

Fast Launches (Control) Act, 1987

Principal Act

Act. No. 1987-20	<i>Commencement</i>	16.7.1987
	<i>Assent</i>	16.7.1987

Amending enactments	Relevant current provisions	Commencement date
Act. 1988-33	ss. 2, 4(1), 8(1), (5), 9(1)-(2), 11(1), 13(1)-(2)	15.12.1988
1990-38	s. 8(1)	15.11.1990
2007-17	ss. 2, 4(1), 6, 8(2), 22	14.6.2007
2016-13	ss. 2, 2A, 11(1), 13(1)-(2), 14A, 22(2), Sch. 2	4.8.2016 ¹

¹ Provided that section 14A of the Fast Launches (Control) Act shall not apply for a period of 3 months from the commencement of this Act in relation to the use of fast launches which have been licenced under the Fast Launches (Control) Act prior to the commencement of this Act and in relation to which such a licence is in operation on the date of commencement of this Act.

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AN ACT TO PROVIDE FOR THE LICENSING OF AND REGULATING THE USE OF FAST LAUNCHES AND MATTERS CONNECTED THEREWITH.

PART I.
PRELIMINARY.

Short title.

1. This Act may be cited as the Fast Launches (Control) Act, 1987.

Interpretation.

2. In this Act, unless the context otherwise require—

“controlled area” means the area of water lying between the low water line and a line delineated from the westernmost point of the border between Gibraltar and Spain at point (a) shown on the Chart in Schedule 1 to this Act, that is to say, at geographical position 36°09'22" N 5°21'02" W, thence in a 229° (T) direction for 0.14 nautical miles, thence in a 314° (T) direction for 0.155 nautical miles, thence in a 270° (T) direction for 1.31 nautical miles to point (b) shown on the Chart in Schedule 1 to this Act, that is to say, to geographical position 36°09'23" N 5°22'55"W, thence in a 245°(T) direction for 0.91 nautical miles to point (c) shown on the Chart in Schedule 1 to this Act; that is to say, to geographical position 36°09'00" N 5°23'56" W, thence in a 161½° (T) direction for 5.53 nautical miles to point (d) shown on the Chart in Schedule 1 to this Act, that is to say, to geographical position 36°03'45" N 5°21'46" W, thence along a line at a distance of 3 nautical miles from the low water line to point (e) shown on the Chart in Schedule 1 to this Act, that is to say, to geographical position 36°08'57" N 5°16'36"W and thence to the easternmost point of the border between Gibraltar and Spain at point (f) shown on the Chart in Schedule 1 to this Act, that is to say, at geographical position 36°09'14"N 5°20'16"W. The boundaries above described being delineated by a broken line on the Chart in Schedule 1 to this Act. All the geographical positions above described being on European Datum.

“fast launch” means a vessel, other than a vessel certified as exempt under section 2A, which does not exceed 60 feet in length overall and is fitted with an engine or engines of an aggregate 200 or more brake horsepower and having a speed/length ratio of or greater than 1.6 as defined below—

$$SL = \frac{0.298V}{\sqrt{L}}$$

V=Speed in knots

L=Overall length in feet:

“reporting berth” means the berth at Waterport Wharf for the time being designated as such by the Captain of the Port;

“surveyor of ships” means a surveyor of ships appointed by the Government under section 214 of the Merchant Shipping Act¹;

Exempt vessels.

2A.(1) The Captain of the Port may, with the approval of the Government, on application by the owner of a vessel or a person intending to purchase a vessel, certify such vessel, which other than for this section would be categorized as a fast launch, as an exempt vessel if he is satisfied that such vessel meets the criteria contained in Schedule 2 to this Act.

(2) The Captain of the Port shall not certify a vessel under this section if the registered owner of such vessel has been convicted of an offence which would preclude an issue to such person of a licence under section 4 of this Act.

(3) A certification granted under subsection (1) may be subject to such conditions as the Captain of the Port considers necessary or desirable including but not limited to a condition that the vessel be surveyed or tested at such intervals as the Captain of the Port deems appropriate.

