

**FIRST SUPPLEMENT TO THE GIBRALTAR  
GAZETTE**

**No. 2,993 of 21st August, 1997**

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I ASSENT,

MICHAEL ROBINSON,

ACTING GOVERNOR.

6th August, 1997.



**GIBRALTAR**

**No. 23 of 1997**

**AN ORDINANCE** to amend the Petroleum Ordinance in order to transpose into the law of Gibraltar Council Directive 68/414/EEC as amended by Council Directive 72/425/EEC on the maintenance of stocks of crude oil and petroleum products, Council Directive 75/339/EEC obliging member States to maintain minimum stocks of fossil fuel at thermal power stations and Council Directive 94/63/EC on the control of volatile organic compound emissions, and to amend the Petroleum Ordinance in order to provide for power to create a licensing and regulatory regime for the

importation, trade in or keeping of petroleum, for petroleum related activities and for matters connected thereto.

**E**NACTED by the Legislature of Gibraltar.

**Title.**

1. Ordinance may be cited as the Petroleum Ordinance (Amendment) Ordinance 1997.

**Amendments to the Petroleum Ordinance.**

2.(1) The Petroleum Ordinance shall have effect with the following amendments.

(2) In section 2 (Interpretation) -

- (a) for the definition of “licensing authority” there shall be inserted the following definition -

“licensing authority” means the authority or person appointed under section 5 below:”

- (b) after the definition of “licensing authority” there shall be inserted -

“Minister” means the minister charged with responsibility for trade and industry:

“motor fuel” means any petroleum derivative, with or without additives, having a Reid vapour pressure of 27.6 kilopascals or more, which is intended for use as a fuel for motor vehicles, except liquefied petroleum gas (LPG);”;

- (c) at the end of the definition of “petroleum” insert the words “and (in so far as it would not otherwise do so) motor fuel as defined above and white oils as defined below”;
- (d) in the definition of “storage in bulk” for the words “twenty gallons” substitute the words “100 litres”; and

- (e) after the definition of “storage in bulk” there shall be inserted the following definition -

“white oils”: means the following classes of fuels -

- (a) gasolines (volatile liquid hydrocarbon fuels used in spark ignition engines);
- (b) aviation fuels; and
- (c) automotive gas oil (the petroleum fraction used in diesel engines) and all types of gas oil capable of industrial use on shore;”.

- (3) For section 3, and the side-note to section 3, there shall be substituted the following section and heading -

**“Restriction on importation, trade in and keeping of petroleum.**

- (3) No person shall import, keep or trade in, or attempt to import, keep or trade in petroleum except in accordance with the provisions of this Ordinance and any rules made hereunder.”.

- (4) In section 5, for subsection (1) there shall be substituted the following subsection -

“(1) The licensing authority shall have the power to issue, grant, refuse, revoke, renew, amend or cancel licences and permits for the purposes of this Ordinance and of any rules made hereunder.”.

- (5) In section 5, for subsection (2) there shall be substituted the following subsection -

“(2) The licensing authority shall be the Minister or such person or persons as the Minister shall, from time to time, appoint by notice in the Gazette.”.

- (6) In section 7 -

- (a) subsection (1), for the word “Governor” there shall be substituted the word “Minister”.

(b) subsection (1)(d) the words "in bulk" are hereby repealed; and

(c) the following new paragraph shall be inserted after paragraph (k) -

“(l) the licensing and regulation of the importation, trade in, and keeping of petroleum in Gibraltar and any matter incidental thereto.”.

(7) The following section shall be inserted after section 7 -

**“Rules of Court.**

7A. The Chief Justice may, from time to time, make rules of procedure applicable to appeals from decisions of the licensing authority.”.

(8) At the end of section 8 (directions when rules not applicable) insert the words -

“but, in the case of motor fuel, such directions may be given or such exemptions granted only in accordance with European Parliament and Council Directive 94/63/EC on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations”.

(9) Section 11 shall be repealed from the words “This Ordinance” until the words “exceed three gallons”.

(10) After section 11, the following provisions shall be inserted -

*“Maintenance of fuel reserves*

**Bulk stocks of petroleum, etc.**

12.(1) Directions under this section may, from time to time, be given to all persons who import white oils.

(2) The Minister shall, by notice in the Gazette, establish the total level of stocks of white oils to be held in Gibraltar.

