

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5339 GIBRALTAR Thursday 27th August 2026

LEGAL NOTICE NO. 328 OF 2026

EMPLOYMENT ACT

EMPLOYMENT (AMENDMENT) (NO.3) REGULATIONS 2026

In exercise of the powers conferred on him by section 86 of the Employment Act, and all other enabling powers, the Minister has made the following Regulations—

Title.

1. These Regulations may be cited as the Employment (Amendment) (No.3) Regulations 2026.

Commencement.

2. These Regulations come into operation on the day of publication.

Amendment of the Employment Regulations 1994.

3.(1) The Employment Regulations 1994 are amended in accordance with this regulation.

(2) In regulation 6 –

(a) in subregulation (4)(a) –

(i) for subparagraph (ii) substitute-

“(ii) an EEA national or a national of the United Kingdom of Great Britain and Northern Ireland”;

(ii) for subparagraph (iii) substitute-

“(iii) a family member, as defined in regulation 23 of the Residency Regulations 2026, of an EEA national or a national of the United Kingdom of Great Britain and Northern Ireland”;

(b) after subregulation (4) insert –

“(4A) in this regulation, “EEA National” means a national of –

- (a) a State which is a Contracting Party to the European Economic Area Agreement signed in Oporto on 2 May 1992 as amended or adjusted from time to time;
- (b) Switzerland.”.

(3) Delete regulation 7A.

(4) After regulation 8 insert –

“Conditional employment pending residency.

8A.(1) This regulation applies where—

- (a) an employer makes a notification under regulation 6 or an application for a permit under regulation 7 in respect of a worker; and
- (b) the worker is required to submit and has submitted, or proposes to submit, an application for a residence permit under Part 2 of the Residency Regulations 2026 and that application has not yet been determined.

(2) Where this regulation applies, the Director may, on being satisfied that the notification or application complies with the requirements of regulation 6 or, as the case may be, regulation 7, approve the employment documentation in respect of the worker subject to the condition that the worker obtains a residence permit within the residency condition period.

(3) Notwithstanding anything contained in regulation 6 or in regulation 7, no worker to whom this regulation applies may commence employment in Gibraltar unless the Director has approved the employment documentation under subregulation (2).

(4) Where the Director approves employment documentation under subregulation (2)—

- (a) the worker shall be entitled to commence and continue in employment in Gibraltar from the date of approval, subject to the condition in subregulation (2); and
- (b) where the worker is a non-entitled worker, the Director may issue a permit under regulation 7 subject to the condition in subregulation (2) in addition to any conditions imposed under regulation 7(4).

(5) For the avoidance of doubt, subject to subregulation (9), an approval under subregulation (2) grants only the right to be in employment in Gibraltar for the purposes of these Regulations during the residency condition period and does not—

- (a) confer any right to reside in Gibraltar or any entitlement to a residence permit under the Residency Regulations 2026;
- (b) confer any entitlement to education or any other service or benefit which is or may be dependent upon the holder having been issued a residence permit under the Residency Regulations 2026; or
- (c) affect the operation of the Residency Regulations 2026 or the determination of any application made thereunder.

(6) In this regulation, the “residency condition period” means the period of 90 days beginning with the date on which the Director approves the employment documentation under subregulation (2), provided that nothing in this regulation shall be construed as conferring any right to stay in Gibraltar for more than 90 days in any 180-day period.

(7) A worker to whom this regulation applies shall, within 7 days of being notified of the determination of his application for a residence permit, notify the Director in writing of—

- (a) the grant of a residence permit, together with such evidence of the grant as the Director may require; or
- (b) the refusal or withdrawal of the application.

(8) Where the residency condition period expires and the worker has not provided the Director with evidence that a residence permit has been issued under the Residency Regulations 2026, the Director shall—

- (a) revoke and cancel his approval of the employment documentation issued in respect of the worker under subregulation (2);
- (b) where a permit has been issued under regulation 7 in respect of that worker subject to the condition in subregulation (2), revoke that permit; and
- (c) require a worker to whom a certificate of employment has been issued under section 25 of the Act and regulation 10 to return that certificate.

