Subsidiary Legislation made under s.19.

Small Vessels (Moorings Controls) Rules, 2016

LN.2016/019

Commencement **4.2.2016**

Amending enactments		Relevant current provisions	Commencement date
LN. 2016/033	Schs. 2, 4		25.2.2016
2016/127	Sch. 4		16.6.2016
2023/236	Sch. 3		1.8.2023
2024/117	Sch. 3		1.8.2024
2025/185	Sch. 3		1.8.2025
2026/100	rr. 2, 6A		21.5.2026
2026/310	Sch. 3		6.8.2026

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ARRANGEMENT OF RULES

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SCHEDULE 4

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In exercise of its powers conferred by section 19 of the Port Act, the Government has made the following Rules–

Title and Commencement.

1.(1) These Rules may be cited as the Small Vessels (Moorings Controls) Rules, 2016.

(2) These Rules shall come into operation on the date of publication in the Gazette.

Interpretation.

2. In these Rules unless the context otherwise requires–

"designated area" means–

(a) the area of the Port waters delineated by pontoons at Waterport Wharf as specified in Part I of Schedule 1;

(b) the area of the Port waters known as the Mid-Harbour Small Boats Marina as specified in Part II of Schedule 1;

(c) such additional area or areas as may be designated from time to time by the Captain of the Port by Notice in the Gazette;

"locally based individual" means an individual who is permanently resident in Gibraltar;

"Minister" means the Minister with responsibility for the Port;

"small vessel" means a mechanically propelled fishing vessel, pleasure boat or sailing boat of a hull length not exceeding 9.05 metres.

No Mooring without Permit.

3.(1) No vessel shall be moored within a designated area except under and in accordance with a written permit granted by or under the authority of the Captain of the Port.

(2) Any vessel moored in contravention of sub-rule (1) may be removed by order of the Captain of the Port at the expense of the owner of the vessel and the cost of the removal may be recovered from the owner of the vessel as a civil debt.

(3) No permit to moor a vessel within a designated area shall be granted by the Captain of the Port unless the vessel–

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(a) is a small vessel:

(b) is owned by a locally based individual: and

(c) is licensed by the Gibraltar Port Authority.

Granting a permit.

4.(1) The Captain of the Port may, in accordance with the procedure and criteria set out in Schedule 4, grant the a locally based individual who is the owner of a small vessel or to a locally based individual intending to purchase a small vessel a permit to moor the vessel within a designated area.

(2) A permit granted under this Rule or Rule 18 may be subject to such conditions as the Captain of the Port shall determine.

(3) A permit granted under this Rule or Rule 18 shall be personal to the individual to whom it was granted and shall cease to be valid upon any change in the ownership of the vessel.

(4) The permit granted under this Rule shall be valid in relation to the small vessel to which it is expressed to relate.

(5) The permit granted under this Rule shall be valid–

(a) for a period of one calendar year from 1st January to the 31 December; or

(b) where an application is made after the 1st January of a given year in relation to that year, for a period ending on the 31st December of the year in which the permit is granted,

unless sooner surrendered or revoked or unless the locally based individual shall, subject to Rule 9, have ceased to be the owner of the vessel.

(6) The permit holder shall apply for the renewal of the permit prior to the expiration of its' period of validity, unless it is either surrendered or revoked or unless the locally based individual ceases to be the owner of the vessel.

Form and Fees.

5.(1) An application for the grant of a permit under Rule 4 shall be made in the form specified in Part I of Schedule 2.

(2) A permit granted under Rule 4 shall be in the form specified in Part II of Schedule 2.

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(3) The fees payable in respect of the small vessel moored under a permit granted under Rule 4 shall be–

(a) where the designated area is that set out in Part II of Schedule 1, those specified in Part II of Schedule 3; or

(b) in the case of any designated area other than that set out in Part II of Schedule 1, those specified in Part 1 of Schedule 3;

and shall be payable annually in advance.

