

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 2,326 of 27th NOVEMBER, 1986

LEGAL NOTICE No. 114 OF 1986.

PORT ACT.

PORT (AMENDMENT) RULES, 1986

Rules made by the Governor in exercise of the powers conferred on him by section 19 of the Port Act, and of all other enabling powers.

Title.

1.(1) These rules may be cited as the Port (Amendment) Rules, 1986.

(2) These rules shall come into operation on the 1st day of January 1987.

Amendment of rule 2.

2. Rule 2 of the Port Rules (hereinafter referred to as the principal rules) is amended by inserting, in its appropriate alphabetical position, the following definition -

"'fast launch' means a vessel which:

(i) does not exceed 50 feet in length overall and is fitted with or is intended to be driven by a petrol engine that is, or with petrol engines that together are capable of developing 200 or more brake horsepower; or

(ii) is a semi-rigid inflatable craft fitted with or is intended to be driven by a petrol engine that is, or with petrol engines that together are, capable of developing 75 or more brake horsepower;".

Insertion of new Part.

3. The principal rules are amended by inserting, immediately after rule 117, the following new Part-

“PART IVA

FAST LAUNCHES

Application.

117A. The rules contained in this Part shall apply only to fast launches and, as regards fast launches, if there is any conflict between the provisions of this Part and any other provisions in these rules, the provisions of this Part shall prevail.

Licensing of fast launches.

117B.(1) The Captain of the Port may, in his discretion, grant to the owner of a fast launch, or to a person intending to purchase a fast launch, a licence to operate it out of the port of Gibraltar, and in the territorial waters of Gibraltar.

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

(3) A licence granted under sub-rule (1) shall be valid only for the launch to which it is expressed to relate and shall not be transferable to any other person.

(4) A licence granted under sub-rule (1) shall be valid for 12 months, unless sooner surrendered or revoked or unless the licensee ceases to be the owner of the launch.

(5) A person who, not being the holder of a valid licence granted under sub-rule (1) operates a fast launch out of the port of Gibraltar or in the territorial waters of Gibraltar is guilty of an offence.

(6)(a) Subject to sub-rule (b) the Court by or before which a person is convicted of an offence under this rule may order any fast launch shown to the satisfaction of the court to relate to the offence, to be forfeited and either destroyed or dealt with in such other manner as the Court may order.

(b) The Court shall not order anything to be forfeited under this rules, where a person claiming to be the owner of, or otherwise interested in, it applies to be heard by the Court, unless an opportunity has been given to him to show cause why the order should not be made.

Forms and fees.

117C.(1) An application for the grant of a licence under rule 117B shall be made in the form FL/1 in Schedule 2A.

(2) A licence granted under rule 117B shall be in the form FL/2 in Schedule 2A.

(3) The fee payable on an application for a licence shall be £200, which shall include the issue of the licence and the surveys required by rule 117N.
117D. The Captain of the Port may revoke a

Revocation of licences.

117D. The Captain of the Port may revoke a licence granted under rule 117B, if -

- (a) the launch is used in the commission of any offence against the Imports and Exports Act;
- (b) the owner or the person for the time being in charge of the launch is convicted of any contravention of the Imports and Exports Act, the Merchant Shipping Act or the Port Act;
- (c) the owner or the person who was at the relevant time in charge of the launch is convicted of an offence against the Drugs (Misuse) Act and sentenced to a term of imprisonment;
- (d) the engine or engines fitted to the launch are modified or replaced so that greater power can be developed than that shown in the application on which the licence was granted;
- (e) the owner or the person in charge of the launch is guilty of any contravention of the rules contained in this Part.

Right of appeal.

117E. A person aggrieved -

- (a) by the refusal of the Captain of the Port to grant him a licence under rule 117B; or
- (b) by the revocation of a licence under rule 117D,

may, within 14 days of the notification of such refusal or revocation or such further time as the Governor may allow, appeal in writing to the Governor, whose decision shall be final.

Authorised use.

117F. The Holder of a licence issued under rule 117B may, by an authority in writing signed by him, authorise any other person to take charge of the launch, in the absence of the holder, for a single voyage:

Provided that no person shall be so authorised who has, at any time,

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

Change of ownership.

117G. The owner of a fast launch who transfers the ownership of it to any other person shall forthwith inform the Captain of the Port, furnishing him with the name and address of the transferee.

Identification of fast launches.

117H.(1) The owner of every fast launch licensed by the Captain of the Port 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 in letters not less than four inches in height and of proportionate breadth.

