

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE
No. 3863 of 7 July, 2011**

LEGAL NOTICE NO. 108 OF 2011.

INTERPRETATION AND GENERAL CLAUSES ACT

EMPLOYMENT ACT (AMENDMENT) REGULATIONS 2011

In exercise of the powers conferred on it by section 23(g)(ii) of the Interpretation and General Clauses Act and all other enabling powers, and in order to partly transpose into the law of Gibraltar Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspect of mediation in civil and commercial matters, the Government has made the following Regulations–

Title and commencement.

1. These Regulations may be cited as the Employment Act (Amendment) Regulations 2011 and come into operation on the day of publication.

Amendment to the Employment Act.

2. The Employment Act is amended by inserting the following section after section 83–

**“Postponement of effect of expiry of limitation periods for
certain mediated cross-border disputes.**

83A.(1) In this section–

- (a) “Mediation Directive” means Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters as amended from time to time;
- (b) “mediation” has the meaning given to it by section 72B(1) of the Supreme Court Act;
- (c) “mediator” has the meaning given to it by section 72B(1) of the Supreme Court Act;

- (d) “cross-border dispute” has the meaning given to it by section 72C of the Supreme Court Act; and
 - (e) “relevant dispute” is a cross-border dispute that is subject to the Mediation Directive.
- (2) Where, but for this section, the last day of a period of limitation or a qualifying period prescribed by this Act that relates to the subject of the whole or part of a relevant dispute falls–
- (a) on or after a date when a mediation in relation to the relevant disputes starts but before the date that the mediation ends;
 - (b) on the date that a mediation in relation to the relevant dispute ends; or
 - (c) in the eight weeks after the date that a mediation in relation to the relevant dispute ends,
- the expiry of that period is postponed in accordance with subsection (3).
- (3) For the purposes of initiating any proceedings before the Industrial Tribunal, or initiating any judicial proceedings or arbitration, the expiry of that period of limitation is postponed until the date falling eight weeks after the date on which the mediation ends.
- (4) For the purposes of this section, mediation starts on the date of the agreement to mediate that is entered into by the parties and the mediator.
- (5) For the purposes of this section, mediation ends on the earliest of the date that–
- (a) the parties reach an agreement in resolution of the relevant dispute;

- (b) a party notifies the other parties to the relevant dispute that it has withdrawn from the mediation of the relevant dispute;
 - (c) where there are two parties to the mediation of the relevant dispute, is 14 days after a party has requested the other to confirm that it is continuing with the mediation of the relevant dispute, and has not received a response from that party within 14 days of the request being made;
 - (d) where there are more than two parties to the mediation of the relevant dispute, is 14 days after a party has requested another party to the relevant dispute (the second party) to confirm to the requesting party and all the other parties to the relevant dispute that it is continuing with the mediation of the relevant dispute and the requesting, and other parties have not all received a response from the second party within 14 days of the request being made;
 - (e) is 14 days after the parties are notified that the mediator's appointment has ended (whether by death, resignation or otherwise), if, within that 14 day period, the parties do not agree to seek to appoint a replacement mediator; or
 - (f) the mediation of the relevant dispute otherwise comes to an end pursuant to the terms of the agreement to mediate the relevant dispute.
- (6) For the purpose of subsection (5)–
- (a) notification, requests and confirmation may be oral or written; and
 - (b) where the parties agree or a party notifies other parties on different dates or are notified on different dates, the relevant date is the date that the last party agrees or notifies or is notified.

- (7) Where more than one period of limitation applies in relation to a relevant dispute, the expiry of one of those periods of limitation and the postponement of the effect of that expiry under subsection (3) does not affect the running of the other limitation periods.
- (8) Where the court or Tribunal has the power under this Act to extend a period of limitation, the period of limitation is that period as extended by this section.
- (9) This section is without prejudice to provisions on limitation periods in international agreements applicable to Gibraltar.”.

Dated 7th July, 2011.

P R CARUANA,
Chief Minister,
For the Government.

EXPLANATORY MEMORANDUM

These Regulations amend the Employment Act in order to transpose Article 8 of Directive 2005/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspect of mediation in civil and commercial matters.

