

Subsidiary Legislation made under s.218.

Seaside Pleasure Boats Rules 1989

LN.1989/064

Amending enactments	Relevant current provisions	<i>Commencement</i>	11.8.1989
			Commencement date
LN. 1990/079	r. 10		28.6.1990
1991/047	r. 13(1)		4.4.1991
1991/149	rr. 2, 12(1), 13(1)-(2)		25.7.1991
1994/039	rr. 2, 4(1), 5, 7(2)-(3), 10-11, 12(1)(b), (2)-(3)		21.4.1994
2007/112	rr. 2-3, 13, Sch.		19.7.2007
2016/162	rr. 6A, 12(1)(a)-(b)		4.8.2016 ¹
2017/149	rr. 2, 6B		20.7.2017 ²

¹ Rule 6A(2) and (3) shall not apply for a period of 3 months from the commencement of these Rules in relation to the use of personal watercraft which have been licenced under the Port Act prior to the commencement of these Rules and in relation to which such a licence is in operation.

² Rule 6B shall not apply for a period of 3 months from the date of coming into operation of these Rules –

- (a) in relation to the use of a vessel which has been licenced under the Port Act prior to the commencement of these Rules; and
- (b) for which a licence referred to in paragraph (a) above is in operation.

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SCHEDULE

Title.

1. These Rules may be cited as the Seaside Pleasure Boats Rules 1989.

Interpretation.

2. In these Rules, unless the context otherwise requires,—

“adjacent area” means the sea adjacent to the regulated area to a distance seawards of two hundred metres from mean low water springs;

“authorised officer” means the Captain of the Port or any public officer designated for the purpose by the Captain of the Port;

“Minister” means the minister charged with responsibility for tourism;

“navigator” shall be presumed, in the absence of proof to the contrary, to include the owner of a vessel;

“prohibited surfboarding area” means any area that is for the time being demarcated as a prohibited surfboarding area under rule 8;

“regulated area” means the seashore of the whole coast of Gibraltar, and—

- (a) from the beginning of the month of June until the end of the month of September, the sea adjacent to the seashore to a distance seawards of one hundred and fifty metres from mean low water springs; or
- (b) from the beginning of the month of October until the end of the month of May, the sea adjacent to the seashore to a distance seawards of one hundred metres from mean low water springs;

“speed boat” means any power driven vessel, including a personal watercraft, capable of speeds in excess of 15 knots;

“surfboard” includes a surfboard propelled by sail;

“unregulated channel” means any area that is for the time being demarcated as an unregulated channel under rule 3;

“vessel” means anything which is mechanically propelled and is constructed or used to carry, tow or pull persons or goods by on or in water, and any reference to a vessel shall include a reference to those persons or goods.

Unregulated channels.

3. The Minister may authorise the demarcation, for the time being, in the manner specified in Part 1 of the Schedule of any part of the sea adjacent to Camp Bay, Catalan Bay, Eastern Beach, Little Bay, Sandy Bay or Western Beach as an unregulated channel.

Entry to the regulated area.

4. (1) No person, being the navigator of a vessel, shall cause or suffer the vessel—
- (a) to enter or to be in any part of the regulated area;
 - (b) to be within thirty metres of any vessel at anchor in any part of the regulated area;
or
 - (c) to be within thirty metres of any bather in any part of the regulated area.
- (2) Nothing in sub-rule (1) shall apply to an unregulated channel.

Speed limit for vessels.

5. No person, being the navigator of a vessel shall navigate the vessel at a speed exceeding five knots in an unregulated channel or in the adjacent area.

Restrictions on use of speed boats.

6. (1) No person who is under the age of eighteen years shall navigate a speed boat unless he is for the time being authorised in writing to do so by an authorised officer.

(2) Before giving any written authority under sub-rule (1), an authorised officer may require the person to pass to the satisfaction of the authorised officer such oral or written examination and such practical test as the authorised officer may consider necessary in order to ascertain the competence of the person to navigate a speed boat.

(3) An authorised officer may at any time for sufficient cause revoke in writing any authority given under sub-rule (1).

Restrictions on use of personal watercraft.

6A.(1) No person shall use, or to cause or permit any other person to use, a personal watercraft during the period between half an hour after sunset and sunrise.

(2) No person shall use, or to cause or permit any other person to use, a personal watercraft 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.

(3) No person shall use, or to cause or permit any other person to use, a personal watercraft unless the user has successfully completed the Royal Yachting Association Personal Watercraft Proficiency Course or such other equivalent course approved by the Captain of the Port.

(4) If any person uses or is in charge of a personal watercraft in contravention of this rule, 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 personal watercraft shall not be guilty of an offence if he proves to the satisfaction of the court, the onus being on him, that the personal watercraft was taken by some other person without his knowledge or consent.

(5) A person using a personal watercraft shall, on being so required by any police officer, produce the policy of insurance referred to in subrule (2), 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 produces it in person at a police station, he shall not be convicted of an offence against this rule.

