

THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4775 GIBRALTAR Thursday 29th October 2020

B. 24/20

BILL

FOR

AN ACT to amend the Environmental Protection (Trees) Act 2014.

ENACTED by the Legislature of Gibraltar.

Title.

1. This Act may be cited as the Environmental Protection (Trees) (Amendment) Act 2020.

Commencement.

2. This Act comes into operation on the day of publication.

Amendment of the Environmental Protection (Trees) Act 2014.

3.(1) The Environmental Protection (Trees) Act 2014 is amended in accordance with the provisions of this section.

(2) In section 2, before the definition for “Commission” insert—

““Applicant” means the individual or entity who makes an application to the Minister for the Environment, for any purpose relating to this Act;

“CEO” means the Chief Executive Officer for the Department of the Environment of Her Majesty’s Government of Gibraltar;

“Contractor” means any agent of the Applicant;”.

(3) In section 4(1), 5(1), 5(3), 6(1), 6(4), 7(1), 8(1), 9(1), 10(1), 10(2)(c), 10(3), 11(1)(a), 14(1), 15(1), 15(3), 16(2), 16(3), 17, 18(1), 18(3)(a), 18(3)(b), 18(4), 18(5), 18(7)(a), 18(7)(b), 18(7)(c), 18(8)(a), 18(10), 18(11), 19(1) and 20 for each occasion “Commission” appears substitute “Minister”.

(4) In section 5—

- (a) in subsection (3), for “the Office of the Town Planner and may also make the Order available by electronic means.” substitute—

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- (a) the Department of the Environment; and
(b) the Department of Town Planning.”

- (b) after subsection (3) insert—

“(4) The Order shall be published by notice in the Gazette.

- (5) Failure to publish a notice of the Tree Preservation Order in the Gazette shall not render the Order void.”.

(5) In section 6—

- (a) in subsection (1) for “it considers necessary” substitute “is considered necessary”;

- (b) in subsection (2)—

- (i) delete “the Commission varies or revokes” and “it shall endorse”;
(ii) after “Tree Preservation Order” insert “is varied or revoked under section 6(1)”;

- (iii) after “original Order” insert “shall be endorsed”;

- (c) in subsection (3)—

- (i) delete “the Commission varies”; and
(ii) for “it” substitute “has been varied, the Minister”;

- (d) in subsection (4)—

- (i) delete “it shall notify”; and
(ii) after “by the Order” insert “shall be notified by the Minister”;

- (e) after subsection (4) insert—

“(5) Any Orders to vary or revoke a Tree Preservation Order shall be published by notice in the Gazette.

(6) Failure to publish a notice of the variation or revocation of a Tree Preservation Order in the Gazette shall not render the Order void.”

(6) In section 7(1), for “it may serve a notice” substitute “the Minister may serve a notice”.

(7) In section 8, after subsection (2) insert–

“(2A) Where a contractor performs the works relating to a tree that is subject to a Tree Preservation Order on behalf of an Applicant, liability for the purposes of this Act shall remain with the Applicant.”

(8) In section 9(2)(a), 14(2)(a) and 18(6)(a), on each occasion “Commission” appears substitute “Department of the Environment”.

(9) In section 9(2), after paragraph (b) insert–

“(ba) specify which Contractor(s), if any, has or have been nominated to carry out these proposed works, if granted consent;”

(10) In section 10–

(a) in subsection (3) for “its” substitute “any”;

(b) after subsection (3) insert–

“(3A) Where consent is granted under subsection (1)(a) and a specified Contractor has been nominated to perform these works, the Minister shall also notify the Contractor of any decision made by notice in writing.”

(11) In section 11(1), for “The Commission shall maintain” substitute “The Department of the Environment shall maintain”.

(12) In section 11(1)(c), 18(1) and 18(3)(b) for each occasion “Commission’s” appears substitute “Minister’s”.

(13) In section 13–

(a) in subsection (1A)(a), for “Commission” substitute “Minister”;

(b) in subsection (1A)(b)-

(i) for “Commission’s” substitute “Minister’s”;

(ii) for “received by the Commission” substitute “received by the Minister”;

(d) after subsection (2) insert—

“(3) Where a Contractor performs the works relating to a tree that is not subject to a Tree Preservation Order on behalf of the Applicant, liability for the purposes of this Act shall remain with the Applicant.”

(14) In section 14—

(a) after subsection (2)(b) insert—

“(ba) specify which Contractor(s), if any, has or have been nominated to carry out these proposed works, if granted consent;”;

(b) delete subsection (3).

(15) In section 15(3), for “its” substitute “any”.

(16) After section 15(3) insert—

“(3A) Where consent is granted under subsection (1)(a) and a specified Contractor has been nominated to perform these works, the Minister shall also notify the Contractor of any decision made by notice in writing.”

(17) In section 18—

(a) in subsection (2)-

(i) for “Commission have” substitute “Minister has”;

(ii) for “the Commission’s” substitute “a”;

(iii) after “which”, insert “the”; and

(iv) for “received by the Commission” substitute “received by the Minister”;

(b) in subsection 10, for “given” substitute “give”.

EXPLANATORY MEMORANDUM

This Bill amends the Environmental Protection (Trees) Act 2014 by replacing the Development and Planning Commission as the competent authority, with the Minister with responsibility for the Environment.

This ensures that all matters of a horticultural nature are kept within the Department of the Environment.

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