Revocation of permits.

6. The Captain of the Port may revoke a permit granted under these Rules if–

(a) the locally based individual ceases to be the owner of the small vessel: or

(b) the owner of the small vessel ceases to be a locally based individual; or

(c) any fee payable under these Rules remains unpaid for three months: or

(d) the owner of the small vessel contravenes any provision of these Rules: or

(e) the owner of the small vessel does not moor his vessel at the berth assigned to him during a continuous period of ninety days:

Provided that the Captain of the Port may in his absolute discretion extend such period if he is satisfied that the small vessel has been precluded from mooring at the berth for a justifiable reason: or

(f) the owner of the small vessel does not comply with any condition imposed by or any direction or order given by the Captain of the Port: or

(g) the locally based individual transfers or attempts to transfer a permit to any other person other than in accordance with Rule 9: or

(h) the owner of the small vessel is in arrears with HM Government of Gibraltar (for the purposes of this subparagraph arrears with HM Government of Gibraltar means being in arrears for a period of no less than three months to HM Government of Gibraltar, a Government Agency, Authority, Company, entity or agent in relation to any debt); or

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(i) the owner of the small vessel–

(i) is convicted of an offence against the Imports and Exports Act, 1986, the Merchant Shipping Act, the Port Act or the Fast Launches (Control) Act, 1987 or the Drugs Trafficking Offences Act 1995, or the Proceeds of Crime Act 2015, or

(ii) is convicted of an offence under Part 21 of the Crimes Act 2011 (Drugs Misuse) and is sentenced to a term of imprisonment, or

(iii) uses or allows the small vessel to be used in the commission of any offence against the Imports and Exports Act. 1986, the Merchant Shipping Act, the Port Act, the Fast Launches (Control) Act 1987, Part 21 of the Crimes Act 2011 (Drugs Misuse), the Proceeds of Crime Act 2015 or the Drug Trafficking Offences Act 1995.

6A.(1) Where the Captain of the Port has revoked a permit pursuant to rule 6(c) or (h) of these Rules, the Gibraltar Port Authority may take possession of the locally based individual's small vessel and may-

(a) destroy or dispose of the whole or any part of the locally based individual's small vessel; or

(b) sell, in such a manner that the Captain of the Port may think fit, all or part of the locally based individual's small vessel.

(2) If the Captain of the Port sells the locally based individual's small vessel pursuant to subrule (1)(b), the Captain of the Port may reimburse the Gibraltar Port Authority its costs and expenses incurred in relation thereto under this rule, from the proceeds of the sale.

(3) A disposal, destruction or sale of the small vessel shall not be made under subrule (1) until-

(a) the Captain of the Port or someone authorised by the Captain of the Port has affixed a notice on the locally based individual's small vessel stating that the locally based individual's small vessel will be destroyed, disposed of or sold within 14 days of the date of the notice; and

(b) at least 14 clear days' notice of the intended destruction, disposition or sale has been given by notice in a daily newspaper circulating in Gibraltar and once in the Gazette specifying a brief description of the locally based individual's small vessel and, if known, the name and registered owner of the locally based individual's small vessel.

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(4) Any surplus funds left over after payment of the Gibraltar Port Authority's costs and expenses pursuant to subrule (2) are to be returned to the locally based individual and if the locally based individual cannot be located, the Gibraltar Port Authority shall pay the surplus funds into the consolidated fund where the funds shall be held until such time as they are claimed by the locally based individual.

(5) Any expenditure incurred by the Gibraltar Port Authority in removing any small vessel or part thereof or other property as provided for by this rule, and which is not recovered out of the proceeds of the sale of the locally based individual's small vessel or part thereof shall be a debt due to the Gibraltar Port Authority by the owner or agent of the small vessel and may be recovered as a civil debt.

