

THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4732 GIBRALTAR Friday 26th June 2020

B. 11/20

BILL

FOR

AN ACT to amend the Public Health Act to control the emission of smoke by vessels and for connected purposes.

ENACTED by the Legislature of Gibraltar.

Title.

1. This Act may be cited as the Public Health (Amendment) Act 2020.

Commencement.

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

Amendment of Public Health Act.

3.(1) After section 92 of the Public Health Act insert the following section-

“Emission of dark smoke from vessels.

92A.(1) Subject to subsection (3), no vessel within BGTW, may emit dark smoke for longer than the period specified in the second column of the table contained in Schedule 22 in respect of the class of case specified in the first column of the said Schedule, provided that—

(a) in no case shall black smoke be emitted for two minutes or more in the aggregate within a period of thirty minutes; and

(b) continuous emissions of dark smoke shall not exceed three minutes.

(2) If subsection (1) is contravened, the owner and master of the vessel and the owner’s agent each commits an offence.

(3) In any proceedings for an offence under this section, it shall be a defence to prove that—

(a) the emission of dark smoke took place in circumstances affecting the safety of life or of the vessel; or

(b) the contravention complained of was solely due to some failure of a furnace or of apparatus used in connection with a furnace, provided that—

(i) such failure could not reasonably have been foreseen, or, if foreseen, could not reasonably have been provided against; and

(ii) the contravention could not reasonably have been prevented or minimised by action taken after the failure occurred.

(4) Each person who commits an offence under subsection (2) is liable on summary conviction to a fine not exceeding £5,000.

(5) This section does not apply to vessels of Her Majesty's navy or to Government ships in the service of the Secretary of State for Defence while employed for the purposes of Her Majesty's navy.

(6) For the purposes of Schedule 22 a vessel is not under way when it is at anchor or made fast to the shore or bottom, and a vessel which is aground shall be deemed to be under way.

(7) The Minister may by Order published in the Gazette amend or vary the provisions of Schedule 22 in order to specify periods during which emission of smoke from vessels may be permitted in any class of case and subject to limitations.

(8) In this section, unless the context otherwise requires—

“BGTW” has the meaning given in section 98A;

“black smoke” means smoke which would appear to be as dark as, or darker than, shade 4 on the Ringelmann Chart as provided for in British Standard 2742C:1957;

“dark smoke” means smoke which would appear to be as dark as, or darker than, shade 2 on the Ringelmann Chart as provided for in British Standard 2742C:1957;

“smoke” includes soot, ash, grit and gritty particles emitted in smoke or steam.”.

(2) After section 93(2) insert the following subsection—

“(3) Rules made under subsection (1) may also—

- (a) provide for the adoption of precautions against the emission of smoke from vessels;
- (b) make general provisions for effectively controlling the emission of smoke from vessels; and
- (c) impose penalties for breaches of the rules, and section 23(b) of the Interpretation and General Clauses Act does not apply to any such rules.”.

(3) After Schedule 21 insert the following Schedule–

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SCHEDULE 22

Section 92A

First Column Class of case	Second Column Permitted Period
1. When new fires are being lit preparatory to raising steam	10 minutes in the aggregate in any period of 1 hour
2. When a breakdown has affected the combustion equipment	10 minutes in the aggregate in any period of 1 hour
3. When it is necessary, because of navigational difficulties, to force the combustion equipment to the detriment of its operation	10 minutes in the aggregate in any period of 1 hour
4. Emissions from a natural draught oil-fired furnace or a coal-fired boiler furnace in the following cases:	
(a) a tug not under way but preparatory to getting under way or supplying power to other vessels or to shore installations	10 minutes in the aggregate in any period of 1 hour
(b) a vessel not under way but using main power for the purpose of dredging, lifting, pumping or performing some other special operation for which the vessel is designed	10 minutes in the aggregate in any period of 1 hour
5. Emissions for any other source	5 minutes in the aggregate in any period of 1 hour

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Explanatory Memorandum

This Bill amends the Public Health Act to provide for a restriction on the emission of smoke from vessels in BGTW.

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