

**FIRST SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3864 of 14th July, 2011



I ASSENT,
ADRIAN JOHNS,
GOVERNOR.

13th July, 2011.



GIBRALTAR

No. 18 of 2011

AN ACT to amend the Traffic Act 2005.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the Traffic (Amendment) Act 2011 and comes into operation on the date of publication.

Amendment of Traffic Act 2005.

2.(1) The Traffic Act is amended in Section 44 by inserting after sub section (3) the following subsection—

“(4) Notwithstanding subsection (3), a person prosecuted for an offence under this section is liable to be convicted solely on the evidence of a recording by a camera or such other electronic device as the Minister may prescribe by notice in the Gazette.

(2) The Traffic Act is amended in Section 89 by adding in subsection (1) (j) after the words “Commissioner of Police,” the words “or such other person or entity as the Minister may authorise”.

(3) The Traffic Act is amended in Section 89 by substituting for subsection (2) the following subsection—

“(2) A person who contravenes a regulation made under this section is guilty of an offence and is liable on conviction to imprisonment or to a fine or both as may be prescribed in such regulation.”

(4) The Traffic Act is amended in Section 92 subsection (1) by inserting after the word “Gazette” the words “or by Regulations”.

(5) The Traffic Act is amended by substituting for Section 97 the following section—

“Punishment without prosecution of offences in connection with obstruction, parking, etc.

97.(1) The provisions of this section shall apply to any offence created by or under this Act being—

- (a) an offence punishable on summary conviction; and
 - (b) declared by the Government by Regulations or by notice in the Gazette to be an offence for the purposes of this section, and to be known as a “fixed penalty offence”.
- (2) Where a police officer or any person duly authorised by the Minister pursuant to regulations made hereunder (in this section referred to as “a duly authorised person”) finds a person on any occasion and has reason to believe that on that occasion he is committing or has committed an offence to which this section applies, he may give that person the prescribed notice in writing offering the opportunity of the discharge of any liability to conviction of that offence by payment of a fixed penalty under this section; and no person shall then be liable to be convicted of that offence if the fixed penalty is paid in accordance with this section before the expiration of the fourteen days following the date of the notice or such longer period (if any) as may be specified therein or before the date on which proceedings are begun, whichever event last occurs.
- (3) Where a person is given a notice under this section in respect of an offence, proceedings shall not be taken against any person for that offence until the end of 28 days following the date of service of the notice or the day after posting such notice or such longer period (if any) as may have been specified therein.
- (4) In subsections (2) and (3) “proceedings” means any criminal proceedings in respect of the act or omission constituting the offence specified in the notice under subsection (2), and “convicted” shall be construed in like manner.
- (5) Payment of a fixed penalty under this section shall be made to such person or entity as the Minister may prescribe in Regulations made hereunder (in this section referred to as “the designated person”) , and sums paid by way of fixed penalty

for any offence shall be treated as if they were fines imposed on summary conviction for that offence and in any proceedings a certificate that payment of a fixed penalty was or was not made to the designated person by a date specified in the certificate shall, if the certificate purports to be signed by the designated person, be sufficient evidence of the facts stated, unless the contrary is proved.

- (6) A notice under subsection (2) shall specify the offence alleged and the statutory provision allegedly contravened and state also the period during which, by virtue of subsection (3), proceedings will not be taken for the offence, the amount of the fixed penalty and the address of the designated person to whom the fixed penalty may be paid.
- (7) Subject to subsections (8) and (9) below, where a police officer or duly authorised person believes that an authorised camera or other digital device has detected a vehicle or finds a vehicle on an occasion and has reason to believe that on the occasion there is being or has been committed in respect of it an offence to which this section applies, he may proceed under this section as if he had found a person reasonably believed by him to be committing the offence, and for that purpose the registered owner of the vehicle shall be the person liable for the offence and, in the case of a vehicle detected on camera, a notice sent to the owner by registered post and, in the case of a vehicle physically found, a notice affixed to the vehicle shall be deemed to have been given to the registered owner.
- (8) In any proceedings in respect of an offence to which subsection (7) applies it shall be a defence for the registered owner of the vehicle to prove that—
 - (a) at the time of the offence the vehicle was in charge of some other person; and
 - (b) he had exercised all such diligence as was practicable to avoid the commission of the offence by that person.

- (9) A person shall not without leave of the Court, be entitled to rely on the defence referred to in subsection (8), unless within a period ending 7 clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.
- (10) A notice affixed to a vehicle under subsection (7) or served under this section shall not be removed or interfered with except by or under the authority of the driver or person in charge of the vehicle or the person liable for the offence in question; and any person contravening this subsection is liable on summary conviction to a fine at level 1 on the standard scale.
- (11) The Government may by Regulations made hereunder or by Order prescribe the penalty for a fixed penalty offence.
- (12) In any proceedings for an offence to which subsection (1) applies, no reference shall be made after the conviction of the accused to the giving or affixing of any notice under this section or to the payment or non-payment of a fixed penalty there under unless in the course of the proceedings or in some document which is before the court in connection with the proceedings reference has been made by or on behalf of the accused to the giving or affixing of such notice, or as the case may be, to such payment or non-payment.
- (13) The Government may make regulations for any purpose incidental to the operation of this section and in particular but without prejudice to the generality of the foregoing—
- (a) prescribing the form of notice under subsection (2);
 - (b) prescribing the duties of the designated person, and the information to be supplied to him.
 - (c) prescribing or providing for any matter or thing relating to the operation of this section.”

(6) The Traffic Act is amended in section 98 by deleting Subsection (2).

(7) The Traffic Act is amended by inserting after Section 98 (General Penalty) the following Section–

“Conviction on the basis of evidence from camera or other recording device”.

98A. A person prosecuted for any offence under this Act is liable to be convicted solely on the evidence of a recording taken by a camera or such other electronic device as the Minister may prescribe by notice in the Gazette.”.

(8) The Traffic Act is amended in Section 101 by adding the following paragraph after paragraph (b)–

“(c) providing for any matter relating to the control, regulation or restriction of parking or waiting.”

(9) The Traffic Act is amended by inserting after Section 103 (Transitional provisions) the following additional section–

“Traffic cameras”.

104.(1) The Minister may cause to be installed by such person as he may authorise so to do such cameras or other recording devices as he may consider appropriate in such places as he may direct for the purposes of monitoring and recording traffic and parking and the commission of offences under this Act or any Regulations made hereunder.

(2) The Minister shall designate by notice in the Gazette the type and manufacturer of any camera or other recording device that he may cause to be installed under this Section.

(3) Any cameras or other recording devices installed under this Section may be monitored or controlled by such persons or entities as the Minister may specify by notice in the Gazette.”.

Repeals and revocation.

3. The Traffic (Sir Herbert Miles Road) Regulations, 1988 are revoked.

Passed by the Gibraltar Parliament on the 7th day of July, 2011.

M L FARRELL,
Clerk to the Parliament.

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