

**GIBRALTAR PORT AUTHORITY ACT 2005**

**Principal Act**

<b>Act. No. 2005-14</b>	<i>Commencement (LN. 2006/064)</i>	1.6.2006
	<i>Assent</i>	9.2.2005

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SCHEDULE

AN ACT TO ESTABLISH THE GIBRALTAR PORT AUTHORITY AND TO MAKE PROVISION FOR THE TRANSFER OF CERTAIN OF THE FUNCTIONS AND ACTIVITIES OF THE PORT DEPARTMENT FROM THE GOVERNMENT TO THE AUTHORITY.

**Title and commencement.**

1.(1) This Act may be cited as the Gibraltar Port Authority Act 2005.

(2) This Act comes into operation on the day appointed by the Minister with responsibility for the Port and Shipping in the Gazette and different days may be appointed for different provisions.

**Interpretation.**

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

“Authority” means the Gibraltar Port Authority established by section 3;

“advisory committee” means a committee established under section 11;

“Chief Executive” means the Chief Executive of the Authority appointed under section 10;

“Port” means—

- (a) that area of water and the foreshore adjacent thereto as is commonly known and recognised as the Port, roadstead and anchorage ground of Gibraltar including Admiralty and Port Waters as defined from time to time in any relevant Order in Council;
- (b) all that area of land defined as being part of the Port in the Port Act; and
- (c) the area within Gibraltar territorial waters commonly known as the Eastern Anchorage, within the co-ordinates specified in the schedule;

“Minister” means the minister with responsibility for the Port and shipping.

**Establishment of the Gibraltar Port Authority.**

3.(1) The Gibraltar Port Authority is established which shall consist of—

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- (a) the Minister, as chairman;
- (b) the Chief Executive of the Ministry with responsibility for the Port;
- (c) the Chief Executive of the Authority;
- (d) one person appointed by the Minister after consultation with registered port employers;
- (e) one person appointed by the Minister after consultation with the Gibraltar Trades Council; and
- (f) two other persons appointed by the Minister not being persons in whole or part-time employment under the Crown in right of its Government of Gibraltar, of whom one shall be a barrister or solicitor of the Supreme Court.

(2) Any member of the Authority (other than a member referred to in paragraph (a), (b), or (c) of subsection (1)) shall hold office for such period and upon such terms as may be specified in the instrument appointing him.

(3) If the Minister is satisfied that any member referred to in paragraph (d) (e) and (f) of subsection (1)–

- (a) has been absent from three consecutive meetings of the Authority without the permission of the Authority;
- (b) has become bankrupt;
- (c) has been convicted of a criminal offence involving violence or dishonesty or has been sentenced to a term of imprisonment;
- (d) is incapacitated by physical or mental illness; or
- (e) is otherwise unable or unfit to discharge the functions of a member,

the Minister may by notice in the Gazette declare his office as a member of the Authority to be vacant and thereupon his office shall become vacant.

(4) Any member may resign his office by giving written notice to the Authority.

(5) Any member of the Authority who ceases to be a member (otherwise than under subsections (3) or (4)) shall be eligible for re-appointment.

(6) The Authority shall appoint a person who is an employee of the Authority to be the Secretary of the Authority.

**Authority to be body corporate.**

4.(1) The Authority shall be a body corporate with perpetual succession under the name of the Gibraltar Port Authority and shall have a common seal which shall be officially and judicially noted.

(2) The common seal of the Authority may only be affixed to an instrument in the presence of the Chief Executive or other person authorised by the Authority for that purpose and one other member of the Authority; the persons so present shall sign the instrument as witnesses to the sealing.

(3) The Authority may sue and be sued in its corporate name.

(4) Service of any process or notice on the Authority may be effected by leaving it at, or sending it by registered post to, the principal office of the Authority.

**Meetings and proceedings.**

5.(1) The quorum at all meetings of the Authority shall be three members in addition to the Chairman or other person presiding.

(2) At all meetings of the Authority the chairman or, in his absence, such member as the Authority may select shall preside.

(3) Any matters arising at a meeting of the Authority shall be decided by a majority of the members present and voting thereon at the meeting and, in the case of an equality of votes, the person presiding shall have a second, casting, vote.

(4) All orders and directions of the Authority shall be given under the hand of the Chief Executive.

