

C01/2020



**Command Paper on
a draft Bill to make provision for the regulation of
personal light electric transporters, to restrict their use
to roads, to stipulate their use in traffic, to specify a
minimum age for their operation; and also to provide
for their seizure and detention or the imposition of
penalties for unsafe use.**

**Presented to Parliament by
the Minister for Business, Tourism and Transport**

**by Command of Her Majesty
26th May 2020**

Comments on this Command Paper should be:

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(b) delivered to:

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Any comments received later than **noon on Friday, 19th June 2020** may not be taken into account for the purposes of the consultation.

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1. Introduction

As noted in the Consultation Paper issued in May last year, the Government has taken good note of the substantial increase in the use of personal light electric transporters throughout Gibraltar, including by many cross-frontier workers.

Having taken on board the comments received through the Consultation Paper process, and having considered safety concerns alongside wishing to encourage environmentally-friendly transportation methods, the Government is publishing draft legislation in this Command Paper which it believes strikes the right balance among these considerations. It does so by allowing the use of such transporters without a licence or permit, but only on roads, and only by those 17 years of age or older. Moreover, safety equipment is mandated, and traffic circulation rules similar to those found in the Traffic Act 2005 and its subsidiary legislation are incorporated into the draft Bill. Provisions for the seizure and detention of transporters, as well as penalties on operators for their misuse, also form part of the draft Bill, which will be supplemented by subsidiary legislation.

2. Draft Bill

BILL

FOR

AN ACT to regulate the operation of personal light electric transporters, to penalise their unlawful operation, to provide for the seizure and detention of such transporters in cases of unsafe operation, and for related purposes.

ENACTED by the Legislature of Gibraltar.

Title.

1. This Act may be cited as the Personal Light Electric Transporters Act 2020.

Commencement.

2. This Act comes into force on a day to be appointed by the Minister in the Gazette and different days may be appointed for different provisions of the Act.

Interpretation.

- 3.(1) In this Act-

“bicycle” means any vehicle which has at least two wheels and is propelled solely by the muscular energy of the persons on that vehicle, in particular by means of pedals or hand-cranks and includes a tricycle and an electronically assisted pedal cycle;

“Minister” means the Minister with responsibility for transport;

“motor vehicle” and “vehicle” mean a motor vehicle as defined in section 2 of the Traffic Act 2005;

“personal light electric transporter” or “transporter” means a device with the specifications set out in the Schedule to this Act;

“road” means a road as defined in section 2 of the Traffic Act 2005.

(2) The provisions of the Traffic Act 2005 and any subsidiary legislation made under it, including the definitions of “motor vehicle” and “vehicle”, shall not apply to a transporter except as provided by this Act.

Licence, permit or insurance not required.

4. A person operating a transporter is not required to hold a licence or permit or to be insured in order to operate a transporter.

Restrictions and prohibitions.

5.(1) A person shall not operate a transporter—

- (a) except on a road;
- (b) if the transporter has been modified after its manufacture;
- (c) at more than 25 km/h; or
- (d) if the person has not reached the age of 17.

(2) Section 5(1)(b) does not prohibit the operation of a transporter if a basket, bag or other thing customarily attached as an accessory to a transporter, or a bell, horn or lamp to comply with section 14, has been added to the transporter after its manufacture.

Use by police officers.

6. A police officer may, in the course of his or her duties, operate a transporter other than on a road.

Pedestrianised areas.

7. Without prejudice to section 5(1)(a) or section 6, a transporter shall not be operated in a pedestrianised area that has been designated as such pursuant to the Traffic (Pedestrianisation) Regulations 2001.

Circulation in traffic of personal electric light transporters.

8.(1) Save where the contrary is ordered by a police officer in uniform engaged in the direction of traffic or by a traffic sign, a person operating a transporter shall ride to the right of all roundabouts, street islands and street refuges.

(2) A person operating a transporter must when turning right keep the transporter as close to the right hand side of the road as possible.

(3) A person operating a transporter must when turning left from one road into another ride the transporter round the point of intersection of the centre lines of the two roads or round any island or mark which may have been erected or marked for the guidance of traffic.

