

Subsidiary Legislation made under s.25A.

Civil Aviation (Winston Churchill Avenue) Regulations 2023

LN.2023/015

Commencement **2.2.2023**

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In exercise of the powers conferred on him by section 25A of the Civil Aviation Act 2009, and all other enabling powers, the Minister has made the following Regulations—

Title.

1. These Regulations may be cited as the Civil Aviation (Winston Churchill Avenue) Regulations 2023.

Commencement.

2. These Regulations come into operation on the day of publication.

PART I
GENERAL

Interpretation.

3. In these Regulations, unless the context shall otherwise require, -

“authorised officer” means—

- (a) a police officer;
- (b) an officer of the Gibraltar Defence Guard Service in the employment of the Ministry of Defence; or
- (c) an air traffic control officer;

“designated area” means the area described in regulation 4(1);

“police officer” means any member of the police force established under the Police Act and designated the Royal Gibraltar Police or any other person empowered to act as a police officer under that Act.

Application.

4.(1) These Regulations apply in relation to the part of Winston Churchill Avenue (including areas that are demarcated for use by non-vehicular traffic such as pedestrians and cyclists) as delineated in the image in the Schedule.

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(2) The offences set out in these Regulations shall not apply to persons conducting activities in the course of their employment on behalf of the Ministry of Defence.

PART II

OFFENCES WITHIN THE DESIGNATED AREA

Entry and exit points.

5. A person must not enter or leave the designated area otherwise than through the entrance and exit points provided for that purpose.

Persons to transit without stopping.

6.(1) When entering the designated area, a person must transit to the opposite end of the designated area in a timely manner without stopping.

(2) In proceedings for an offence under this regulation it is a defence for the defendant to show that he had a reasonable excuse for stopping.

Use of demarcated lanes.

7. A person transiting the designated area via a lane demarcated for use by pedestrians, cyclists or persons using another mode of wheeled conveyance must do so with due care and attention and with reasonable consideration for other persons.

Failure to comply with directions.

8.(1) Subject to subregulation (2), a person must comply with a direction given by an authorised officer while in the designated area and must not remain in the designated area after having been requested by an authorised officer to leave.

(2) A request to leave the designated area in accordance with subregulation (1) must not be made unless the officer has reasonable grounds to believe that the person is about to commit a breach of these Regulations.

Damage to signs etc.

9. A person must not, without the permission of an authorised officer remove, displace, damage, deface or alter any sign, vehicle, video surveillance installation, structure or other property whether moveable or immovable forming part of, or provided for, or in connection with, the designated area.

Control of animals.

10. A person in charge of an animal must keep it under control and effectively restrained from interfering with the safe and proper use of the designated area.

Obstruction.

11. A person must not intentionally obstruct or interfere with the safe and proper use of the designated area or with any person exercising his duties in relation to the operation of the designated area.

Demonstrations etc.

12.(1) Subject to subregulation (2), a person must not organise or take part in any demonstration, procession or public assembly likely to obstruct or interfere with the safe and proper use of the designated area.

(2) A person does not commit an offence under subregulation (1) if that person is transiting the designated area in a timely manner during any such demonstration, procession or public assembly.

Climbing.

13. A person must not climb any wall, fence, barrier or post within or on the boundary of the designated area.

Risk of foreign object damage.

14. A person must not drop or otherwise deposit in or leave anything whatsoever in the designated area in such circumstances as to cause, or contribute to, or tend to lead to or risk foreign object damage to aircraft.

Offences.

15. A person who fails to comply with an obligation imposed on him by regulations 5 to 14 commits an offence.

Penalties.

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16. A person guilty of an offence under regulation 15 is liable on summary conviction to a fine at level 3 on the standard scale or to imprisonment for a term not exceeding 3 months, or both.

Enforcement.

17. If a police officer has reasonable grounds to suspect that a person has committed an offence under these Regulations, he may use reasonable force where necessary to remove the person from the designated area.

PART III
FIXED PENALTY NOTICES

Fixed penalty offences.

18.(1) Where a police officer has reason to believe that a person has committed an offence under regulation 15, he may issue a notice to the person offering the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty of £250.

(2) Where a person has been issued with a notice under this regulation in respect of an offence—

- (a) no proceedings shall be instituted for that offence before the expiration of 28 days following the date of service of that notice; and
- (b) he shall not be proceeded further against for that offence if he pays the fixed penalty before the expiration of that period.

(3) In subregulations (1) and (2)—

“proceedings” means any criminal proceedings in respect of the act or omission constituting the offence specified in the notice under subregulation (1); and

“conviction” shall be construed in like manner.

(4) A notice under this regulation shall give—

- (a) reasonably detailed particulars of the circumstances alleged to constitute the offence;

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- (b) the period during which, by virtue of subregulation (2), proceedings are not to be taken for the offence;
 - (c) the amount of the fixed penalty; and
 - (d) the address of the Clerk of the Magistrates' Court to whom the fixed penalty shall be paid.
- (5) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the Clerk of the Magistrates' Court at the address.
- (6) A notice may be issued to a person under this regulation by–
- (a) handing it to him;
 - (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.
- (7) In any proceedings, a certificate which–
- (a) purports to be signed by or on behalf of the Clerk of the Magistrates' Court; and
 - (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate, shall be conclusive evidence of the facts stated.

Discounts for prompt payment.

19.(1) This regulation applies where a person is served a fixed penalty notice under regulation 18.

(2) Where this regulation applies, a person who makes payment within 14 days of the fixed penalty notice being issued shall only be liable to pay 50% of the amount of the fixed penalty.

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SCHEDULE

Regulation 4

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