(6) If, before a locally based individual's small vessel is destroyed, disposed of or sold pursuant to subrule (1), the locally based individual pays any outstanding fee payable under these Rules or any amounts due to HM Government of Gibraltar pursuant to rule 6(h), the Captain of the Port shall return the locally based individual's small vessel to the locally based individual.

Assignment of Berths.

7. Every small vessel whose owner has a permit to moor in a designated area shall occupy the berth assigned to it by the Captain of the Port and may be removed to any other berth which the Captain of the Port shall direct.

Change of ownership.

8. The owner of the small vessel who has a permit under Rules 4 or 18 and who transfers the ownership of the vessel to any other person shall (subject to Rule 9)–

(a) forthwith inform the Captain of the Port, furnishing him with the name and address of the transferee:

(b) surrender his permit to the Captain of the Port.

Transfer of permits.

9.(1) A permit granted under Rules 4 or 18 may, with the consent of the Captain of the Port, be transferred to another person only where–

(a) the owner of the small vessel to whom the permit was granted is deceased and–

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(i) the permit is to moor the vessel within a designated area set out in Part I or II of Schedule 1;

(ii) the vessel has been bequeathed (further to a will or where the owner died intestate by means of the legal administration of the estate) to the spouse, civil partner, child, step-child or grandchild of the deceased; or

(b) there is more than one registered owner of the small vessel, the permit on the death of one such registered owner shall be transferred to the surviving owner of the small vessel; or

(c) the owner of the small vessel to whom the permit was granted is 80 years of age or over, and

(i) the permit is to moor the vessel within a designated area set out in Part I or II of Schedule 1;

(ii) such person applies for the transfer of the permit to his spouse, civil partner, child, step-child or grandchild.

(2) Where the owner of the small vessel who has a permit under Rules 4 or 18 is deceased and the permit is not transferred in accordance with Rule 9(1)(a) or (b) the Captain of the Port shall revoke the permit in accordance with Rule 6 and may proceed to deal with the vessel in accordance with Rule 3(2).

Identification of small vessels.

10.(1) The owner of a small vessel who has a permit granted under Rules 4 or 18 shall cause the name of the vessel and the number of the permit issued to be marked on it in a clearly visible place.

(2) Where the Captain of the Port grants a permit to the owner of the small vessel under the provisions of these Rules, the permit holder shall ensure that such permit is displayed at all times in a prominent position on the vessel.

Restrictions.

11.(1) A vessel moored in a designated area shall not be used as a house boat or for storage or for any commercial activities or purposes.

(2) Storage lockers or any other structure shall not be erected on or in the vicinity of the moorings in a designated area unless they are authorised in writing by the Captain of the Port.

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(3) No locally based individual shall be entitled to or be granted more than one permit to moor small vessels in the designated areas.

(4) No locally based individual (person A) shall be entitled to or be granted a permit to moor a small vessel in a designated area where there is in existence another permit to moor a small vessel in any designated area granted to another person who resides or is registered as residing in the same household as person A.

(5) The designated areas shall not be used for or in connection with any commercial activities or purposes.

Persons within designated area.

12. All persons whilst in a designated area shall be subject to the lawful orders and directions of the Captain of the Port and of any person authorised by him.

Establishment of Mid-Harbour Small Boats Marina Association

13.(1) There is hereby established a Mid-Harbour Small Boats Marina Association (the Association) for the purpose of managing and operating the Mid-Harbour Small Boats Marina (save as to the granting of permits and allocation of berths) which shall–

(a) be a body corporate with perpetual succession under the name of the Mid-Harbour Small Boats Marina Association; and

(b) have a common seal which shall be officially and judicially noted.

(2) All persons granted a permit to moor a small vessel within the designated area set out in Part II of Schedule 1 shall be members of the Association subject to, and provided that they comply with, the Constitution, rules and bye-laws of the Association.

(3) The Captain of the Port shall publish by Notice in the Gazette the Constitution of the Association.