(4) A person operating a transporter that meets another transporter or a vehicle on a road must, where necessary to allow safe passage for any person, slow down.

(5) A person operating an oncoming transporter must give right of way to another transporter or vehicle ascending a hill.

(6) On the request of any person in command of a body of troops or having charge of any animal or if such person shall raise his or hand as a signal to stop, the person operating a transporter shall immediately stop and keep stationary the transporter for so long as may be required.

(7) Where for any reason a transporter is proceeding at a slow rate of speed a person operating the transporter shall keep as close as possible to the right hand side of the road.

(8) A transporter left unattended due to mechanical or other difficulties must be drawn up close to the right hand side of the road by the person who was operating the transporter so as to permit the maximum clear passage for passing traffic.

(9) A person operating a transporter must not be in such a position that he or she cannot have proper control over the transporter or cannot retain a full view of the road and traffic ahead.

(10)(a) An operator of a transporter intending to change the direction, slacken the speed or stop the transporter shall before commencing so to do indicate his intention by signal given by hand or with a direction indicator.

(b) The hand signals shall be as follows—

(i) to indicate the intention to change direction, the arm shall be held out horizontally fully extended in the direction to which it is intended to turn;

(ii) to indicate the intention to slacken speed or stop, the extended arm shall be moved up and down several times.

(11) A person in charge of a transporter must not permit the transporter to stand on a road so as to cause any unnecessary obstruction thereof or so as to impede or obstruct the passage of traffic to or from any other road.

(12) A person operating a transporter must not cause or permit the transporter to obstruct the access of vehicles or persons from a road to, or to a road from, any building or any yard or curtilage of any building without the consent of the occupier of the building.

(13) A person operating a transporter must not cause the transporter or any part thereof to stop within the limits of a crossing unless either prevented from proceeding by circumstances beyond the person's control or because it is necessary for the person to stop in order to avoid an accident.

(14) A person operating a transporter must comply with regulation 4 of the Traffic (Traffic Lights) Regulations, 1986, and references to "vehicle" or "vehicular traffic" in those Regulations shall be construed as references to a transporter.

Direction of traffic in specified Estates.

9.(1) A person shall not operate or cause or permit to be operated a transporter along any road shown on the diagrams contained in the Schedules to the Control of Traffic Regulations in a direction that is contrary to the direction indicated by any arrow shown on the diagram in relation to that road.

(2) In subsection (1) "the Schedules to the Control of Traffic Regulations" are—

(a) Schedule 5 (Glacis Estate);

- (b) Schedule 6 (Laguna Estate);
- (c) Schedule 9 (Varyl Begg Estate);
- (d) Schedule 10 (Moorish Castle Estate);
- (e) Schedule 11 (Harbour Views and West Side Road).

Operating a transporter carelessly.

10. A person who operates a transporter without due care and attention or without reasonable consideration for other persons using the road, is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale, and in the case of a second or subsequent conviction to a fine not exceeding twice the amount at level 3 on the standard scale or to imprisonment for four months or both.

Operating a transporter recklessly or dangerously.

11. A person who operates a transporter recklessly, or at a speed or in a manner which is dangerous to the public having regard to all the circumstances of the case including the nature, condition and use of the road and the amount of traffic which is at the time on the road or which might reasonably be expected to be on the road, is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for four months, and in the case of a second or subsequent conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for six months or both.

Power to proceed on charge of carelessly operating a transporter on hearing of charge for recklessly operating a transporter.

12.(1) When a person is charged before the magistrates' court with an offence against section 11 and the court is of the opinion that the offence is not proved, then at any time during the hearing or immediately thereafter the court may without prejudice to any other powers possessed by the court direct or allow a charge for an offence against section 10 to be preferred forthwith against the defendant and may proceed with that charge.

(2) A defendant against whom a charge for an offence against section 10 is preferred pursuant to subsection(1), and his or her solicitor or barrister must be informed of the new charge and be given an opportunity whether by way of cross-examining any witness whose evidence has already been given against the defendant or otherwise, of answering the new charge and the court shall if it considers that the defendant is prejudiced in his or her defence by reason of the new charge being so preferred, adjourn the hearing.