(3) The Minister shall, in the furtherance of the provisions of subsection (2) above, issue directions to all persons to whom this section applies to maintain such proportion of the total level of stocks referred to in subsection (2) above, as the Minister shall compute in accordance with the provisions of subsection (4) below.

(4) The proportion of the total level of stocks which the Minister may require any person to maintain under subsection (3) above shall be equal to the ratio of the quantities of white oils which that person has imported in the previous twelve months, as against the total quantity of white oils imported into Gibraltar in that same period.

(5) The proportion of the total level of stocks which any person who has not imported white oils into Gibraltar during the preceding twelve months may be required to maintain shall be such as the Minister may, in all the circumstances, reasonably determine.

(6) Before giving a direction under this section the Minister shall notify the substance of the proposed direction to the person to whom he proposes to give it and shall afford the person concerned a reasonable opportunity to make representations.

(7) The Minister may make rules setting out the method by which quantities of white oils are to be measured for different purposes.

**Fuel stocks at power stations.**

13.(1) Without prejudice to the provisions of section 12, and in addition to any directions made under that section, directions under this section may be given by the Minister to any person who owns, manages or controls an electricity generating station of a capacity of 100 megawatts or more –

- (a) to make such arrangements with respect to fuel stocks held at or near that generating station for the purposes of its operation as will –

- (i) enable those stocks to be brought within a specified time to, and thereafter maintained at, a specified level, and
    - (ii) ensure that they do not fall below that level, except as may be permitted by the terms of the direction or by authority of the Minister;
  - (b) to create such stocks and make such arrangements with respect to them.
- (2) The amount of fuel stocks may be specified by reference to the period for which it would enable the generating station to be maintained in operation.
- (3) In this section “specified” means specified by the Minister’s direction and a direction may set out -
- (a) the cases and circumstances in which fuel stocks are to be treated as held at or near any generating station;
  - (b) the extent to which the direction may be treated as complied with where access can be had to stocks held for the use of a number of consumers, under arrangements made or approved by the Minister;
  - (c) the manner in which the period mentioned in subsection (2) above is to be calculated.

**Orders and directions.**

14.(1) Orders under this Ordinance shall be made by Notice published in the Gazette and be subject to annulment in pursuance of a resolution of the House of Assembly.

(2) Powers conferred by this Ordinance to make an order or give a direction include power to revoke or vary the order or direction.

(3) Powers conferred by this Ordinance to make an order include

power to make any incidental, supplementary or transitional provision which appears to the Minister to be appropriate.

(4) An order under this Ordinance may –

- (a) apply to persons, premises or undertakings generally, or to classes of persons, premises or undertakings, or to particular persons, premises or undertakings;
- (b) provide for exempting persons, premises or undertakings (or any class of persons, premises or undertakings) from the requirements of the order either unconditionally or subject to conditions and with or without a limit in time, and for any such exemption to be varied or revoked.

(5) Where this Ordinance confers power to give directions for any purpose, there is also power to make provision for that purpose by order applicable to all, or to any class of, persons to whom directions could be given.

#### **Administration, enforcement and offences**

15.(1) The Minister may make rules with respect to the administration and enforcement of sections 12 to 14 above and provisions made under those sections, including powers of obtaining information, powers of entry, consents for taking proceedings and other matters.

(2) A person commits an offence if -

- (a) without reasonable excuse, he contravenes or fails to comply with any provision made by or under sections 12 to 14 above, or
- (b) he willfully obstructs any person exercising a power conferred, or performing a duty imposed, by or under sections 12 to 14 above, or

- (c) in furnishing any information for the purposes of sections 12 to 14 above, or of an order made or direction given under those sections, or in a notice given for any of those purposes, he makes or causes to be made on his behalf a statement which he knows to be false or does not believe to be true.

**Penal**

16.(1) Subject to the provisions of this Ordinance -

- (a) a person guilty of an offence under sections 12 to 15 above, or
- (b) a person who has contravened or failed to comply with any direction made or any order given under sections 12 or 13 above,

shall be liable on summary conviction to imprisonment for a term of not more than three months, or to a fine or both, or on conviction on indictment to imprisonment for a term of not more than two years or to a fine, or both.

(2) Any person convicted for the continuance of any offence contrary to the provisions of this Ordinance shall, on conviction, be liable, to such daily fine, calculated over the period of time which the offence continued, as shall appear reasonable to the court in the circumstances.”.

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Passed by the Gibraltar House of Assembly on the 22nd day of July, 1997.

D. J. REYES,

Clerk to the Assembly.



