

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3875 of 22 September, 2011

LEGAL NOTICE NO. 147 OF 2011.

INTERPRETATION AND GENERAL CLAUSES ACT

PUBLIC HEALTH ACT (AMENDMENT) REGULATIONS 2011

In exercise of the powers conferred on it by section 23(g)(ii) of the Interpretation and General Clauses Act, and of all other enabling powers, and for the purpose of transposing into the laws of Gibraltar Article 6 of Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law, the Government has made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Public Health Act (Amendment) Regulations 2011 and come into operation on the day of publication.

Amendment to the Public Health Act.

2. The Public Health Act is amended by inserting the following section after section 329—

“Liability of bodies corporate - general.

329A.(1) A corporate body shall be liable for an offence under this Act, except as provided for in sections 67(1), 97(1), 110(1), 180T and 192S(1), where that offence is committed for its benefit by a person, acting either individually or as part of an organ of the corporate body, who has a leading position within the corporate body.

(2) For the purposes of subsection (1), a leading position shall be deemed to exist where such a person has—

- (a) a power of representation of the corporate body;

- (b) an authority to take decisions on behalf of the corporate body; or
- (c) an authority to exercise control within the corporate body.

(3) A corporate body shall be liable for an offence under this Act, except as provided for in sections 67(1), 97(1), 110(1), 180T and 192S(1), committed by a person referred to in subsection (1) where lack of supervision or control by that person has made possible the commission of the offence for the benefit of the corporate body by a person under its authority.

(4) Where a corporate body is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any person referred to in subsection (1), or any person who was purporting to act in any such capacity that person, as well as the corporate body, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(5) Where the affairs of a corporate body are managed by its members, subsection (4) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the corporate body.

(6) A fine imposed on an unincorporated association on its conviction for an offence shall be paid out of the funds of the association.

(7) Where an offence under this Act committed by a partnership is proved to have been committed with the consent or connivance of or to have been attributable to any neglect on the part of a partner he as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.”

Dated 22nd September, 2011.

P R CARUANA,
Chief Minister,
For the Government.

EXPLANATORY MEMORANDUM

These Regulations transpose into the law of Gibraltar Article 6 of Directive 2008/99/EC on the protection of the environment through criminal law.