General provisions regarding operation of transporter.

13.(1) A person operating a transporter shall be the only person on the transporter.

(2) A transporter shall not be operated to tow another person, transporter or vehicle.

(3) A person operating a transporter shall stand at all times while the transporter is in motion.

Equipment.

14.(1) A transporter shall be equipped with a bell or horn capable of being sounded sufficiently audibly so as to notify others of its approach.

(2) When operated at any time from one-half hour before sunset to one-half hour after sunrise and at any other time when, due to insufficient light or unfavourable atmospheric conditions, persons and vehicles are not clearly discernible at a distance of 150 metres or less, every transporter shall carry a lighted lamp displaying a white or amber light at the front of the transporter and a lighted lamp displaying a red light at the rear of the transporter.

(3) The lamps referred to in subsection (2) must be attached to the transporter or carried or worn by the operator on his or her person.

(4) A transporter and all of its related components, including the bell, horn and lamps referred to in subsections (2) and (3) shall be maintained in good working order at all times.

Wearing of protective headgear.

15.(1) A person operating a transporter on a road shall wear protective headgear.

(2) In this section “protective headgear” means headgear which is—

- (a) a helmet bearing the British or EU Standard EN 1078:2012+A1:2012 (and marked with the British or EU Standard ‘kitemark’); or
- (b) a “full-face”, “open face”, “moto-cross” or “modular” helmet; that is to say a helmet offering protection to the ears, and cheeks with or without a visor; and
- (c) of the proper fit to ensure that it will not come off should the transporter suddenly accelerate or stop; and
- (d) securely fastened.

Operator to stop for police officer; power of arrest.

16.(1) A person operating a transporter must stop the transporter on being so required by a police officer in uniform who reasonably suspects that person of committing an offence under the provisions of this Act.

(2) A person operating a transporter who is reasonably suspected by a police officer of having committed an offence under the provisions of this Act must not—

- (a) refuse to give a police officer his or her name or address; or
- (b) give a police officer a false name or address.

(3) A police officer may arrest without warrant the person operating a transporter who in the view of the police officer has committed an offence under the provisions of this Act, unless the person gives his or her name and address.

Duty to report accident.

17.(1) If in any case owing to the presence of a transporter an accident occurs whereby damage or injury is caused to a person, vehicle, property or animal, the person operating the transporter shall stop and if required so to do by any person having reasonable grounds for so requiring shall give his or her name and address and also give (if different) the name and address of the owner of the transporter.

(2) If in the case of an accident described in subsection (1) the operator of the transporter for any reason does not give his or her name and address to any such person as aforesaid the person shall report the accident at a police station or to a police officer as soon as reasonably practicable and in any case within twenty-four hours of the occurrence thereof.

Power to seize a transporter.

18.(1) Subsection 2 applies if —

- (a) a police officer in uniform, pursuant to section 16, orders a person operating a transporter to stop the transporter, and
- (b) the person fails to stop the transporter, or to stop the transporter long enough, for the police officer to make such lawful enquiries as he considers appropriate.

(2) Where this subsection applies, the police officer may—

- (a) seize the transporter in accordance with subsections (5) and remove it for 14 days from the date of seizure;
- (b) enter, for the purpose of exercising a power falling within paragraph (a), any premises (other than a private dwelling house) on which he has reasonable grounds for believing the transporter to be;
- (c) use reasonable force, if necessary, in the exercise of any power conferred by paragraph (a) or (b).

(3) Before seizing the transporter, the police officer must warn the person by whom it appears that the transporter is or was being operated in contravention of one or more of the provisions of this Act that the officer will seize it if the person does not provide the officer immediately with evidence that the transporter is not or was not being operated in contravention of that section or subsection.

(4) A police officer is not required to give a warning under subsection (3) if the circumstances make it impracticable for the officer to do so.