(4) If the holder of a permit to moor a vessel within the designated area set out in Part II of Schedule 1 ceases to be a member of the Association the Captain of the Port shall revoke such permit with immediate effect.

(5) The Association shall, for the purpose of managing and operating the Mid-Harbour Small Boats Marina,-

(a) create a separate reserve in a sinking fund so as to cover the expense of replacing all the access gangways and the pontoon installations together with all mechanical

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and electrical infrastructure on or by the year 2041 and which fund may not be used for any other purpose; and

(b) prepare and implement a costed annual maintenance program which shall be subject to approval by the Captain of the Port (such report shall be submitted for approval to the Captain of the Port annually on such date as he shall determine);

(c) set, with effect from the calendar year commencing 1st January 2017 and with the approval of the Captain of the Port, the annual fee payable in respect of permits granted for mooring at the Mid-Harbour Small Boats Marina which shall be such so as to meet the annual operational expenses of the Mid-Harbour Small Boats Marina, the creation and maintenance of the sinking fund set out in paragraph (a) and provide for the annual maintenance program as set out in paragraph (b) above.

Establishment of Small Vessels Advisory Board

14.(1) There shall be established a Small Vessels Advisory Board which shall consist of such persons or the holders of such offices as the Minister may from time to time appoint.

(2) The Minister may appoint a chairman to the Board.

(3) The chairman and every member of the Board shall be appointed for a renewable term of three years.

(4) The Board shall consist of not less than five members, and three shall constitute a quorum.

(5) The Board may appoint one member to be vice-chairman of the Board and subject to subsection (3) such vice-chairman shall hold office for the remainder of the period for which the chairman was appointed.

(6) The Board shall meet not fewer than three times in twelve months.

(7) The Board shall keep minutes of their proceedings.

(8) The Board shall–

(a) satisfy themselves as to the state of the mooring facilities for small vessels within the designated areas;

(b) inquire into and report upon any matter into which the Minister asks them to inquire;

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(c) direct the attention of the Captain of the Port to any matter which calls for his attention;

(d) report to the Minister any matter which they consider it expedient to report;

(e) inform the Minister immediately of any abuse which comes to their knowledge;

(f) have power to make recommendations to the Minister with the aim of improving the facilities;

(h) have power to submit to the Minister proposals and observations concerning existing or draft legislation relating to small vessels;

(i) hear any complaint or request which a holder of a permit or applicant for a permit wishes to make to the Board and where it considers it appropriate inform to do so inform the Captain of the Port of its views in relation to particular complaints and requests and invite that the Captain of the Port, where appropriate, to reconsider his decision or refer the matter to the Public Service Ombudsman.

(9) If the Minister is satisfied that any member of the Board–

(a) has been absent from three consecutive meetings of the Board without the permission of the chairperson of the Board;

(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;

(e) is in material breach of the terms under which he was appointed; or

(f) is otherwise unable or unfit to discharge the functions of a member;

the Minister may, after consultation with the other members of the Board, declare that person's office as a member of the Board to be vacant and thereupon such office shall become vacant.

(10) Unless excused by resolution of the Board, a member who does not attend at least half of the regular meetings of the Board in any year is deemed to have vacated his seat.

Liability.

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15.(1) Nothing in these Rules shall be deemed to impose any liability or responsibility upon the Captain of the Port for any loss or in injury caused by the act or negligence of any owner or person who is within the designated areas.

(2) All vessels whilst within the designated areas shall be therein at the sole risk of the owner and no responsibility shall be placed on Government or the Captain of the Port in respect of the security or safety of any such vessel.

(3) The Government and the Captain of the Port shall not be responsible for the insecure or improper moorings of any vessel or defective moorings or appliances within the designated areas nor for any damage or consequence arising therefrom.

(4) The Government and the Captain of the Port shall not be responsible for any failure, within the designated areas, in any pontoons, finger pontoons, mooring cleats or any other boat mooring infrastructure nor for any damage or consequence arising therefrom.

