

THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5059 GIBRALTAR Thursday 8th June 2023

B. 18/2023

BILL

FOR

AN ACT to amend the Litter Control Act, 1990.

ENACTED by the Legislature of Gibraltar.

Title.

1. This Act may be cited as the Litter Control (Amendment) Act 2023.

Commencement.

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

Amendment of the Litter Control Act, 1990.

3.(1) The Litter Control Act, 1990 is amended in accordance with the provisions of this section.

(2) In section 2—

(a) after the definition of “dangerous litter” insert —

““keeper” in relation to a vehicle is the person in whose name the vehicle is registered;”;

(b) after the definition of “free public open places” insert —

““Gibraltar Nature Reserve” means all that area designated as a nature conservation area and known as the Gibraltar Nature Reserve under the Nature Conservation (Designation of Gibraltar Nature Reserve) Order 2019;”.

(3) At the end of section 5, insert —

“(9) If the place to which the offence relates forms part of the Gibraltar Nature Reserve, this shall be treated as an aggravating factor by any court sentencing an offender for an offence under this section.”.

(4) After section 5, insert —

“Littering from a vehicle; civil penalty.

5A.(1) The litter authority may give a penalty notice to a person who is the keeper of a vehicle where there is reason to believe that litter is thrown, dropped or otherwise deposited from the vehicle (whether or not by the vehicle's keeper).

(2) A penalty notice is a written notice requiring the person to pay a penalty and may be issued to that person by —

- (a) handing it to him; or
- (b) addressing it to him and leaving it at his last known address; or
- (c) sending it by registered post to him at his last known address.

(3) The form of notices under this section, and their content shall be such as the Government may by regulation prescribe.

(4) The provisions of this section shall apply to dangerous litter as they apply to litter.

(5) The amount of a penalty issued under this section is the amount specified in Schedule 3, which is recoverable by the litter authority as a civil debt.

(6) If a penalty is not paid in full within 14 days following the date of service of that notice, the amount of the penalty increases by 100% with effect from the day after the last day of the 14-day period.

(7) A penalty is taken to be paid when it is received by the litter authority.

(8) A penalty notice must not be given —

- (a) after the end of the period of 35 days beginning with the day on which the littering in question occurred; or
- (b) if a notice under section 6 of this Act has been given to a person in respect of the same offence (whether or not the person is the vehicle's keeper); or
- (c) if a prosecution has been brought against a person under section 5 of this Act in respect of the same offence (whether or not the person is the vehicle's keeper and whether or not the prosecution has concluded or was successful).

(9) The litter authority may cancel a penalty notice issued under this section at any time by informing the recipient in writing.

(10) A person who is the keeper of a vehicle is not liable to pay a penalty for littering committed in respect of the vehicle if —

(a) the vehicle is a public service vehicle, within the meaning of the Transport Act 1998; and

(b) the person who threw, dropped or otherwise deposited the litter from the vehicle, was at the time, a passenger in the vehicle.

(11) In any proceedings, a certificate which —

(a) purports to be signed by or on behalf of the litter authority; and

(b) states that payment of a penalty was or was not received by a date specified in the certificate, shall be conclusive evidence of the facts stated.”.

(5) After section 11, insert —

“Offences by bodies corporate.

12.(1) Where an offence under any provision of this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, they as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts or defaults of a member in connection with their functions of management as if they were a director of the body corporate.”.

(6) After Schedule 2, insert —

“SCHEDULE 3.

Section 5A

Civil penalty.

The amount specified in respect of the penalty notice issued under section 5A of this Act, is—

(a) where the penalty notice relates to dangerous litter, is £1,000;

(b) where the penalty notice is issued in respect of litter, is £250.”.

EXPLANATORY MEMORANDUM

This Act amends the Litter Control Act, 1990 to provide that the offence of leaving litter is aggravated if the offence takes place in the Gibraltar Nature Reserve, to create a new civil penalty for littering from a vehicle, and to enable the prosecution of bodies corporate for offences under the Litter Control Act, 1990.

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