

ADMIRALTY WATERS (GIBRALTAR) ORDER, 1972

(SI. 1972/2207)

Commencement **5.4.1972**

Amending enactments	Relevant current provisions	Commencement date
Amended by Order of 20.4.1983		

EU Legislation/International Agreements involved:

SI
1972/2207

Admiralty Waters (Gibraltar) Order, 1972

Citation.

1. This Order may be cited as the Admiralty Waters (Gibraltar) Order 1972.

Interpretation.

2. The Interpretation Act 1889 shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament and as if for the purposes of section 38 of that Act this Order were an Act of Parliament and the Orders revoked by Article 20 of this Order were an Act of Parliament thereby repealed.

Description of Limits.

3. (1) *Admiralty Waters.* All the water area lying between the shore and lines drawn as follows, namely from a point on the high-water line 60 yards south of the root of Rosia Mole in a direction 272° (true) for a distance of 115 yards, thence in a direction 310° (true) for a distance of 290 yards, thence in a direction $322\frac{1}{2}^{\circ}$ (true) continuing along a line 200 yards from and outside the South Mole, "A" Head, "B" Head, the Detached Mole and "C" head respectively, thence along lines 50 yards from and outside the faced wall of the North Mole, thence along the North Mole to the shore, the boundaries being as delineated on the chart annexed to this Order, shall be deemed to be Admiralty Waters.

(2) *Port waters.* The following water areas, the boundaries of which are delineated on the chart annexed to this Order (all being part of Admiralty Waters), shall be deemed to be Port Waters—

- (a) The water area to the east of the Western Arm of the North Mole extending from low-water mark for a width of 204 yards.
- (b) The water area extending for a width of 50 yards outside the faced wall of the North Mole.
- (c) The water area extending from low-water mark 67 yards eastwards from the two North-East berths on the Detached Mole.
- (d) The area of water contained by the Montagu Basin inside a line drawn in a direction of 332° from the seaward end of the South-East arm of the entrance to the basin to the foreshore of the Varyl Begg Estate.
- (e) The area of water contained by the Auxiliary Camber Mole inside a line drawn from the South-East end of the Auxiliary Camber Mole in a direction of 071° to a point 33 yards short of

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the Eastern side of the Auxiliary Camber thence in a direction of 341° to the Auxiliary Camber North Wall.

Control of Admiralty Waters.

4. Control over Admiralty Waters shall be vested in the Senior Naval Officer (whose title, at the time of making this Order, is the Flag Officer and Port Admiral, Gibraltar) and, with his powers and functions under this Order except those conferred by Article 5, may be exercised on his behalf by the Queen's Harbour Master for Admiralty Waters.

5. (1) It shall be lawful for the Senior Naval Officer from time to time to make and, when made, to alter or revoke, such regulations in writing as he may deem expedient in respect of the use, order and government of Admiralty Waters and of all vessels therein, including regulations for the exclusion or admission of merchant and other private vessels from and to Admiralty Waters or any part of them, and in respect of the delegation of the duties of Queen's Harbour Master.

(2) All such regulations shall be confirmed by the Secretary of State for Defence and shall be published in the London Gazette and the Gibraltar Gazette, and shall be in force as from the last of the two dates on which they are so published. The production of a copy of either Gazette containing such regulations shall be good and sufficient proof for all purposes of the contents thereof and that the same have been duly made and confirmed in accordance with the terms of this Order.

6. Notwithstanding anything in this Order, the Senior Naval Officer may consent to the exercise by the Governor of Gibraltar, or such persons as the Governor may appoint, of his jurisdiction, control, powers and duties under this Order and under any regulations made under this Order, subject to such conditions and modifications as the Senior Naval Officer may think fit, in respect of any vessel or class of vessel other than vessels the property of or under charter to Her Majesty, whilst in Admiralty Waters other than Port Waters, which seeks to enter, leave or make use of Port Waters.

7. The masters of all merchant and other private vessels admitted or to be admitted to Admiralty Waters shall, without prejudice to the provisions of Articles 6 and 10 or any other provision in this Order, be subject to the directions of the Senior Naval Officer in all matters connected with anchoring, mooring, securing or navigation in those waters.

