. 2-3, 4(1)-(2), 6-18, 20, 22-23, 28	4.11.1999
2014-10	ss. 5(1), (g), 7(1), 8(1)(b)(ii)- (iii)	28.3.2014
2014-12	ss. 3(b), 9(f)	12.6.2014
LN. 2018/112	s. 2	21.5.2018
Act. 2021-09	ss. 2, 8A,	9.2.2021

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

Short title.

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

Interpretation.

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

“child” does not include an adopted child or child by virtue of a parental order;

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

“marriage” includes a reference to marriage of a same sex couple;

“married” includes a reference to a married same sex couple;

“the Minister” means the Minister with responsibility for personal status;

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

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

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

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

“widow” includes a woman whose marriage to another woman ended with the other woman’s death;

“widower” includes a man whose marriage to another man ended with the other man’s death.

PART 1
GIBALTARIANS OF RIGHT

Relationship of child.

3. For the purposes of this Act –

- (a) the relationship of mother and child shall be taken to exist between a woman and any child (legitimate or illegitimate) born to her;
- (b) the relationship of father and child shall be taken to exist between a man and any child (legitimate or illegitimate) born of his where the registration of the birth includes the name of the father;
- (c) a person born out of wedlock and legitimated by the subsequent marriage of his parents shall, as from the date of the marriage, be treated as if he had been born legitimate; and
- (d) a person shall be deemed to have been legitimated by the subsequent marriage of his parents if by the law of the place in which his father was domiciled at the time of the marriage, the marriage operated immediately or subsequently to legitimate him.

Definition of Gibraltarian.

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

Persons entitled to be registered.

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

- (a) was born in Gibraltar on or before the 30th day of June 1925; or
- (b) is the child of a person entitled to be registered under paragraph (a) of this subsection; or
- (c) is the descendant of a person entitled to be registered under paragraph (a) or (b) of this subsection and whose parent or grandparent was born in Gibraltar; or
- (d) is the spouse or civil partner, widow or widower or surviving civil partner of a person entitled to be registered under paragraph (a), (b) or (c) of this subsection; or
- (e) is the child of a person who has been registered by virtue of an order of the Minister under Part II; or
- (f) is the descendant of a person who has been registered by virtue of an order made by the Minister under Part II and whose parent or grandparent was born in Gibraltar; or

- (g) is the spouse or civil partner, widow or widower of a person or surviving civil partner who has been registered by virtue of an order made by the Minister under Part II or who is entitled to be registered under paragraph (e) or (f) of this subsection; or
- (h) is born in Gibraltar and is the child of a person who is registered in the register; or
- (i) is the spouse or civil partner, widow or widower or surviving civil partner of a person entitled to be registered under paragraph (h) of this subsection.

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

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

Application to register.

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

Married Gibraltarians.

7. A Gibraltarian who marries or enters into a civil partnership or has at any time married or entered into a civil partnership with a non-Gibraltarian shall not thereby cease or be deemed at any time to have ceased to be a Gibraltarian.

PART II.

POWERS OF THE MINISTER TO CONFER STATUS OF GIBALTARIAN.

Registration of adopted children.

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

- (a) he is a British national, and
- (b) he has been legally adopted by –

- (i) a married couple, one of whom is a Gibraltarian; or
- (ii) an unmarried person who is not in a civil partnership; or
- (iii) a couple in a civil partnership, one of whom is a Gibraltarian.

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

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

Registration of children the subject of a parental order.

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

- (a) he is a British national, and
- (b) he is the subject of a parental order where the applicant(s) were–
 - (i) a married couple, one of whom is a Gibraltarian;
 - (ii) an unmarried person who is not in a civil partnership; or
 - (iii) a couple in a civil partnership, one of whom is a Gibraltarian.

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

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

Registration of other persons.

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

- (a) he is a British Overseas Territories citizen by virtue of his connection with Gibraltar, or Gibraltar or Great Britain is his country of origin;
- (b) he is a British national;
- (c) he is of good character;
- (d) he has sufficient knowledge of the English language;
- (e) he has his permanent home in Gibraltar;
- (f) he has been resident in Gibraltar for a continuous period of ten years immediately preceding the date of application; and
- (g) he intends to make his permanent home in Gibraltar.

Deletion of names of persons registered under Part II.

10. The Minister may, in his absolute discretion, order that the registrar shall delete from the register the name of any person who has been registered by virtue of an order made by the Minister under this Part if the Minister is satisfied that such person is a British National by virtue of having been naturalised or registered as such a national and has been deprived of this nationality under the provisions of section 40 of the British Nationality Act 1981.

PART III
REGISTER OF GIBALTARIANS.

Establishment of register.

11. There is hereby established a Register of Gibraltarians.

Appointment of Registrar of Gibraltarians.

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

Registrar to maintain register.

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

Duty of registrar to enter names.

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

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

Removal of names from register.

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

- (a) if he is satisfied that such person has ceased to be a British national;
- (b) if he is satisfied that the name was entered in the register in error;
- (c) if he is satisfied that the name was entered in the register by reason of any fraud or false representation or of any mis-statement or concealment of fact whether intentional or otherwise; or
- (d) if ordered so to do by the Minister under the provisions of section 10.

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

Effect of deletion from register.

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

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

Correction of register.

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

Certificates of registration admissible in evidence.

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

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

Appeals from registrar.

19.(1) A person aggrieved by –

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

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

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

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

PART IV
GENERAL

Right to reside.

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

Burden of proof.

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

False statements.

22. A person who, for the purpose of procuring the registration of himself or of any other person, knowingly makes any false statement is guilty of an offence and is liable, on summary conviction, to imprisonment for six months or to a fine at level 3 on the standard scale or to both such imprisonment and fine.

Rules.

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

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