

Subsidiary Legislation made under s.20.

Gibraltar Port Authority (Safety of Navigation) Regulations 2020

LN.2020/376

Commencement **29.10.2020**

Implementing:

International Convention for Safety of Life at Sea (SOLAS) 1974 as amended by the Protocol of 1975

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Gibraltar Hydrographic Committee

2005-14

Gibraltar Port Authority

2020/376

**Gibraltar Port Authority (Safety of Navigation)
Regulations 2020**

In exercise of the powers conferred by section 20 of the Gibraltar Port Authority Act 2005, and all other powers enabling, the Minister with responsibility for the Port and shipping, for the purposes of completing full implementation of the International Convention for Safety of Life at Sea (SOLAS) 1974 as amended by the Protocol of 1975 relating to that Convention, including other amendments, Protocols, Annexes and Appendices, adopted by the International Maritime Organisation in accordance with Article VIII of that Convention and the Codes referred to therein, and to provide for the establishment of the Gibraltar Hydrographic Committee, to provide for its objects, functions and the manner in which it is to be managed, to regulate the submission of hydrographic data and related matters, and to provide for the establishment and maintenance of aids to navigation, has made the following Regulations—

Title.

1. These Regulations may be cited as the Gibraltar Port Authority (Safety of Navigation) Regulations 2020.

Commencement.

2. These Regulations come into operation on the day of publication.

Interpretation.

3. In these Regulations, unless the context otherwise requires—

“Bay of Gibraltar” means those waters commonly known as the Bay of Gibraltar and limited on the South by an imaginary straight line joining Europa Point and Carnero Point;

“BGTW” means British Gibraltar Territorial Waters which is the area of sea, the sea bed and subsoil within the seaward limits of the territorial sea adjacent to Gibraltar under British sovereignty and which, in accordance with the United Nations Convention on the Law of the Sea 1982, currently extends to three nautical miles and to the median line in the Bay of Gibraltar;

“Captain of the Port” means the person appointed to be the Captain of the Port under section 4 of the Gibraltar Port Authority Act 2005, and includes any person appointed by the Government to act in the place of the Captain of the Port;

“Committee” means the Gibraltar Hydrographic Committee;

“GMA” means the Gibraltar Maritime Administrator appointed under section 3 of the Gibraltar Merchant Shipping (Safety, etc.) Act, 1993;

“GPA” means the Gibraltar Port Authority, established under section 3(1) of the Gibraltar Port Authority Act 2005;

“hydrographic data” means all data obtained from the measurement and description of the physical features of BGTW and adjacent terrain, including the depth of the water, configuration and the nature of the topography beneath, the direction and force of currents, heights and times of tides and water stages, location of topographic features and fixed objects for survey and navigation;

“IHO” means the International Hydrographic Office;

“IMO” means the International Maritime Organisation;

“nautical publication” means a special purpose map or book, or a specially compiled database from which such a map or book is derived which is authorised by the Committee, designed to meet the requirements of marine navigation.

PART I

Hydrographic Services

The Gibraltar Hydrographic Committee.

4.(1) For the purposes of the safety of navigation in BGTW and ensuring that hydrographical surveying is carried out in accordance with the requirements of the IMO and IHO, The Gibraltar Hydrographic Committee is hereby established as a committee of the Gibraltar Port Authority.

(2) The Captain of the Port shall appoint by notice in the Gazette the members of the Committee.

(3) The members referred to in sub-section (2) must each nominate an alternate member (“an alternate”) to serve as the alternate for the member nominating that person or the member nominated by the body nominating that person.

(4) An alternate has the same functions as a member but may only attend and/or vote at a meeting of the Committee if the member for whom the alternate serves as an alternate is unable to attend the meeting.

(5) A quorum of the Committee shall consist of three members, which must include the Chairperson.

(6) If a member of the Committee is for any reason unable to discharge the functions of his office the Captain of the Port may appoint by notice in the Gazette a temporary member of the Committee.

(7) Subject to the provisions of this Act, an act of the Committee shall not be affected by reason only of a vacancy in the composition in the Committee.

(8) Schedule 1 contains further provisions relating to the Committee.

Functions of the Committee.

5. The Committee is responsible for the following-

- (a) the collection and compilation of hydrographic data;
- (b) the publication, dissemination and keeping up to date of all nautical information necessary for safe navigation in BGTW;
- (c) the provision of the following nautical and hydrographic services, in the manner most suitable for the purpose of aiding navigation-
 - (i) to ensure that hydrographic surveying is carried out in accordance with the requirements of internationally accepted specifications and standards, adequate to the requirements of safe navigation;
 - (ii) to prepare and issue nautical charts;
 - (iii) to prepare and issue sailing directions, lists of lights, tide tables and other nautical publications, where applicable, satisfying the needs of safe navigation;
 - (iv) to promulgate notices to mariners in order that nautical charts and publications are kept up to date;
 - (v) maintain uniformity of nautical publications and nautical charts, taking into account the resolutions and recommendations of the International Hydrographic Organisation;

- (vi) coordinate hydrographic activities in order to ensure that hydrographic data, nautical publications and nautical charts are made available on a world-wide scale as timely, reliably and unambiguously as possible;
- (vii) take the necessary steps to ensure that the navigational warnings relating to safe navigation in BGTW is communicated promptly to persons navigating in BGTW; and
- (viii) to provide data management arrangements to support these services;

Powers and competence of the Committee.

6.(1) The Committee may do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any function conferred on it by or under these Regulations or any Act.