(5) If the police officer is unable to seize the transporter immediately because the person operating the transporter has failed to stop as requested or has driven off, he may seize it at any time within the period of 24 hours beginning with the time at which the condition in question is first satisfied.

(6) In this section “private dwelling house” does not include any garage or other structure occupied with the dwelling house, or any land appurtenant to the dwelling house.

Offences and penalties not otherwise specified.

19. A person who contravenes section 5(1)(a), (b), (c) or (d), 7 8(1),(2),(3),(4),(5),(6),(7),(8),(9),(10)(a) or (b)(i) or (ii), (11),(12), (13) or (14), 9(1), 10, 13(1), (2) or (3), 14(1), (2), (3) or (4), 15(1),16(1) or (2), or 17(1) or (2) is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Possibility of fixed penalty notices.

20.(1) Where on any occasion a police officer finds a person whom the officer has reason to believe on that occasion has committed an offence by contravening or having contravened a provision specified in section 19 the officer may give that person a notice offering that person the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

(2) Where a person has been given a notice under this section in respect of an offence—

- (a) no proceedings shall be instituted for that offence before the expiration of fourteen days following the date of the service of that notice; and
- (b) the person shall not be proceeded further against for that offence if the person pays the fixed penalty before the expiration of that period.

(3) In subsections (1) and (2)—

“proceedings” means any criminal proceedings in respect of the act or omission constituting the offence specified in the notice under sub- section (1), and

“conviction” shall be construed in like manner.

(4) A notice under this section shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence and shall state—

- (a) a reference to the section of the Act, or, as the case may be, the regulation creating the offence;
- (b) the period during which, by virtue of sub-section (2), proceedings are not to be taken for the offence;
- (c) the amount of the fixed penalty; and
- (d) the address of the Clerk of the Magistrates’ Court to whom the fixed penalty shall be paid;

and, without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting to that person at that address a letter containing the amount of the penalty (in cash or otherwise).

(5) The fixed penalty payable in pursuance of a notice in pursuance under section 10 is £250.

(6) Subject to subsection (5) and unless otherwise specified in in this Act or in regulations made under it, the fixed penalty payable in pursuance of a notice under this section is £150.

Regulations.

21.(1) The Minister may by regulations make any supplementary, incidental, consequential, transitory, transitional or saving provision which the Minister considers necessary or expedient for the purposes of, or in consequence of, or for giving full effect to any provision of this Act.

(2) Regulations under this section may in particular, but without prejudice to the generality of subsection (1) –

- (a) amend, repeal or revoke a Schedule to this Act;
- (b) amend, repeal or revoke any enactment other than one contained in an Act or instrument passed or made after this Act is passed;
- (c) provide for the return or otherwise of seized and detained transporters;
- (d) provide for the issuance of fixed penalty notices.

(3) Regulations under this section may make different provision for different purposes.

Amendment to the Traffic Act 2005.

22. Section 2 of the Traffic Act 2005 is amended by adding the words “a personal transporter or transporter as defined in the Personal Light Electronic Transporters Act 2020 or” after “and does not include” in the definition of “motor vehicle”.

SCHEDULE

A “personal light electric transporter” means a device that—

- (a) has one or more wheels;
- (b) has a handlebar;
- (c) is propelled by one or more electric motors;
- (d) has a maximum power output of 500 watts (1,400 watts for self-balancing devices);
- (e) is designed for use by a single person;
- (f) has an effective stopping system controlled by using brakes, gears or motor control; and
- (g) is not more than—
 - (i) 1 250mm in length, 700mm in width and 1 350mm in height; or
 - (ii) 700mm in length, 1 250mm in width and 1 350mm in height; and
- (h) weighs 60 kilograms or less when it is not carrying a person or other load; and
- (i) is not—
 - (i) a bicycle; or
 - (ii) a motorised wheelchair.

3. Draft Explanatory Memorandum

EXPLANATORY MEMORANDUM

This Bill defines personal light electric transporters, provides for their regulation, restricts their use to roads, stipulates their use in traffic, specifies a minimum age for their operation, and provides for seizure and detention or penalties for their unsafe use.