(4) A certification granted under subsection (1)–

- (a) shall be valid only for the vessel to which it is expressed to relate;
- (b) shall be valid until revoked or until the ownership of the vessel changes.

(5) The Captain of the Port may revoke a certification granted under this section if–

- (a) the vessel no longer meets any of the criteria set out in Schedule 2;
- (b) the registered owner is convicted of an offence which would preclude the issue to such person of a licence under section 4 of this Act;
- (c) there has been a breach of any condition to which the certification is subject; or
- (d) the engines, drive systems, propellers or jets of such vessel have been replaced, tuned or altered in any way without the Captain of the Port’s permission.

¹ 1935-09

(6) A person aggrieved by the revocation of a certification may, within 14 days of the notification of such revocation, appeal in writing to the Government, whose decision shall be final.

(7) Sections 15, 16, 17, 20 and 21(1)(b), (c), (e) and (h) apply to exempt vessels as if the references therein to fast launches include a reference to vessels certified as exempt under this section.

Application.

3. Nothing in this Act shall apply to any vessel in the service of the Government of Gibraltar or of the Ministry of Defence.

PART II.
LICENCES AND VISITORS' PERMITS.

Licensing of fast launches.

4 (1) The Captain of the Port may, with the approval of the Government, grant to the owner of a fast launch, or to a person intending to purchase a fast launch, a licence to use it in the controlled area.

(2) A licence under subsection (1) may be granted subject to such conditions as the Captain of the Port may think necessary or desirable.

(3) A licence granted under subsection (1)–

(a) shall be valid only for the launch to which it is expressed to relate;

(b) shall be valid for 12 months, unless sooner surrendered or revoked or unless the holder of the licence ceases to be the owner of the launch;

(c) shall not be transferable to any other person.

Revocation of licences.

5. The Captain of the Port may revoke a licence granted under section 4 for the use of a fast launch, if–

- (a) the launch is used in the commission of any offence against the Imports and Exports Act, 1986²;
- (b) the owner of the launch—
 - (i) is convicted of an offence against the Imports and Exports Act, 1986, the Merchant Shipping Act, the Port Act³ or this Act; or
 - (ii) is convicted of an offence against the Drugs (Misuse) Act⁴ and is sentenced to a term of imprisonment;
- (c) a person—
 - (i) is convicted of an offence against the Imports and Exports Act, 1986, the Merchant Shipping Act, the Port Act or this Act; or
 - (ii) is convicted of an offence against the Drugs (Misuse) Act and is sentenced to a term of imprisonment,

the offence having been committed while he was in charge of the launch; or
- (d) the engine or engines fitted to the launch are modified or replaced or an additional engine is fitted, without the approval of the Captain of the Port, so that greater power can be developed than that shown in the application on the basis of which the licence was granted.

Appeal against revocation.

6. A person aggrieved by the revocation of a licence under section 5 may, within 14 days of the notification of such revocation or such further time as the Government may allow, appeal in writing to the Government, whose decision shall be final.

Changes of ownership.

7. The owner of a fast launch who transfers the ownership of it to another person shall forthwith—

- (a) inform the Captain of the Port, furnishing him with the name and address of the transferee; and

² 1986-21

³ 1960-16

⁴ 1973-06

- (b) surrender his licence to the Captain of the Port.

Permits for visitors or traders.

8.(1) The Captain of the Port may, in his discretion issue—

- (a) to any visitor a permit to use a fast launch in the controlled area for any period not exceeding 7 days and may extend any such permit for a period not exceeding 7 days as he may think fit; or
- (b) where he is satisfied that a company, having a permanent place of business in Gibraltar, has as its only or principal business the sale of vessels including fast launches, to such company a permit to use a fast launch in the controlled area solely for the purposes of—
 - (i) establishing the seaworthiness thereof;
 - (ii) demonstrating such launch to a bonafide potential purchaser of that launch; or
 - (iii) passing through the controlled area for the purpose of delivering such launch to the purchaser thereof outside Gibraltar,

for any period not exceeding 3 months and may extend any such permit for a period not exceeding one month, as he may think fit.

