

THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5226 GIBRALTAR Wednesday 30th April 2025

B. 09/25

BILL

FOR

AN ACT to amend Part VIB of the Employment Act.

ENACTED by the Legislature of Gibraltar.

Title.

1. This Act may be cited as the Employment (Amendment) Act 2025.

Commencement.

2. This Act comes into operation on the day of publication.

Amendment of Employment Act.

3.(1) Section 78B of the Employment Act is amended as follows.

(2) For subsection (1) substitute-

“(1) This Part applies to-

- (a) a transfer of an undertaking, business or part of an undertaking or business situated immediately before the transfer in Gibraltar to another person where there is a transfer of an economic entity which retains its identity;
- (b) a service provision change, that is a situation in which -
 - (i) activities cease to be carried out by a person (“a client”) on his own behalf and are carried out instead by another person on the client’s behalf (“a contractor”);
 - (ii) activities cease to be carried out by a contractor on a client’s behalf (whether or not those activities had previously been carried out by the

client on his own behalf) and are carried out instead by another person (“a subsequent contractor”) on the client’s behalf; or

- (iii) activities cease to be carried out by a contractor or a subsequent contractor on a client’s behalf (whether or not those activities had previously been carried out by the client on his own behalf) and are carried out instead by the client on his own behalf,

and in which the conditions in subsection (1A) are satisfied.”.

(3) After subsection (1) insert-

“(1A) The conditions referred to in subsection (1)(b) are that-

- (a) immediately before the service provision change –
 - (i) there is an organised grouping of employees situated in Gibraltar which has as its principal purpose the carrying out of the activities concerned on behalf of the client;
 - (ii) the client intends that the activities will, following the service provision change, be carried out by the transferee other than in connection with a single specific event or task of short-term duration; and
- (b) the activities concerned do not consist wholly or mainly of the supply of goods for the client’s use.

(1B) References in subsection (1)(b) to activities being carried out instead by another person (including the client) are to activities which are fundamentally the same as the activities carried out by the person who has ceased to carry them out.”.

(4) In subsection (4)(b) after “or business” insert “(which may also be a service provision change)”.

(5) Delete subsection (7).

Explanatory Memorandum

This Act amends the Employment Act to clarify that Part VIB applies to what are described as “service provision changes” (which includes situations where a client business outsources or contracts out a service to a contractor).

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Unit 3, New Harbours
Government Printers for Gibraltar,
Copies may be purchased at 6, Convent Place, Price. £0.50.**