

# SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4583 of 06 June, 2019

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LEGAL NOTICE NO.114 OF 2019.

## NATURE PROTECTION ACT 1991

### NATURE CONSERVATION AREA (UPPER ROCK NATURE RESERVE) (PROTECTION AND REGULATION) (AMENDMENT) REGULATIONS 2019

In exercise of the powers conferred on it by sections 21(2) and 24(d) and (g) of the Nature Protection Act 1991, the Government has, after consultation with the Nature Conservancy Council, made the following Regulations–

#### **Title.**

1. These Regulations may be cited as the Nature Conservation Area (Upper Rock Nature Reserve) (Protection and Regulation) (Amendment) Regulations 2019.

#### **Commencement.**

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

#### **Amendment of the Nature Conservation Area (Upper Rock Nature Reserve) (Protection and Regulation) Regulations 1993.**

3.(1) The Nature Conservation Area (Upper Rock Nature Reserve) (Protection and Regulation) Regulations 1993 are amended in accordance with this regulation.

(2) In regulation 2(1)–

(a) after the definition of “Authority” insert–

“ “authorised officer” means–

- (a) a member of the Royal Gibraltar Police as defined in section 2 of the Police Act 2006;
- (b) the Chief Environmental Health Officer or such person as he shall appoint from the Environment Agency Limited;
- (c) a Wildlife Warden appointed under section 21(1) of the Nature Protection Act, 1991;
- (d) the Chief Executive Officer of the Department of the Environment, Heritage and Climate Change or such person as he shall appoint;

“bio-based plastic” means a plastic derived wholly or partially from polymers obtained from biomass sources such as corn, sugarcane, wheat or others, which may be biodegradable or partially biodegradable under industrial composting processes;

“biodegradable plastic” means a plastic capable of undergoing physical, biological decomposition, such that it ultimately decomposes into carbon dioxide (CO<sub>2</sub>), biomass and water in conditions containing microorganisms such as anaerobic digestion and industrial composting processes;”;

(b) after the definition of “flying machine” insert–

“ “oxo-degradable plastic” means a plastic that includes additives which through oxidation leads to the fragmentation of the plastic material into micro-fragments or to chemical decomposition;”;

(c) after the definition of “permitted route” insert–

“ “plastic” means a material consisting of a polymer, to which additives or other substances may have been added, and which functions or can function as a main structural component of final products, including bio-based plastics, oxo-degradable plastics and biodegradable plastics, with the exception of natural polymers that have not been chemically modified;”

(d) after the definition of “Reserve” insert–

“ “single-use beverage container made with plastic” means a product made wholly or partly from plastic, containing a liquid intended for human consumption, that is not conceived, designed or made available or placed on the market to accomplish, within its life span, multiple trips or rotations by being returned to a producer for refill or reused for the same purpose for which it was conceived;”.

(3) After regulation 8 insert–

**“Prohibition of sale etc. of single-use plastic beverage containers.**

8A. No person shall, in the Reserve, sell, offer for sale or otherwise distribute a single-use beverage container made with plastic.

**Fixed penalty notice for offence under regulation 8A.**

8B.(1) Where an authorised officer has reason to believe that an offence for contravention of regulation 8A has been committed he may issue a notice to the person committing the offence offering him 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 fourteen days following the date of the 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 subregulation (1) and (2)–

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

“conviction” shall be construed in like manner.

(4) A notice under this regulation shall–

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

(4) In regulation 10 for “Failure” substitute “Subject to regulation 8B, failure”.

Dated 6<sup>th</sup> June, 2019.

PROF. J CORTES,  
Minister with responsibility for the Environment,  
for the Government.

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**EXPLANATORY MEMORANDUM**

These Regulations make it an offence for a person to sell, offer for sale or otherwise distribute a single-use beverage container made with plastic when inside the Upper Rock Nature Reserve. Persons who commit this offence may be issued with a fixed penalty notice of £250.