(2) No permit shall be extended beyond the period allowed by subsection (1) without the approval in writing of the Government.

(3) A permit issued under subsection (1)—

- (a) shall be subject to such conditions as the Captain of the Port may think necessary or desirable;
- (b) shall be valid only for the launch to which it is expressed to relate;
- (c) shall not be transferable to any other person; and
- (d) may be revoked at any time by the Captain of the Port in his discretion.

(4) When a permit has expired or been revoked, the owner shall as soon as practicable remove or cause the launch to be removed from Gibraltar.

(5) Notwithstanding any other provision of this Act, a visitor shall not be guilty of an offence by reason of his having entered the controlled area when not in possession of a licence or permit granted or issued under this Act if, within 24 hours of his arrival, he applies for the issue of a permit under this section and, if his application is refused, he forthwith removes the launch from Gibraltar.

(6) For the purposes of this section, “visitor” means a person who—

- (a) is not normally resident in Gibraltar; and
- (b) does not possess any residence in Gibraltar.

PART III.
USE, REPORTING AND BERTHING.

Restriction on use of fast launches.

9.(1) Subject to the provisions of sections 10 and 18, no person shall use or be in charge of a fast launch within the controlled area unless he is—

- (a) the holder of a valid licence granted under section 4; or
- (b) the holder of a valid permit issued under section 8.

(2) If any person uses or is in charge of a fast launch within the controlled area in contravention of subsection (1), that person and, if that person is not the owner of the launch, the owner are each guilty of an offence:

Provided that the owner of the launch shall not be guilty of an offence if he proves to the satisfaction of the court, the onus being on him, that the launch was taken by some other person without his knowledge or consent.

(3) A person guilty of an offence against subsection (1) is liable, on conviction on indictment, to a fine and to imprisonment for two years or, on summary conviction, to a fine of £10,000.

Authorised user.

10. (1) Notwithstanding anything in section 9, the holder of a valid licence granted under section 4 may, by an authority in writing signed by him authorise any other person, not being a person who has at any time—

- (a) been convicted of an offence against the Imports and Exports Act 1986, or against the Act repealed thereby, or against this Act; or
- (b) been convicted of an offence against the Drugs (Misuse) Act and sentenced to a term of imprisonment,

to use or be in charge of the launch on a date to be specified in the authority, in the absence of the holder, for a single voyage.

(2) If the holder of a licence purports to authorise any other person to use that launch, knowing him to be a person disqualified under subsection (1) from being so authorised, the holder of the licence is guilty of an offence and is liable, on conviction on indictment, to a fine and to imprisonment for two years or, on summary conviction, to a fine of £10,000.

Launches not to be used at night.

11.(1) No person shall use a fast launch within the controlled area during the period between—

- (a) half an hour after sunset; and
- (b) sunrise

(2) A person who uses a fast launch in contravention of subsection (1) is guilty of an offence and is liable, on conviction on indictment, to a fine and to imprisonment for two years or, on summary conviction, to a fine of £10,000.

Liability to forfeiture.

12. Where any person is convicted on indictment of an offence against section 9, 10 or 11, the Supreme Court may order that the launch in respect of which the offence was committed be forfeited to the Crown:

Provided that forfeiture shall not be ordered where the owner of the launch failed, on the expiration of a licence granted under section 4, to apply for a fresh licence but has not been guilty of any other offence against this Act.

Arrivals and departures to be reported.

13.(1) It shall be the duty of the person in charge of a fast launch which enters the controlled area to proceed immediately to the reporting berth and there to deliver to the Captain of the Port such report as may for the time being be required under Port Rules or in such other manner as the Captain of the Port may prescribe.

