

**FIRST SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 4284 of August, 2016



I ASSENT,
EDWARD DAVIS,
GOVERNOR.

3rd August, 2016.



GIBRALTAR

No. 13 of 2016

AN ACT to amend the Fast Launches (Control) Act, 1987.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the Fast Launches (Control) (Amendment) Act 2016 and comes into operation on the day of publication. 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.

Amendment of the Fast Launches (Control) Act, 1987.

2.(1) The Fast Launches (Control) Act, 1987 is amended in accordance with this section.

(2) In section 2—

- (a) in the definition of “controlled area” for “the Schedule” substitute “Schedule 1”;
- (b) in the definition of “fast launch” after “vessel” insert “, other than a vessel certified as exempt under section 2A,”.

(3) After section 2 insert the following section—

“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.
- (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.”.

(3A) In section 11(1) for “between the hours of 10.00 p.m. and 7.00 a.m.” substitute “during the period between–

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

(3B) In section 13–

- (a) in subsection (1) after “Port Rules” insert “or in such other manner as the Captain of the Port may prescribe”;
- (b) in subsection (2) after “intention to depart.” insert “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.”.

(3C) After section 14 insert the following section–

“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:

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.”.

(4) In section 22–

(a) renumber the current text as subsection (1);

(b) insert after the newly renumbered subsection (1)–

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

(5) The current Schedule is renumbered as “Schedule 1”.

(6) After the newly renumbered Schedule 1 insert the following–

“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.”.

Passed by the Gibraltar Parliament on the 27th day of July, 2016.

P E MARTINEZ,
Clerk to the Parliament.

**Printed by the Gibraltar Chronicle Printing Limited
Unit 3, New Harbours
Government Printers for Gibraltar,
Copies may be purchased at 6, Convent Place, Price £0.60**