

**FIRST SUPPLEMENT TO THE GIBRALTAR  
GAZETTE**

**No. 3355 of 31st July, 2003**

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I ASSENT,  
FRANCIS RICHARDS,  
GOVERNOR.

31st July, 2003.



**GIBRALTAR**

**No. 12 of 2003**

**AN ORDINANCE** to amend the Carriers' Liability Ordinance 2002 so as to transpose into the law of Gibraltar Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985.

**ENACTED** by the Legislature of Gibraltar.

**Title .**

1. This Ordinance may be cited as the Carriers' Liability (Amendment) Ordinance 2003.

**Amendment of the Carriers' Liability Ordinance 2002.**

2.(1) The Carriers' Liability Ordinance 2002 is amended in accordance with the provisions of this section.

(2) For section 3(1) substitute the following–

“(1) The person (or persons) responsible for–

- (a) a clandestine entrant shall, subject to sub-sections (4) and (5), incur a penalty of the maximum permissible at level 4 on the standard scale and an additional penalty of that amount in respect of each such clandestine entrant;
- (b) a passenger arriving in Gibraltar without proper documents shall, subject to sub-section (4), incur a penalty up to level 4 on the standard scale and no less than £1,860 in respect of each such passenger. In deciding the total amount of the penalty the factors in Schedule 1 of this Ordinance shall be taken into consideration.”.

(3) For section 3(5) substitute the following–

“(5) Any penalty incurred by a person (or persons) responsible for a clandestine entrant under this section may be mitigated on the basis set out in Schedule 1 to this Ordinance.”.

(4) After section 3(6) insert the following–

“(7) There shall be no liability in principle in respect of any clandestine entrant or passenger arriving in Gibraltar without proper documents where that person is subsequently recognised as a person in respect of whom it would be contrary to Gibraltar's international obligations and/or any treaty or international agreement extended to Gibraltar to remove..

(8) For the purposes of this Ordinance a person requires a visa if under the visa requirements in force in Gibraltar he requires a visa for entry into Gibraltar or to transit Gibraltar.”.

(5) Section 5(7) is deleted.

(6) For the heading to section 14 substitute the following heading—

**“ Removal of unauthorised persons.”.**

(7) For section 14(2) substitute the following—

“(2) Subject to section 14(2A) where the unauthorised person is refused entry into Gibraltar, the Principal Immigration Officer may direct any person to whom subsection (1) applies to receive the person for whom he is responsible on board the carrier concerned and transport him to—

- (i) the state from which the unauthorised person was transported to Gibraltar; or
- (ii) any state which issued any travel document on which the unauthorised person travelled to Gibraltar; or
- (iii) any other state to which the unauthorised person is guaranteed entry.”.

(8) After section 14(2), insert the following—

“(2A) Where the person (or persons) to whom subsection (1) applies is unable himself to achieve the removal of the unauthorised person as directed by the Principal Immigration Officer in accordance with subsection (2), then he is responsible for finding and bearing the cost of alternative immediate removal of the unauthorised person to the state to which the Principal Immigration Officer has directed under subsection (2) and, where immediate removal is not possible, he is responsible for the costs of the unauthorised person’s stay in and subsequent removal from Gibraltar.”.

(9) After section 14(4) insert the following—

“14(4A) A person who is responsible for an unauthorised person (or persons) is liable to repay the costs and expenses set out in s 14(4) if a penalty notice has been issued against them and they have not appealed against it or if their appeal has not been successful. If the clandestine entrant or passenger without documentation is subsequently given permission to enter or reside in Gibraltar then no costs or expenses shall be demanded and any sum already demanded shall be repaid.”.

Passed by the Gibraltar House of Assembly on the 28th day of July, 2003.

D. J. REYES,

Clerk to the Assembly.