(2) When a fast launch leaves its moorings prior to departing from the controlled area, it shall be the duty of the person in charge to take the launch to the reporting berth—

- (a) if the launch was moored to the east of “F” Head, as shown on the chart annexed to the Admiralty Waters (Gibraltar) Order 1972⁵, immediately before passing “F” Head; or
- (b) in any other case, immediately before leaving the controlled area,

to give notice of intention to depart. Provided that the Captain of the Port may from time to time prescribe other manners for the manner of giving of notice under this sub-section.

(3) When giving notice of intention to depart, the person in charge of the launch shall—

- (a) if so required by the Captain of the Port, produce the latest certificate of survey issued under section 19; and
- (b) if he is not the owner of the launch, produce the authority given to him under section 10,

and the Captain of the Port may refuse to allow the launch to depart until such certificate or authority is produced.

Restriction on mooring.

14. No person shall moor a fast launch at the Auxiliary Camber or at Montagu Basin, except with the approval in writing of the Captain of the Port.

14A.(1) No person shall use, or to cause or permit any other person to use, a fast launch or exempt vessel, within the controlled area, unless there is in force in relation to the use of the vessel by that person or that other person, as the case may be, such a policy of insurance in respect of third party risks as may be approved by the Captain of the Port.

(2) No person shall use, or to cause or permit any other person to use, a fast launch or exempt vessel, within the controlled area, unless the user has successfully completed a proficiency course approved by the Captain of the Port:

⁵ S.I. 1972, p.2207

Provided that, in the case of an exempt vessel, it shall be permissible for a person to use that exempt vessel if he is accompanied and under the supervision of a person who has successfully completed such a course.

(3) If any person uses or is in charge of a fast launch or exempt vessel within the controlled area in contravention of subsection (1) or (2), that person and, if that person is not the owner of the vessel, the owner are each guilty of an offence:

Provided that the owner of the launch shall not be guilty of an offence if he proves to the satisfaction of the court, the onus being on him, that the launch was taken by some other person without his knowledge or consent.

(4) A person using a fast launch or exempt vessel, within the controlled area shall, on being so required by any police officer, produce the policy of insurance referred to in subsection (1), and if he fails to do so is guilty of an offence:

Provided that if, within five days after the production of such policy of insurance was so required the holder of the licence produces it in person at a police station, he shall not be convicted of an offence against this section.

(5) A person using a fast launch or exempt vessel, within the controlled area shall, on being so required by any police officer, produce evidence that he has successfully completed a proficiency course approved by the Captain of the Port or, in the case of an exempt vessel, was accompanied and under the supervision of a person who has successfully completed such a course, and if he fails to do so is guilty of an offence:

Provided that if, within five days after the production of such evidence was so required the holder of it produces it in person at a police station, he shall not be convicted of an offence against this section.

(6) A person guilty of an offence against under this section is liable, on conviction on indictment, to a fine and to imprisonment for two years or, on summary conviction, to a fine of £10,000.

PART IV.
MARKING AND EQUIPMENT.

Identification.

15. The owner of a fast launch for the use of which a licence has been granted under section 4 shall—

- (a) cause the name of the launch to be marked at each side of the bows; and

- (b) cause the name of the launch and the port of registry or licence to be marked either at the stern or on both quarters of the launch, whichever may be more convenient,

all such markings to be clearly legible and in letters of not less than four inches in height.

Modification of engines, etc.

16.(1) No modification shall, without the approval of the Captain of the Port, be made to the engine or engines of a fast launch, which would cause the engine or engines to become capable of developing greater power.

(2) No engine fitted to a fast launch shall, without the approval of the Captain of the Port, be replaced by an engine or engines of greater horsepower.

(3) No additional engine shall, without the approval of the Captain of the Port, be fitted to or carried in a fast launch.

Carrying of fuel.

17.(1) No fuel shall be carried in a fast launch otherwise than in approved tanks fitted in a position authorised by a surveyor of ships.

(2) No modification shall be made to the fuel tanks of a fast launch nor shall any additional tank be fitted without the approval in writing of the Captain of the Port.

(3) The Captain of the Port shall not approve any modification or addition which would result in any fuel being carried otherwise than in accordance with subsection (1).

