

**FIRST SUPPLEMENT TO THE GIBRALTAR  
GAZETTE**

**No. 3485 of 4 August , 2005**

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I ASSENT,  
FRANCIS RICHARDS,  
GOVERNOR.

2nd August, 2005.



**GIBRALTAR**

**No. 51 of 2005**

**AN ORDINANCE** to amend the Pollution Prevention and Control Ordinance 2001 to partly transpose Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC.

**ENACTED** by the Legislature of Gibraltar.

*Pollution Prevention and Control (Amendment) Ordinance 2005.*  
[No. 51 of 2005]

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**Title.**

1. This Ordinance may be cited as the Pollution Prevention and Control (Amendment) Ordinance 2005.

**Amendment of Pollution Prevention and Control Ordinance 2001.**

2.(1) The Pollution Prevention and Control Ordinance 2001 is amended in accordance with the provisions of this section.

(2) In section 2 of the Ordinance—

(a) after the definition of “The Agency” insert—

““any person concerned” includes any non-governmental organization promoting environmental protection;”;

(b) at the end of the definition of “the Directive” insert “as the same may from time to time be amended”.

(3) In section 3 wherever the words “the Schedule” appears substitute “Schedule 1”.

(4) In section 4—

(a) in subsection (1) for “the Schedule” substitute “Schedule 1”;

(b) for subsection (3) substitute—

“ (3) The Agency must ensure that public consultation is carried out in accordance with Schedule 2.”; and

(c) in subsection (4) after “The Agency shall,” insert “having regard to the results of the consultations held pursuant to subsection (3)”.

(5) In section 5 for “the Schedule” substitute “Schedule 1”.

(6) In section 6 for “the Schedule” substitute “Schedule 1”.

(7) In section 8 for “Articles 16 and 17” substitute “Article 16”.

(8) After section 8 insert–

**“Transboundary consultations.**

8A.(1) Where the Minister becomes aware that the operation of an installation is likely to have significant negative effects on the environment of another Member State, or where a Member State likely to be significantly affected so requests, the Minister shall forward to the other Member State any information required to be given or made available pursuant to Schedule 2 at the same time as he makes it available persons in Gibraltar.

(2) Where subsection (1) applies the Agency shall ensure that time limits in the consultation process are sufficient to enable persons in the other Member State to comment before the Agency determines an application.

(3) The results of any consultations must be taken into consideration by the Agency in reaching a decision.

(4) The Minister shall inform any Member State, which has been consulted pursuant to subsection 1, of the decision reached on the application and shall forward to it the information referred to in Article 15(5) of the Directive.

(5) Where the Minister receives information from another Member State in connection with the operation of an installation in that Member State which is likely to have significant negative effects on the environment in Gibraltar, the Minister must make that information available to any person concerned in Gibraltar.”

(9) After Schedule 1 insert–

**“SCHEDULE 2**

Sections 4(3), 8A

**Public participation in decision-making**

1. The public shall be informed (by public notices or other appropriate means such as electronic media where available) of the following matters early in the procedure for the taking of a decision or, at the latest, as soon as the information can reasonably be provided—

- (a) the application under sections 4, 5 or 6;
- (b) where applicable, the fact that a decision is subject to a national or transboundary environmental impact assessment or to consultations between Member States in accordance with Article 17 of the Directive;
- (c) details of where relevant information can be obtained, those to which comments or questions can be submitted, and details of the time schedule for transmitting comments or questions;
- (d) the nature of possible decisions;
- (e) an indication of the times and places where, or means by which, the relevant information will be made available;
- (f) details of the arrangements for public participation and consultation.

2. The Agency shall ensure that, within appropriate time-frames, the following is made available to the public concerned—

- (a) the main reports and advice issued to the Agency at the time when the public concerned were informed in accordance with paragraph 1;
- (b) in accordance with the provisions of Directive 2003/4/EC of the European Parliament and of the Council of 28 January

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2003 on public access to environmental information, information other than that referred to in paragraph 1 which is relevant for the decision in accordance with Article 8 of the Directive and which only becomes available after the time the public concerned was informed in accordance with paragraph 1.”.

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Passed by the Gibraltar House of Assembly on the 27th day of July, 2005.

D. J. REYES,

Clerk to the Assembly.

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**Printed by the Gibraltar Chronicle Limited  
Printing Office, 2, Library Gardens,  
Government Printers for Gibraltar,  
Copies may be purchased at 6, Convent Place, Price £0.60p.**

*Pollution Prevention and Control (Amendment) Ordinance 2005.*  
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