

THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5140 GIBRALTAR Thursday 11th April 2024

B. 12/24

BILL

FOR

AN ACT to amend the Transport Act 1998.

ENACTED by the Legislature of Gibraltar.

Title.

1. This Act may be cited as the Transport (Amendment No.2) Act 2024.

Commencement.

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

Amendments to the Transport Act 1998.

3.(1) The Transport Act 1998 is amended in accordance with this section.

(2) In section 2, in subsection (1), insert the following definition before the definition for “category B”-

““administrative penalty” is a penalty imposed by the Chief Examiner of the Driver and Vehicle Licensing Department in accordance with section 72A;”.

(3) In section 17, in subsection (3), for “(4) to (8) and 10” substitute “(4) to (8)”.

(4) In section 19, for “is guilty of an offence” substitute “is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.”.

(5) Insert the following section after section 19-

“Licence holders responsible for named drivers.

19A.(1) A road service licence holder must ensure that any named driver on their road service licence complies with the provisions of this Act and Part V of the Transport Regulations 2000.

(2) Subject to subsection (3), failure by a road service licence holder to ensure that a named driver on their road service licence complies with the provisions of this Act and Part V of the Transport Regulations 2000 may result in the imposition of an administrative penalty.

(3) Subsection (2) does not apply where the named driver on the road service licence failing to comply with the provisions of this Act or Part V of the Transport Regulations 2000 is also the road service licence holder.”.

(7) In section 72, for “level 1” substitute “level 3” on both occasions that it appears.

(8) Insert the following sections after section 72-

“Administrative penalties.

72A.(1) The Chief Examiner of the Driver and Vehicle Licensing Department may impose an administrative penalty on a road service licence holder in accordance with section 19A(2).

(2) Subject to subsection (3), an administrative penalty under this Act shall be £300.

(3) Where a road service licence holder has been issued with an administrative penalty under this Act, any subsequent administrative penalty issued within a period of 6 months shall be £500.

(4) The penalty must be paid within 28 days of the date on which the notice imposing it takes effect, unless an extension is granted by the Chief Examiner of the Driver and Vehicle Licensing Department.

(5) A penalty imposed under this section may be enforced in the same manner as if it were a civil debt owed to the Government.

(6) An administrative penalty can be imposed in addition to any suspension, variation or revocation to a licence made by the Commission under this Act.

(7) The Chief Examiner of the Driver and Vehicle Licensing Department shall give notice of an administrative penalty in accordance with section 72B.

(8) A person in respect of whom an administrative penalty has been imposed under this section may appeal the administrative penalty in accordance with section 72D.

(9) The Chief Examiner of the Driver and Vehicle Licensing Department may cancel an administrative penalty imposed under this section at any time by informing the road service licence holder in writing.

Notice of administrative penalty.

72B.(1) Where the Chief Examiner of the Driver and Vehicle Licensing Department has imposed an administrative penalty, a written notice shall be issued in accordance with this section.

(2) The notice shall—

- (a) notify the holder of the road service licence that the Chief Examiner of the Driver and Vehicle Licensing Department has imposed an administrative penalty;
- (b) inform the holder of the road service licence of the grounds for the action;
- (c) specify by when the administrative penalty must be paid;
- (d) notify the holder of the road service licence of their right to appeal in accordance with section 72D; and
- (e) specify such other matters as in any case may be required by any provision of this or any other Act.

Issue of notice or penalty.

72C. An administrative penalty issued under section 72A or a notice issued under 72B may be issued to a road service licence holder 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.

Appeal.

72D.(1) A person aggrieved by the imposition of an administrative penalty may appeal to the Magistrates' Court.

- (2) An appeal must be made within 28 days of the date on which the administrative penalty is notified to the affected person under section 72B.
- (3) The Magistrates' Court may allow an appeal to be made outside the time set out in subsection (2) in exceptional circumstances, if the court considers that it would be unjust not to do so.
- (4) The court may—
 - (a) dismiss the appeal;
 - (b) allow the appeal and quash the decision appealed against; or

- (c) remit the matter to the Chief Examiner of the Driver and Vehicle Licensing Department for further consideration, in accordance with any directions of the court.

- (5) The court may make any order as to the costs of an appeal as it considers appropriate.”.

EXPLANATORY MEMORANDUM

This Act amends the Transport Act 1998 in order to increase fines and create a new offence for holders of road service licences in situations where their named drivers commit an offence under the Transport Act 1998 or Part V of the Transport Regulations 2000. In addition, when issuing the financial penalty for not complying with the newly introduced provision, a notice explaining why the penalty has been issued, the requirements for payment and the recourse to appeal will also need to be issued. The amendment also includes an appeal provision for the recipient of the fine.