**PART V.
MISCELLANEOUS.**

Testing of launches.

18.(1) Where a fast launch has been undergoing repairs or adjustments in any shipyard or marina, she may, notwithstanding anything contained in section 9, be taken out for testing in the controlled area by a mechanic approved for that purpose by the Captain of the Port.

(2) Approval of a mechanic for the purpose of testing fast launches shall be in writing and may be withdrawn by the Captain of the Port at any time.

Annual surveys.

19.(1) It shall be the duty of the owner of a fast launch to procure the survey of the launch by surveyors of ships at least once in every year at intervals, as nearly as may be, of twelve months and no such launch shall be taken to sea unless there is in force in respect of her a valid certificate as to survey issued in pursuance of this section.

(2) A declaration of survey of a fast launch shall include statements of the following particulars, if the surveyor is satisfied on the survey that he can with propriety so state—

- (a) that the life saving appliances carried are sufficient and in good condition; and
- (b) that the general equipment is in good condition and properly adjusted; and
- (c) that the launch is seaworthy and is not unsafe.

(3) Nothing in this section shall be construed as derogating from the provisions of section 105 of the Merchant Shipping Act.

Power for the Captain of the Port to require particulars.

20. The Captain of the Port may require the person in charge or control of any marina or other place where vessels may be berthed, moored, stored or repaired, to furnish him with particulars—

- (a) of all, if any, fast launches berthed, moored, stored or undergoing repairs in that place; and
- (b) of the berth or mooring at which any such fast launch is berthed or moored.

Offences.

21.(1) A person who—

- (a) fails to report on arrival or before departure, as required by section 13 or who, when reporting, refuses or fails to produce any certificate or authority which by or under that section he is required to produce;
- (b) modifies the engine of a fast launch, or replaces it or fits any additional engine, contrary to section 16;
- (c) carries fuel otherwise than as required by section 17, or modifies the fuel tanks of a fast launch or adds any additional fuel tank contrary to that section;

- (d) fails to procure, without reasonable excuse, the survey of a fast launch, as required by section 19, or takes to sea a fast launch that has not been so surveyed; or
- (e) when required by the Captain of the Port, under section 20, to furnish any particulars–
 - (i) gives any information which he knows to be false; or
 - (ii) refuses or neglects to furnish the required particulars;
- (f) fails to report a transfer of ownership of a fast launch, as required by section 7(1), or fails to surrender his licence, as required by section 7(2);
- (g) moors a fast launch at the Auxiliary Camber or at Montagu Basin, contrary to section 14; or
- (h) fails to cause the identification of a fast launch to be marked, as required by section 15,