(2) Without limiting sub-regulation (1) or the general powers conferred on the Committee by these Regulations, in order to satisfy its functions, the Committee shall have the following powers and competencies-

- (a) to collect, through surveys at sea and along the coast, georeferenced data related to-
 - (i) depths of the sea in the area in all areas of interests, including all potential hazards to navigation and marine activities;
 - (ii) coastal features, including infrastructures for maritime navigation, aids to navigation and port configuration;
 - (iii) the nature of the sea floor;
 - (iv) tides and currents;
 - (v) physical properties of the water column.
- (b) to process the information collected in order to collate data capable of supporting the production of nautical charts, thematic maps and other types of documentation for the following non-exhaustive uses –
 - (i) maritime navigation;
 - (ii) traffic control;

- (iii) coastal management;
 - (iv) civil defence;
 - (v) marine environment protection and preservation;
 - (vi) exploitation of marine resources and laying of submarine cables or pipelines;
 - (vii) definition of maritime boundaries; and
 - (viii) scientific study and research related to the sea and near-shore zone.
- (c) to update databases through re-survey when necessary;
 - (d) to gather supplementary information from the GPA or GMA;
 - (e) to make rules for the meetings of the Committee and its transactions;
 - (f) to appoint a secretary and such sub-committees as it considers necessary to carry out its functions, including joint committees with other bodies, and to confer on the sub-committee's power and authority to act for the Committee;
 - (g) to establish procedures for the recommendation to the Captain of the Port of representatives of each member of the Committee;
 - (h) compile, prepare, print, publish, issue, circulate and distribute such reports, guidance, or other literary matter as may be conducive to the attainment of the objects of the Committee or the advancement of its functions; and
 - (i) to make rules consistent with the powers conferred on the Committee.

Sub-committee and delegation.

7.(1) The Committee may arrange for the discharge of any of its functions—

- (a) by a sub-committee of the Committee;
- (b) by an employee of the Gibraltar Port Authority or of any entity or body represented on the Committee;

- (c) by any Government department or by any other authority or authorities; or
- (d) by any international or foreign organisation, authority or committee, provided that it is a member of the IHO and complies with IHO and IMO standards and obligations.

(2) Any arrangements made by the Committee under this section for the discharge of any of its functions under sub-regulation (1) shall not prevent the Committee from exercising those functions.

PART II

Aids to Navigation

Establishment of Aids to Navigation.

8.(1) The Gibraltar Port Authority shall provide such aids to navigation as it deems practical and necessary, taking into consideration—

- (a) the volume of traffic and degree of risk presented for navigation in BGTW; and
- (b) any recommendations and guidelines published by the International Association of Marine Aids to Navigation and Lighthouses, and the IMO.

(2) The Gibraltar Port Authority shall be responsible for the management and maintenance of any aids to navigation established under sub-regulation (1).

Provision of Information.

9.(1) The Gibraltar Port Authority shall arrange for information relating to any aids to navigation established under regulation 8 to be made available to relevant stakeholders.

(2) Any changes to the transmissions of position-fixing systems which may adversely affect the performance of receivers fitted in ships shall only be made once adequate notice has been promulgated by the Gibraltar Port Authority.

Delegation.

10. The Gibraltar Port Authority may arrange for the discharge of any of its functions under regulations 8 and/or 9 by any board, entity, authority or organisation providing aids to navigation services.

SCHEDULE 1**Gibraltar Hydrographic Committee****Members.**

1.(1) Members of the Committee shall hold office for such period and upon such terms as the Captain of the Port may deem appropriate.

(2) If the Captain of the Port is satisfied that any member—

- (a) has been absent from three consecutive meetings of the Committee without reasonable excuse;
- (b) has become bankrupt;
- (c) has been convicted of a criminal offence punishable by a term of imprisonment of 3 months or more;
- (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, after consultation with the other members, by notice in the Gibraltar Gazette, declare his office as a member of the Committee to be vacant and shall appoint a replacement member at the earliest practicable opportunity.

(3) A member who wishes to resign his office shall give three months prior written notice to the Committee.

(4) Any member of the Committee who ceases to be a member shall be eligible for re-appointment.

(5) The Committee shall elect one of their members to act as Chairperson, for such period of time as may be agreed, and in the absence of the Chairperson at a meeting, the members must elect one of their members present to act as Chairperson for the duration of the meeting.

Meetings and proceedings.

2.(1) The Committee shall meet at least quarterly.

(2) Any matters arising at a meeting of the Committee shall be decided by a majority of the members present and, in the case of an equality of votes, the Chairperson shall have a second or casting vote.

(3) Subject to the provisions of this Schedule, the Committee may make such rules for its meetings as it deems appropriate.

No personal liability to attach to members.

3. No personal liability shall attach to any member of the Committee in respect of anything done or omitted to be done, in good faith, under the provisions of these Regulations or any Act.

Restriction on execution.

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

Immunity from suit.

5.(1) The Committee, any one or more members, any employees, officers or servants of the Committee, and any person to whom the powers of the Committee have been delegated, shall be immune from suit in respect of any act or omission in the performance of the functions conferred on the Committee by these Regulations or any Act unless the act or omission is shown to have been in bad faith.

(2) The Committee shall (unless bad faith is definitively found to have existed) indemnify any of its existing and former members, officers or servants for the costs of defending any action brought by a third party in respect of anything they are alleged to have done or omitted in the discharge or purported discharge of any powers or functions conferred on the Committee or any of its members by these Regulations or any Act.

Exemption from taxes.

6. The Committee shall be exempt from the provisions of the Income Tax Act 2010.