(6) A person using a personal watercraft shall, on being so required by any police officer, produce evidence that he has successfully completed a course in accordance with subrule (3), 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.

(7) In this rule “personal watercraft” means a vessel which—

- (a) is less than 4 metres long,
- (b) uses an internal combustion engine,
- (c) uses a water jet pump as its primary source of propulsion, and

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- (d) is designed to be operated by a person or persons sitting, standing or kneeling on, rather than within the confines of, a hull.

Restriction on use of any vessel without insurance.³

6B.(1) No person shall use, or cause to use or permit any other person to use any vessel to which sub-rule (2) applies unless there is in force in relation to the use of the vessel, such a policy of insurance in respect of third party risks as may be approved by the Captain of the Port.

- (2) Sub-rule (2) shall apply to a vessel that is—
- (a) six metres or more in length; or
 - (b) mechanically propelled irrespective of its size.

Control of towing.

7. (1) No person shall—
- (a) aquaplane or water-ski in any part of the regulated area; or
 - (b) aquaplane or water-ski within thirty metres of any bather,

except for the purposes of taking part in any sporting event which the Captain of the Port has authorised in writing.

- (2) No person, being the navigator of a vessel, shall cause or suffer any person to be towed from the vessel in such a manner that the person being towed contravenes sub-rule (1).
- (3) No person, being the navigator of a vessel, shall—
- (a) cause or suffer any person to be towed from the vessel unless there is on the vessel a responsible person who is acting as a look-out for the safety of the person being towed and is able to communicate directly with the navigator; or
 - (b) cause or suffer any person to be towed from the vessel in any manner that is unduly dangerous to any person.

³ Shall not apply for a period of 3 months from the date of coming into operation of these Rules (as from 20.7.2017)

Prohibited surfboarding areas.

8. The Minister may authorise the demarcation, for the time being, in the manner prescribed in Part 2 of the Schedule, of any prohibited surfboarding area in the sea adjacent to Camp Bay, Catalan Bay, Eastern Beach, Little Bay, Sandy Bay or Western Beach.

Restrictions on use of surfboardings.

9. No person, being the user of a surfboard, shall cause or suffer the surfboard to enter or be in any part of a prohibited surfboarding area at any time during the period of the official bathing season, being the period declared as such by the Minister by notice published in the Gazette.

Dangerous user.

10. No person, being the navigator of a vessel, shall cause or suffer the vessel to be navigated, coast, anchor or lie idle in a dangerous manner or without due care and attention or without reasonable consideration for other persons.

Silencing devices for power boats.

11. No person, being the navigator of a vessel shall navigate the vessel unless it is fitted with a silencer, expansion chamber or other device that is suitable for reducing, and effective to reduce, 5 far as is reasonably possible, the noise caused by the escape of exhaust gasses from the engine.

Enforcement.

12. (1) A Police Officer or an authorised officer may—

- (a) require any person whom he believes on reasonable grounds to be the navigator of a speed boat or personal watercraft and to have committed any offence against these rules to disclose his name, residential address and age to that Police officer or authorised officer;
- (b) where he believes on reasonable grounds, that a vessel has been used in the commission of an offence contrary to rule 10 or rule 6A, require the navigator to surrender the control of that vessel to the authorised officer and to carry out the instructions of the authorised officer until such time as that officer is satisfied that no further offence contrary to rule 10 or rule 6A is likely to be committed.

(2) Before exercising any power under sub-rule (1), an authorised officer other than the Captain of the Port shall, if requested to do so by the navigator of the vessel, produce to the navigator his written authority to exercise that power.

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(3) Every person, being the navigator of a vessel, who refuses or fails to comply with any requirement made of him under sub-rule (1) commits an offence against these Rules.

(4) Every person who wilfully obstructs or impedes an authorised officer in the exercise of any of his powers under sub-rule (1) commits an offence against these Rules.

Offences.

13. Any person who contravenes any of the provisions of these rules is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale or to imprisonment for up to three months, or to both.

Revocation.

14. The Seaside Pleasure Boats Rules are revoked.

SCHEDULE

Rule 3

PART 1.

DEMARCATIION OF UNREGULATED CHANNELS

Two pairs of transit marks coloured green will be placed on the beach approximately fifty metres apart, each pair forming as nearly as possible a right angle to the foreshore. The unregulated channel is the area between the imaginary lines which form the extensions to seawards of the imaginary lines joining each pair of transit marks. The seaward line of this channel is marked, for the convenience of navigators, by a green coloured buoy.

Rule 8.

PART 2.

DEMARCATIION OF PROHIBITED SURFBOARDING AREAS.

At each beach a line of yellow buoys may be placed in the sea at a distance of up to approximately one hundred and fifty metres from the beach. The prohibited surfing area is the area between the northern-most and southern-most yellow buoy at each beach.