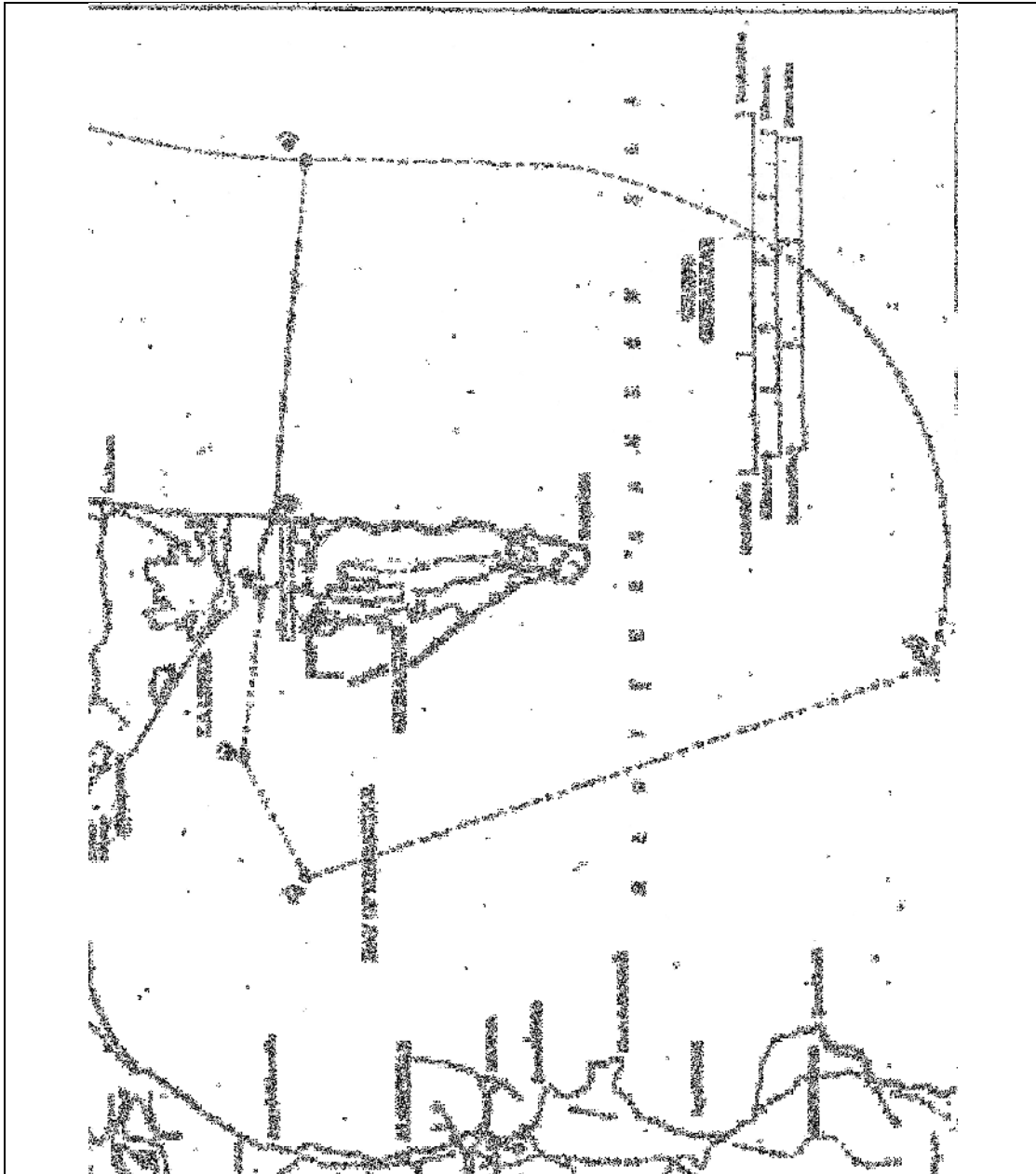
is guilty of an offence and is liable on summary conviction to a fine of £2,000.

Regulations.

22.(1) The Government may make regulations generally for giving effect to the provisions of this Act and, in particular, but without prejudice to the generality of the foregoing, regulating the forms to be used and the fees to be paid in respect of licences and permits to use fast launches.

(2) The Government may by regulations amend Schedule 2 so as to alter or add to the criteria for certification under section 2A.

SCHEDULE 1



SCHEDULE 2

The criteria for certification under section 2A are that—

- (1) the vessel does not under normal operating conditions exceed a speed of 40 knots; and
- (2) the vessel is not of a type, characteristic, colour or description the certification of which would be in the opinion of the Captain of the Port in consultation with the Government, against the public interest; and
- (3) the vessel is not an inflatable boat or a rigid inflatable boat as defined in paragraph 16(2) of Schedule 1 to the Imports and Exports (Control) Regulations, 1987; and
- (4) the vessel—
 - (a) has a hull beam of over 2.4m; and
 - (b) has a hull length of over 6.9m or, if it is a shaft drive vessel with the propeller fixed directly to the end of the shaft, 5.9m; and
 - (c) has a hull displacement weight—
 - (i) without engine, of over 1200kg if outboard engine powered; or
 - (ii) with engine, of over 1500kg if not outboard engine powered; and
- (5) the vessel is not equipped with an engine or engines with a brake horsepower which exceeds the manufacturer's maximum engine recommendation.