Powers of the Captain of the Port.

16.(1) The Captain of the Port shall be entitled to issue such directions or Orders as he may think necessary or expedient for the proper control and management of the designated areas and any act or omission which contravenes such directions or orders without reasonable excuse shall be deemed to constitute a contravention of these Rules.

(2) The provisions of the Port Act and rules made thereunder shall apply in every respect within the designated areas.

Offences.

17.(1) Any person contravening any of these Rules or the provisions of any permit granted hereunder shall he guilty of an offence and liable on summary conviction to a fine at level 3 on the standard scale.

(2) A person who for the purpose of obtaining the grant of any permit to himself or any other person or for the purpose of procuring any condition in such a permit knowingly makes any false statement is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

(3) A person who with intent to deceive–

(a) forges within the meaning of the Crimes Act 2011 or alters or uses or lends to or allows to be used by any other person a permit granted under these Rules: or

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(b) makes or has in his possession any document so closely resembling such permit as to be calculated to deceive, is guilty of an offence and liable on summary conviction to a fine at level 3 on the standard scale.

Transitional provisions.

18.(1) Existing permits issued under the Small Vessels (Moorings Controls) Rules, 1990–

(a) shall be deemed to have been issued under these Rules;

(b) shall remain in effect until 31st December 2016 unless sooner surrendered or revoked; and

the permit holder shall, subject to sub-rule (6), be subject to the provisions of these Rules.

(2) The fees payable under Rule 5(3)(a) in respect of calendar year 2016 shall be collected in advance by the Captain of the Port and held on trust until such time as a committee for the Association established under Rule 13 is elected. On the election of such committee such fees shall be transferred to the Association to be used in accordance with the terms of its Constitution and these Rules. Fees payable under Rule 5(3)(a) in respect of a calendar year other than 2016 shall be payable directly to the Association to be used in accordance with the terms of such Constitution and these Rules.

(3) The Captain of the Port may appoint such persons as he considers appropriate from amongst those to whom he has granted permits to moor small vessels within the area of the Port waters known as the Mid-Harbour Small Boats Marina as specified in Part II of Schedule 1 as a caretaker committee for the Association until such time as a committee for the Association is duly elected by the members.

(4) For the purposes of Rule 4(1)–

(a) the procedure and criteria set out in Part I of Schedule 4 shall apply to the initial grant of permits to moor small vessels within the area of the Port waters known as the Mid-Harbour Small Boats Marina as specified in Part II of Schedule 1;

(b) the procedure and criteria set out in Part II of Schedule 4 shall apply to all subsequent grants of permits to moor small vessels in all designated undertaken after the initial grant of permits to moor small vessels within the area of the Port waters known as the Mid-Harbour Small Boats Marina as specified in Part II of Schedule 1.

(5) Notwithstanding the definition of "small vessel" in these Rules, an individual granted a permit under the Small Vessels (Moorings Controls) Rules, 1990 to moor a vessel with a hull

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length in excess of 9.05 metres but not exceeding 9.15 metres in the designated area specified in Part I of Schedule 1, may continue to moor the said vessel within the same designated area under the said permit in accordance with sub-rule (1) but may not be granted a permit by the Captain of the Port to moor the said vessel within the area of the Port waters known as the Mid-Harbour Small Boats Marina as specified in Part II of Schedule 1.

(6) Where prior to the coming into force these Rules–

(a) a person has been granted more than one permit to moor small vessels in the designated area specified in Part I of Schedule 1; or

(b) a person has been granted a permit or permits to moor small vessels in the designated area specified in Part I of Schedule 1 and there is in existence another permit or permits to moor a small vessel in any designated area granted to another person who resides or is registered as residing in the same household as him,

such permits shall remain in effect notwithstanding the restrictions set out in sub-rules (3) and (4) of Rule 11 provided that–

(i) no additional permits may be granted in relation to that person or household whilst such permits remain in effect; and

(ii) such existing permits may not be amended to allow for mooring of vessels in another designated area whilst more than one such permit remains in effect.