(2) A person who causes any such markings to be obscured is guilty of an offence.

Arrivals and departures to be reported.

117I.(1) The owner or the person in charge of a fast launch shall report at the Reporting Berth -

- (a) immediately on arrival within the port;
- (b) immediately before departure from the port.

(2) A person in charge of a fast launch under a written 'authority issued under rule 117F shall produce his authority for inspection at the time of reporting before departure from the port.

Prohibition of operation and mooring.

117J.(1) No person shall operate a fast launch in the port of Gibraltar or in the territorial water of Gibraltar between the hours of 10.00 p.m. and 7.00 a.m.

(2) No person shall moor a fast launch at the Auxiliary Camber or at Montagu Basin.

Berthing in marinas, etc.

117K. The Captain of the Port shall have the right to 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.

Carrying of fuel.

117L.(1) No fuel shall be carried in a fast launch otherwise than in approved tanks fitted in a position authorised by the Port Surveyor.

(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 sub-rule (1) of this rule.

Modification or replacement of engines.

117M.(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 capable of developing greater power.

Survey of fast launches.

117N.(1) Every fast launch shall be surveyed by Post Department Surveyors twice at least in every year, at intervals, as nearly as may be, of six months and no such launch shall proceed to sea unless there is in force in respect of it a valid certificate as to survey under this rule.

(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;
- (b) that the general equipment is in good condition and properly adjusted; and
- (c) that the launch is seaworthy and is not unsafe.

(3) The Captain of the Port may require the production of a certificate as to survey at the time when a fast launch reports prior to departure and may detain the launch until such certificate is produced.

Offences.

1170.(1) A person who contravenes any of the rules contained in this Part or who fails to comply with any requirement of any such rule is guilty of an offence.

(2) Where there is any contravention of any of the rules contained in this Part relating to fast launches or any failure to comply with any such rule, the person for the time being in charge of the launch is guilty of an offence and, where he is not the holder of a licence granted under rule 117B in respect of that launch, the holder shall be deemed also to be guilty of that offence:

Provided that where the person in charge of the launch was not authorised under rule 117F to take charge of it, the holder of the licence shall not be deemed guilty of that offence if he proves -

- (a) that the launch was taken without his knowledge or consent; or
- (b) that he took all reasonable steps to prevent the launch being taken and to report as soon as practicable to the Captain of the Port that it had been taken.

(3) A person guilty of an offence under this Part is liable on summary conviction to imprisonment for three months and to a fine of £500."

Insertion of new Schedule.

4. The principal rules are amended by inserting, immediately after Schedule 2, the following new Schedule -

SCHEDULE 2A

Rule 117C

FORMS

FORM FL/1

PORT RULES.

APPLICATION FOR A FAST LAUNCH LICENCE.

A. Particulars of Applicant

1. Full Name (IF A COMPANY GIVE NAMES AND ADDRESSES OF ALL DIRECTORS).
2. Date of Birth
3. Nationality
4. Residential Address
5. Telephone No.
6. Business Address
7. Telephone No.
8. Have you ever been convicted of an offence against-
 - (a) the Imports and Exports Act YES/NO
 - (b) the Merchant Shipping Act YES/NO
 - (c) the Port Act YES/NO
 - (d) Drugs (Misuse) Act YES/NO

If YES, please give full particulars:

B. Particulars of Launch

9. Name
10. Port of Registry/licence
11. Name of Manufacturer
12. Type
13. Length
14. Draught Fore Aft
15. Make of Engine
16. Maximum brake horse power.

C. Purpose for which launch will be used, if a licence is granted.

D. When will the launch normally be berthed, if a licence is granted?

I APPLY for a licence to operate the above launch out of the port of Gibraltar and in the territorial waters of Gibraltar and I declare that the particulars given above are true to the best of my knowledge and belief.

Date

Signature

FORM FL/2

Port Rules

LICENCE TO OPERATE A FAST LAUNCH

.....of is licensed under rule 117B of the Port Rules to operate the fast launch named out of the port of Gibraltar and in the territorial waters of Gibraltar,

from the day of..... 19
to the.....day of.....19.....

subject to the following special conditions:

Special Conditions

1. that the life saving appliances carried are sufficient and in good condition;
2. that the general equipment is in good condition and properly adjusted;
3. that the launch is seaworthy and is not unsafe;
4.
5.

Dated this 27th day of November, 1986.

By Command,
J. K. E. B ROADLEY
Deputy Governor.