

**THIRD SUPPLEMENT TO THE GIBRALTAR  
GAZETTE**

No. 3,717 of 4th June, 2009

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**B. 18/09**

**BILL**

**FOR**

**AN ACT** to amend the Town Planning Act 1999 for the purpose of transposing into the law of Gibraltar Article 1(7) of Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances; and for connected purposes.

**ENACTED** by the Legislature of Gibraltar.

**Title and commencement.**

1. This Act may be cited as the Town Planning (Amendment) Act 2009 and comes into operation on the day of publication.

**Amendments to section 2 of the Town Planning Act 1999.**

2. Section 2 of the Town Planning Act 1999 (the Principal Act) is amended as follows—

- (a) by inserting the following definitions after the definition of “Commission”—

““dangerous substance” means a substance, mixture or preparation—

- (a) listed in column 1 of Part 2 of Schedule 6 of the Public Health Act; or
- (b) within a category specified in column 1 of Part 3 of Schedule 6 of the Public Health Act,

and present as a raw material, product, by-product, residue or intermediate;

“Directive” means the Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances as amended by Directive 2003/105/EC;”;

- (b) in the definition of “Minister” by substituting “Town Planning” for “ the environment”; and
- (c) by inserting the following definition after the definition of “Minister”–

““operator” shall be construed in accordance with section 95A(2) of the Public Health Act;”.

**Amendment to section 5.**

3. Section 5 of the Principal Act is amended by inserting the following subsections after subsection (2)–

- “(2A) In the preparation of a planning scheme, the Commission shall, in addition to the matters specified in subsection (2), have regard to the need–
  - (a) in the long term, to maintain appropriate distances between establishments and residential areas, buildings and areas of public use, major transport routes as far as possible, recreational areas and areas of particular sensitivity or interest; and
  - (b) in the case of existing establishments, for additional technical measures in accordance with Article 5 of the Directive so as not to increase the risks to people.
- (2B) In subsection (2A), “establishment” means the whole area under the control of the same person where dangerous substances are present in one or more installations, and for this purpose two or more areas under the control of the same person and separated only by a road shall be treated as one whole area.”.

**Amendment to section 22.**

4. Section 22 of the Principal Act is amended by inserting the following subsections after subsection (2)–

“(2A) In acting under this section, the Commission shall, in addition to the matters specified in subsection (2), have regard to the need–

- (a) in the long term, to maintain appropriate distances between establishments and residential areas, buildings and areas of public use, major transport routes as far as possible, recreational areas and areas of particular sensitivity or interest; and
- (b) in the case of existing establishments, for additional technical measures in accordance with Article 5 of the Directive so as not to increase the risks to people.

(2B) In subsection (2A), “establishment” means the whole area under the control of the same person where dangerous substances are present in one or more installations, and for this purpose two or more areas under the control of the same person and separated only by a road shall be treated as one whole area.”.

**Insertion of section 22B.**

5. The Principal Act is amended by inserting the following section after section 22A–

**“Notification of dangerous substances.**

22B.(1) Within a reasonable period of time prior to the start of construction of an establishment, the operator of the establishment shall send to the Minister or the Commission a notification containing the information specified in Schedule 8 of the Public Health Act.

(2) The operator shall notify forthwith the Minister or the Commission in the event of–

- (a) there being any significant increase in the quantity of dangerous substances notified under this section; and
  - (b) there being any significant change in—
    - (i) the nature or physical form of the dangerous substances so notified;
    - (ii) the process of employing them; or
    - (iii) any other information notified to the Minister or the Commission under this section in respect of the establishment.”
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**EXPLANATORY MEMORANDUM**

This Bill amends the Town Planning Act 1999 in order to transpose into the law of Gibraltar Article 1(7) of Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances. It also makes some consequential amendments.

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