

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3,837 of 24th February, 2011

B. 02/11

BILL

FOR

AN ACT to amend the Public Health Act.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the Public Health (Amendment) Act 2011 and comes into operation on the day appointed by the Government by notice in the Gazette and different days may be appointed for different purposes.

Amendment of the Public Health Act.

2.(1) The Public Health Act is amended in accordance with this section.

(2) In section 2—

- (a) in the definition of “public highways” for “Governor” substitute “Government”;
- (b) in the definition of “public sewer” delete the words “formerly the property of the City Council and now”;
- (c) in the definition of “reserved ways”—
 - (i) delete the words “military” and “not being public highways or other streets held by the Governor on behalf of Her Majesty”,

- (ii) after the word “spaces” insert “being upon land in the possession, occupation and use of the Ministry of Defence”;
 - (d) in the definition of “street” delete the words “, held by the Governor on behalf of Her Majesty and any reserved way which the Governor has agreed to maintain”;
 - (e) in the definition of “United Kingdom Government premises” delete the words “or Ministry of the Environment”.
- (3) In section 36(2) delete the words “vested in the Governor”.
 - (4) In section 44 for “Governor” substitute “Government”.
 - (5) In section 45 for “Governor” substitute “Government”.
 - (6) For section 47 substitute—

“Power of the Government to relax requirements of rules.

- 47. Where the operation of any building rules in force would be unreasonable in relation to any particular case, the Government may relax the requirements of the rules or dispense with compliance therewith:

Provided that notice of any such proposed relaxation or dispensation shall be given in such manner and to such persons, if any, as the Government may direct, and the Government shall not give its consent before the expiration of one month from the giving of the notice and after taking into consideration any objection which may have been received by it.”.

- (7) In section 48(5)(a) for “Governor” substitute “Government”.
- (8) In section 52 for “Governor” on both occasions it appears substitute “Government”.
- (9) Delete section 54.
- (10) In section 56(3) for “Governor” substitute “Government”.

- (11) In section 62(2) delete “not vested in the Governor”.
- (12) In section 63(1) delete the words “, but is not vested in the Governor”.
- (13) In section 70 for “Governor” substitute “Government”.
- (14) In section 76(2) for “Governor” substitute “Government”.
- (15) In section 85(1)(a) delete the words “other than the Governor”.
- (16) In section 93(1) for “Governor” substitute “Government”.
- (17) In section 94(1)(c) for “Governor” substitute “Government”.
- (18) In section 95 in subsection (1), subsection (2) (on both occasions it appears), and subsection (3) (on both occasions it appears) for “Governor” substitute “Government”.
- (19) For section 98C substitute—
- “Competent authority of transit.**
- 98C. The Government shall be the competent authority of transit in Gibraltar for the purpose of the principal Regulation.”.
- (20) In section 140(1)—
- (a) for “Governor” substitute “Government”;
- (b) for “supplied by the Government” substitute “supplied by it”.
- (21) In section 143(3) for “Governor” substitute “Government”.
- (22) For section 146 substitute—
- “Power of the Government to declare further diseases to be notifiable.**
- 146.(1) The Government may by order declare that the provisions of this Part or any portion thereof relating to the notification of disease shall apply to an infectious disease not being a disease

specifically mentioned in the definition of “notifiable disease” contained in this Act, and, while such an order is in operation, an infectious disease mentioned therein shall be a notifiable disease to which the provisions of this Act or such of those provisions as are specified in the order relating to notifiable diseases apply.

- (2) When any such order has been made it shall be published in the Gazette and in such other manner considered sufficient for informing persons interested, and a copy shall also be sent to each registered medical practitioner who after due inquiry is ascertained to be practising in Gibraltar, and the order shall come into operation on such date, not being earlier than one week after the date of the publication of the order in the Gazette as the Government may fix.”.

(23) In section 152 in subsections (1) and (5) for “Governor” substitute “Government”.

(24) For section 161 substitute—

“Power of the Government to make regulations as to the disposal of dead bodies.

161. The Government may make regulations imposing any conditions and restrictions with respect to means of disposal of dead bodies otherwise than by burial or cremation, as to the period of time a body may be retained after death on any premises, or with respect to embalming or preservation, which may appear to be desirable in the interests of public health or public safety.”.