Repeal of the Small Vessels (Moorings Controls) Rules, 1990.

19. The Small Vessels (Moorings Controls) Rules, 1990 are repealed.

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SCHEDULE 1

PART I

The designated area at Waterport Wharf shall be all that area enclosed by the co-ordinates:–

(a)	36° 08.94'N	5° 21.20' W
(b)	36° 08.92'N	5° 21.23' W
(c)	36° 08.96'N	5° 21.28' W
(d)	36° 08.98'N	5° 21.26' W

PART II

The designated area at Mid-Harbour Small Boats Marina shall be all that area enclosed by the co-ordinates:–

(a)	36º 08.297'N	5º 21.508'W
(b)	36º 08.258'N	5º 21.602'W
(c)	36º 08.459'N	5º 21.700'W
(d)	36º 08.478'N	5º 21.638'W

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SCHEDULE 2

PART I

APPLICATION FOR A PERMIT

Full Name of Applicant:

Home Address:

Nationality of Applicant:

Length of Residence in Gibraltar:

Identity card / resident permit number:

If the vessel is currently licensed with the Gibraltar Port Authority provide Licence Type and Number;

In respect of the vessel to which the application is made provide:

1. Type of vessel
2. Make of vessel
3. Model of vessel
4. Hull identification number
5. Year of build
6. Overall length of vessel
7. Hull length of vessel
8. Overall beam of vessel
9. Engine type
10. Drive type
11. Engine make

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12. Engine model

13. Number of Engines

14. Engine serial number(s)

15. Engine displacement (of each engine) in cc

16. Brake Horse Power (of each engine)

17. Displacement, Tonnage, or Dry weight of vessel

18. Draught

19. Date of purchase of vessel (Proof of purchase to be attached)

NOTE:

- The mooring permit is personal to a single occupier, relating to a particular vessel and berth and non-assignable. It may not be used for any other vessel.
- You must not lend or transfer any berth allocated to the vessel's owner.
- The vessel owner is 'The Occupier' of the berth but not the owner.
- The owner of a vessel and the berth occupier are to remain one and the same.
- The permit to occupy a berth will be revoked when the locally based individual ceases to be the owner of the pleasure craft.
- You must ensure that at all times your vessel is maintained in a clean and tidy state and in a seaworthy condition.
- The vessel must be berthed or moored in a seaman-like manner.
- All vessels must be licensed with The Gibraltar Port Authority and must be clearly identifiable with a G number (or other Gibraltar issued and Captain of the Port approved licence number) displayed on both sides.
- Every small vessel whose owner has a permit to moor in a designated area shall occupy the berth assigned to her by the Captain of the Port and may be removed to any other berth which the Captain of the Port shall direct.
- Permits may only be granted to and held by locally based individuals.

I hereby apply for a permit to moor the said small vessel within a designated area and I HEREBY DECLARE that I am the owner of the said small vessel and that the information given in this Application is true and correct to the best of my knowledge and belief:

Dated this day of 20 .

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[Signed] Applicant

PART II

PERMIT

Permit to Moor At..... Berth Number..... Vessel.....
Permit Ref..... Renewal

[This permit is issued on condition of compliance with all applicable legislation and directives issued by the Captain of the Port and, if berthed at Mid-Harbour Small Boats Marina, compliance with the Constitution of the Mid-Harbour Small Boats Marina Association.]

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SCHEDULE 3

FEES PAYABLE IN RESPECT OF PERMITS GRANTED

The fees set out in this Part must be paid in advance and the fee shall accrue on the date of grant of the permit irrespective of whether the berth allocated is occupied or not.

Fees shall be payable annually in respect of calendar years.

Where a permit is granted after the commencement of a calendar year the fee payable shall be calculated on a pro-rata basis.