**Duties of the Authority.**

6.(1) It shall be the duty of the Authority to carry out the functions conferred upon it by this or any other Act or law.

(2) Without prejudice to the generality of subsection (1), it shall be the duty of the Authority—

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- (a) to manage, supervise, secure, maintain and repair the port wharves, roads, buildings, walls, equipment and other facilities and infrastructure, on behalf of the Government;
- (b) to operate the port as an efficient maritime centre having due regard to internationally accepted standards of safety and environmental protection;
- (c) to control and monitor all shipping movements in Gibraltar waters;
- (d) to provide search and rescue facilities within Gibraltar waters when required;
- (e) to ensure that all port operators comply with local and international legal standards;
- (f) to promote new port business especially new business which will enhance port activities already undertaken;
- (g) to market the Port as efficiently and cost effectively as possible; and
- (h) to generate revenues for the Government of Gibraltar.

(3) The Authority shall also–

- (a) employ or take on secondment such persons (including advisers and consultants) as the Authority thinks fit for the proper discharge by the Authority of its functions;
- (b) publish codes for regulating the terms of service, discipline and training of all persons employed by the Authority;
- (c) administer and inspect all facilities administered or provided by the Authority so as to ensure the effective and efficient operation of such facilities;
- (d) license port operators and workers in accordance with the provisions of the Port Operations (Registration and Licensing) Act 2005;
- (e) prescribe licensing contributions for each class of port operations;

- (f) prescribe security and safety criteria and procedures to be observed within the Port, subject to the requirements of any other Act or Regulations;
- (g) ensure that all complaints made against the Authority or any employee of the Authority are properly investigated without delay;
- (h) prepare and implement schemes providing policies and plans designed to meet the present and anticipated future maritime needs in Gibraltar;
- (i) advise the Government on matters of policy relating to the Port; and
- (j) carry out such other duties as the Minister may from time to time direct.

(4) In exercising its powers, duties and functions under this Act the Authority shall act in accordance with the policy of the Government and in accordance with any decision of the Government communicated in writing by the Chairman, in his capacity as Minister, to the Authority.

**Powers of the Authority.**

7.(1) Subject to the provisions of this or any other Act, the Authority shall have power to do all things necessary for the carrying out of its duties under this or any other Act.

(2) The Authority may acquire any freehold or leasehold land required for the purposes of any of its functions under this or any other Act and dispose of any land so acquired which is no longer required for such purposes.

(3) Without prejudice to the generality of subsection (1), the Authority may—

- (a) purchase, lease or otherwise acquire and hold any property (other than land acquired under subsection (2)) required for the purposes of the Authority and dispose of any such property no longer required for such purposes;
- (b) contract with any person for the supply to, or by, the Authority of any goods, services or personnel;
- (c) erect, equip and maintain all necessary buildings, plant and equipment;

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- (d) compile, prepare, print, publish, issue, circulate and distribute, whether for payment or otherwise, such papers, leaflets, magazines, periodicals, books and other literary matter as may be conducive to the attainment of the objectives of the Authority or the advancement of its functions; and
- (e) with the written consent of the Minister, reimburse the members of the Authority for such expenses as are incurred by them with the consent of the Authority.

## **Discharge of functions by the Authority.**

8.(1) Subject to any express provision contained in this or any other Act, the Authority may arrange for the discharge of any of its functions—

- (a) by a committee, a sub-committee or an employee of the Authority; or
- (b) by any Government department or by any other authority.

(2) Any arrangements made by the Authority under this section for the discharge of any of its functions by a committee, sub-committee, employee, Government department or other authority shall not prevent the Authority from exercising those functions.

## **Standing Orders.**

9.(1) Subject to the provisions of this or any other Act, the Authority may regulate its own procedure.

(2) The Authority may make standing orders as respects any committee of the Authority with respect to the quorum, proceedings and place of meeting of the committee (including any sub-committee) but, subject to any such standing orders, the quorum, proceedings and place of meeting shall be such as the committee or sub-committee may determine.

## **Appointment of Chief Executive.**

10.(1) The Minister shall appoint a person to be the Chief Executive of the Authority.

(2) The Chief Executive shall hold office for such period and upon such terms as may be specified in the instrument appointing him.

(3) The Chief Executive shall be the executive officer of the Authority and shall in addition perform such other functions, and exercise such other powers, as are from time to time conferred upon him by this or any other Act or are delegated to him by the Authority.