(25) In section 174(1) for “Governor” substitute “Government”.

(26) For section 180 substitute—

“Power of the Government to make rules.

180.(1) The Government may make rules with a view to the treatment of persons affected with any epidemic, endemic or infectious disease and for preventing the spread of such diseases.

- (2) Rules made under this section shall specify the authorities or persons by whom they are to be enforced and executed.”.
- (27) In section 192J(5) for “Governor” substitute “Government”.
- (28) In section 192N(1) for “Governor” substitute “Government”.
- (29) In section 192W(1) for “Governor” substitute “Government”.
- (30) In section 208(1) for “Governor” substitute “Government”.
- (31) In section 211(2) for “Governor” substitute “Government”.
- (32) In section 213 for “Governor” substitute “Government”.
- (33) In section 213A for “Governor” substitute “Government”.
- (34) In section 214(1) for “Governor” substitute “Government”.
- (35) In section 218(1) for “Governor” substitute “Government”.
- (36) In section 219 delete the proviso to subsection (1).
- (37) In section 227 for “Governor” substitute “Government”.
- (38) In section 236(1) for “Governor” substitute “Government”.
- (39) In section 237(4) for “Governor” substitute “Government”.
- (40) For section 238 substitute—

“Duty of Government to maintain public highways.

238(1) Subject to the provisions of this Part, and to any grants and dispositions thereof made pursuant to section 75 of the Constitution, all public highways and other streets in Gibraltar are Crown Lands, and shall vest in Her Majesty.

- (2) It shall be the duty of the Government to maintain all public highways and other streets, other than reserved ways, and all such culverts and water channels as may be necessary to carry off the surface water therefrom, and all walls, retaining walls,

and parapet walls situate thereon or pertaining thereto and which are requisite for their support, or for the safety of passengers and ordinary traffic thereon.”.

(41) Delete section 239.

(42) For section 241 substitute—

“The Government may declare streets to be public highways.

241. The Government may by notice in the Gazette declare any street or part of a street not being a public highway (save a reserved way) to be a public highway, and thereupon such street or part of a street as defined in the notice shall become a public highway and shall be vested in and under the control and management of the Government, and be subject to all the provisions contained in this or any other Act relating to public highways in Gibraltar.”.

(43) Delete section 242.

(44) In section 243—

- (a) for “Governor” substitute “Government”;
- (b) after “purpose” insert “and any lands so purchased by the Government shall be Crown Lands and vest in Her Majesty”.

(45) In section 244—

- (a) delete the first proviso;
- (b) in the second proviso—
 - (i) delete “also,”;
 - (ii) for “general rates” substitute “consolidated fund”.

(46) In section 245 delete the proviso.

(47) In the proviso to section 264 for “Governor” substitute “Government”.

(48) In section 265–

- (a) in subsection (2) for “Governor” substitute “Government and for “he” substitute “it”;
- (b) in subsection (3) for “Governor” substitute “Government”.

(49) In section 269 for paragraph (a) of the proviso substitute–

- “(a) if at any time it shall appear to the Government to be necessary in the interests of the inhabitants of Gibraltar that any part of the premises so set apart should be appropriated to a purpose other than that specified in the foregoing provisions of this section, it may by legal notice declare that such part of the premises as may be specified in the legal notice shall cease to be so set apart, and thereupon the foregoing provisions of this section shall cease to have effect in respect of that part.”.

(50) In section 279(k) for “Chief Secretary” substitute “Financial Secretary”.

(51) In section 290–

- (a) in subsection (1) for “Governor” substitute “Government”;
- (b) delete subsection (4).

(52) In section 305(1) delete “nevertheless to such rules as may for military reasons be made by the Governor, and subject also”.

(53) In section 316(2) for “Governor” substitute “Government”.

(54) In section 319 for “Deputy Governor” substitute “Chief Secretary”.

(55) Delete section 320(7).

(56) In the proviso to section 323(3) for “Governor” substitute “Government”.

(57) Delete section 336.

(58) In section 337 for “Governor” substitute “Government”.

(59) In Schedule 5G, in the paragraph after “B.” for “send to the Governor for onward” substitute “ensure the”.

EXPLANATORY MEMORANDUM

This Bill amends the Public Health Act in the main by transferring certain duties, powers and responsibilities of the Governor to the Government and by modernising other sections.

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