8. If the master or person in charge of any vessel within Admiralty Waters does not moor, anchor, place, secure, move, unmoor or remove the same according to directions given by the Senior Naval Officer or in conformity with any regulations made under this Order, or if there is no person on board of any vessel to attend to such directions, the Senior Naval Officer may cause the vessel to be moored, anchored, placed, secured, moved,

unmoored or removed and for that purpose may cast off, loose or unshackle, and (if need be) sever any chain or rope of the vessel, first putting on board a sufficient number of persons for the protection of the vessel in case there is not a sufficient number of persons on board to protect the same, and all expenses attending the exercise of these powers shall be paid by the owner or person in charge of the vessel.

9. (1) The Senior Naval Officer may license pilots for conducting vessels within Admiralty Waters and do all such things as may be necessary or expedient for carrying into effect their powers and duties.

(2) The grant of a licence to a pilot by the Senior Naval Officer shall not impose any liability on the Crown for any loss occasioned by any act or default of the pilot.

10. (1) Without prejudice to the provisions of this Order, all merchant and other private vessels within Port Waters shall also be subject to such laws as the Legislature of Gibraltar has enacted or may enact for the control of such vessels therein.

(2) The provisions of the Gibraltar Port Ordinance and subsidiary legislation made thereunder and for the time being in force shall (except to such extent as they are inconsistent with the provisions of this Order and regulations made thereunder) apply to every merchant or other private vessel within Admiralty Waters other than Port Waters.

Removal of wrecks and obstructions.

11. The Senior Naval Officer may call upon the owner or person in charge of any wreck or other thing of any kind whatsoever, being an obstruction in Admiralty Waters or in or to the approaches thereto, to remove or destroy such wreck or thing, and the owner or person in charge shall forthwith remove or destroy such wreck or thing, and every fragment of such wreck or thing which may arise in course of removal or destruction, to the satisfaction of the Senior Naval Officer.

12. No explosive shall be used for the purpose of destroying any such wreck or thing, without the concurrence of the Senior Naval Officer and in such manner as he may direct.

13. (1) If the owner or person in charge fails or neglects to remove or destroy such wreck or thing within a reasonable time, to be determined by the Senior Naval Officer, or if in the opinion of the Senior Naval Officer the removal of such wreck or thing is a matter of urgency, the Senior Naval Officer may give notice to the owner or person in charge or to his accredited agent in Gibraltar that on the expiration of a period to be fixed by and stated in such notice the said Senior Naval Officer will remove or destroy such

wreck or thing, and on the expiration of such period may proceed to do so.

(2) Should any difficulty be foreseen in effecting service of such notice on the owner or person in charge or on his accredited agent, such notice may be published in the Gibraltar Gazette, and such publication shall be deemed good and valid service thereof.

14. The expenses incurred by the Senior Naval Officer, in the removal or destruction of such wreck or thing and in the temporary lighting, buoying or marking thereof, shall be repaid by the owner or person in charge thereof, and the Senior Naval Officer may detain and, in the case of non-payment of expenses on demand, may sell the wreck or thing and out of the proceeds of the sale pay those expenses and the expenses of the sale, rendering the surplus (if any) to the owner or person entitled thereto on demand, and any deficiency may be recovered as a civil debt from the owner or person in charge.

Provided always that no such sale shall (except in the case of property of a perishable nature) be made until at least seven clear days' notice of the intended sale has been given by advertisement in the Gibraltar Gazette.

15. For the purpose of this Order, the owner of a wreck or thing shall be deemed to be the person owning such wreck or thing when such wreck or thing becomes an obstruction, notwithstanding any subsequent sale, transfer, or abandonment.

Fines and Penalties.

16. The master or person in charge of every merchant or other private vessel within Admiralty Waters shall observe and cause to be observed the provisions of this Order or of any regulation, direction, restriction or condition made or given under this Order, so far as they apply to his vessel, and if any master or other person fails to observe, or cause to be observed, any such provision applying to his vessel, he shall be liable to the penalties prescribed in this Order.

17. Any person contravening any provision, regulation, direction, restriction or condition contained in or for the time being in force under this Order shall be liable on summary conviction to a fine not exceeding £50.

18. (1) All expenditure incurred and sums recoverable under this Order or any regulation thereunder shall be recoverable in the Gibraltar Court of First Instance notwithstanding that the amount claimed exceeds £300.

(2) Production in the Court of First Instance of a certificate purporting to be signed by the Senior Naval Officer or Queen's Harbour Master that

such work was undertaken and/or such expenditure was incurred shall be prima facie proof of the claim.

19. All fines recovered under this Order shall be paid into the general revenues of the Government of Gibraltar for the use of Her Majesty, Her Heirs and Successors.

Revocation.

20. *Omitted.*