(4) In the event of the illness, death, retirement, suspension or removal from office or absence from Gibraltar of the Chief Executive, the Authority shall appoint a person to act as Chief Executive.

**Professional advisory committees.**

11. The Authority may establish any advisory committee to give to the Authority and the Chief Executive such professional and technical advice as may be required.

**Financial duty of the Authority.**

12. The Authority shall so manage its affairs as to ensure that, taking one year with another, its outgoings are not greater than its revenues from—

- (a) all funds which may from time to time be voted by the Parliament for the purposes of the Authority;
- (b) all revenue accruing from dues;
- (c) all fees due to the Authority for the provision of services and facilities provided by the Authority in the exercise of its functions; and
- (d) any money properly accruing to the Authority from any other source.

**Establishment and operation of general fund.**

13.(1) The Authority shall establish with the Accountant General a general fund—

- (a) into which all money received by the Authority shall be paid; and
- (b) out of which all payments made by the Authority shall be paid.

(2) The Chief Executive shall be responsible for the management of the general fund established under sub-section (1).



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(3) The Authority may, with the consent of the Chief Minister borrow temporarily by way of overdraft or otherwise such sums as it may require for meeting its obligations and discharging its functions.

(4) The Government may out of monies appropriated by the Parliament make advances for the purposes of meeting expenditure of a capital nature.

## **Accounts and auditing.**

14.(1) The Authority shall in the manner and in the form required by the Accountant General keep proper books of account of its operations during each financial year, and shall in like manner and form also cause a statement of its accounts for each financial year to be prepared within three months after the end of that year.

(2) The accounts of the Authority for each financial year shall be audited and certified by the Principal Auditor as soon as practicable after the end of that year.

(3) The Principal Auditor shall, with reference to the accounts of the Authority, report—

- (a) whether he has obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purposes of the audit; and
- (b) whether the Authority has discharged its financial duties and obligations under this Act.

(4) Within one month after the end of the audit of its accounts for any financial year, the Authority shall prepare and submit to the Minister a written report of its operations for that year together with a copy of the audited accounts for that year.

(5) The Minister shall lay a copy of the annual report and of the audited accounts on the table of the Parliament as soon as practicable after they have been received by him.

(6) The Authority shall furnish to the Government—

- (a) a copy of the estimates of income and expenditure, including capital expenditure, by no later than the first day of January in each year; and
- (b) such financial and statistical returns as the Government may from time to time require.

**No personal liability to attach to members.**

15. Subject to the provisions of section 16, no personal liability shall attach to any member of the Authority in respect of anything done or suffered or omitted to be done in good faith and without negligence under the provisions of this or any other Act.

**Proceedings on failure of Authority to perform its duties.**

16.(1) If at any time it appears to the Minister that the Authority has failed to comply with any of the provisions of this or any other Act, he may by notice in writing require the Authority to make good the default within such time as may be specified in the notice.

(2) If the Authority fails to comply with the requirements of a notice issued under the provisions of subsection (1), the Attorney General may apply to the Supreme Court for an order requiring the Authority to remedy the default specified and the Supreme Court may make such order on the application as it thinks fit.

(3) Every member of the Authority shall be personally liable for compliance with any such order to the best of his ability.

**Restriction on execution.**

17. No execution by attachment of property or process in the nature thereof shall be issued against the Authority.

**Exemption from taxes, etc.**

18. The Authority shall be exempt from all taxes on income and property rates.

**Transfer of property.**

19.(1) Subject to subsection (2), on the commencement of this Act there shall by virtue of this subsection be transferred to and vest in the Authority all property which immediately before that time was held by the Government wholly or mainly for one or more of its maritime functions.

(2) In this section, “property” does not include freehold or leasehold land.

**Regulations.**

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20. The Minister may make Regulations for the purposes of carrying this Act into effect and for such other matters as are incidental and supplementary to or may be necessary or expedient for the purposes of this Act.

**SCHEDULE**

Section 2

**EASTERN ANCHORAGE**

Position	36°09'.0 N	-	005°	19'.7 W
“	36°09'.0 N	-	005°	17'.5 W
“	36°07'.2 N	-	005°	17'.5 W
“	36°06'.5 N	-	005°	19'.7 W