(9) Where, at any time during the residency condition period, the worker’s application for a residence permit under the Residency Regulations 2026 is—

- (a) refused; or
- (b) withdrawn (whether by the applicant or otherwise),

the Director shall, subject to subregulation (10), revoke and cancel the approval of the employment documentation given under subregulation (2) and, where applicable, any permit issued under regulation 7, and require a worker to whom a certificate of

employment has been issued under section 25 of the Act and regulation 10 to return that certificate and the worker shall cease to be entitled to continue in employment in Gibraltar from the date of such revocation.

(10) Where an application for a residence permit is refused, the Director shall not revoke or cancel any approval, permit or certificate under subregulation (9) until –

- (a) the period prescribed by regulation 25 of the Residency Regulations 2026 for lodging an appeal against that refusal has expired without an appeal having been lodged;
- (b) where an appeal is lodged within that period, the appeal is withdrawn or determined and the refusal is upheld,

and during that period any approval, permit or certificate referred to in subregulation (9) shall remain in force.

(11) Where the Director revokes the approval of the employment documentation or a permit under subregulation (8) or (9)—

- (a) the Director shall notify the employer and the worker in writing of the revocation and its effect; and
- (b) the worker shall no longer be entitled to be in employment in Gibraltar by virtue of this regulation.

(12) Where—

- (a) the approval of the employment documentation of a worker has been revoked under subregulation (8) or (9); and
- (b) that worker is a person who, at the date of the revocation, was not entitled to reside in Gibraltar otherwise than by virtue of a residence permit under the Residency Regulations 2026,

no employer shall submit a notification under regulation 6 or an application under regulation 7 in respect of that worker, and the Director shall not approve any employment documentation in respect of that worker, during the period of 90 days beginning with the date of the revocation.

(13) Where, during the residency condition period, the Director receives satisfactory evidence that a residence permit has been issued to the worker under the Residency Regulations 2026, the Director shall—

- (a) cancel and remove the condition in subregulation (2) from his approval of the employment documentation in respect of the worker; and

- (b) cancel and remove the condition in subregulation (2) from a permit issued under regulation 7 (but which remains subject to any other conditions imposed under regulation 7(4)).
- (14) Where employment documentation is approved under subregulation (2) -
- (a) it shall bear the following endorsement-

“Employment Approved Subject to Residency Approval”; and
 - (b) the Director shall inform the employer that-
 - (i) the employment documentation is approved subject to the condition that the worker obtains a residence permit under the Residency Regulations 2026 within 90 days of the date of the approval; and
 - (ii) if a residence permit is not obtained by the worker within that period, or if the worker’s application for a residence permit is refused or withdrawn, the approval of the employment documentation will be revoked and cancelled by the Director in accordance with this regulation, and the worker shall no longer be entitled to continue in employment in Gibraltar.
- (15) A worker who continues in employment in Gibraltar after being notified under subregulation (11) of the revocation of the approval of the employment documentation under subregulation (8) or (9) shall be guilty of an offence and liable on summary conviction to a fine at level 4 on the standard scale.
- (16) An employer who continues to employ a worker after being notified under subregulation 11 of the revocation of the approval of the employment documentation under subregulation (8) or (9) in respect of that worker shall be guilty of an offence and liable on summary conviction to a fine at level 4 on the standard scale.
- (17) In this regulation—
- “employment documentation” means—
- (a) in the case of an entitled worker, the notification made under regulation 6 and the registration number issued under regulation 14; and
 - (b) in the case of a non-entitled worker, the application made under regulation 7, any permit issued under that regulation, and the certificate of employment issued under section 25 of the Act and regulation 10;
- “residence permit” means a residence permit issued under Part 2 or 3 of the Residency Regulations 2026;

“Residency Regulations 2026” means the Residency Regulations 2026 (LN. 2026/166) made under sections 13 and 43(7) of the Treaty on Gibraltar and the European Union Act 2026.”.

Savings.

4. Nothing in these Regulations affects any notification made under regulation 6 of the Employment Regulations 1994, or any permit issued or renewed under regulation 7 of the Employment Regulations 1994, or any certificate of employment issued under section 25 of the Employment Act and regulation 10 of the Employment Regulations 1994 before the commencement of these Regulations.

Dated: 27th August 2026.

C SANTOS,
Minister with responsibility for Employment.