PART I

Hull Length of Vessel	Yearly Rate (Payable Annually in Advance)
Up to 4.55 metres	£22.50
Over 4.55 metres but not exceeding 6.10 metres	£46.00
Over 6.10 metres but not exceeding 7.60 metres	£91.50
Over 7.60 metres but not exceeding 9.05 metres	£138.00
(Where the vessel falls within Rule 18(5))	
Over 9.05 metres but not exceeding 9.15 metres	£230.00

PART II

FEES PAYABLE IN RESPECT OF PERMITS GRANTED FOR MOORING AT MID-HARBOUR SMALL BOATS MARINA

(a) An initial fee on first grant of a permit in the sum of £365; and

(b) For the calendar year ending on 31st December 2016 a yearly rate (payable in advance) being the greater of-

1. the overall length of the vessel including all projections in metres multiplied by the overall beam in metres multiplied by £27, or

2. £365.

(c) For any calendar year after the calendar year ending on 31st December 2016, such fee or fees as shall be set by the Association with the approval of the Captain of the Port in accordance with Rule 13(5)(c).

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SCHEDULE 4

Part I

Initial grant of permits to moor a small vessel within the area of the Port waters known as the Mid-Harbour Small Boats Marina as specified in Part II of Schedule 1.

A. The Captain of the Port shall prepare a list of persons eligible to apply to moor small vessels within the Mid-Harbour Small Boats Marina.

B. The list shall be prepared with the persons so listed placed in order of priority as follows-

(i) the persons within paragraph C below;

(ii) the persons within paragraph D below;

(iii) the persons within paragraph E below.

C. Such persons who satisfy the Captain of the Port that they are, or were at the relevant time, owners of small vessels in relation of which a permit was granted to moor at the Western Beach small vessels mooring area and-

(i) the vessel to which the permit related or a replacement of such vessel is kept on land; or

(ii) the registration document in relation to the vessel has been renewed on an annual basis; and

such person was at the time this paragraph comes into force recorded as such with the Port Authority.

Priority within this group shall be determined in accordance with the date of first grant of a permit to moor at the Western Beach small vessels mooring area.

D. Such persons who satisfy the Captain of the Port that they are the owners of a small vessel or vessels permitted to moor within the designated area at Waterport Wharf.

Priority within this group shall be determined in accordance with the date of first grant of a permit to moor within the designated area at Waterport Wharf.

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Persons within this paragraph may elect to retain their permit to moor within the designated area at Waterport Wharf instead of receiving a permit to moor within the Mid-Harbour Small Boats Marina.

E. Such persons as are at the time of the coming into force of this paragraph entered in the waiting list for mooring permits held and operated by the Captain of the Port.

Priority within this group shall be determined in accordance with such list.

F. The Captain of the Port, in exercising his discretion to grant permits to moor small vessels within the Mid-Harbour Small Boats Marina-

(a) shall not grant more than one such permit per household;

(b) where the applicant has in his possession a permit (or permits) to moor a vessel in the designated area specified in Part I of Schedule 1, shall not grant a permit to moor a small vessel within the Mid-Harbour Small Boats Marina to such person unless satisfied that all such permits to moor vessels in the designated area specified in Part I of Schedule 1 are revoked;

(c) where the applicant resides in a household in which there are one or more persons who possess a permit (or permits) to moor a vessel in the designated area specified in Part I of Schedule 1 or to whom a permit to moor a vessel in the Mid-Harbour Small Boats Marina has been granted, shall not grant a permit to moor a small vessel within the Mid-Harbour Small Boats Marina to such person unless satisfied that all such permits to moor vessels in the designated area specified in Part I of Schedule 1 and the Mid-Harbour Small Boats Marina issued to such other person or persons are revoked;

(d) where the applicant or any other person who resides in the same household as the applicant has at the time of the initial allocation one or more vessels moored at the Cormorant Camber Small Boats Owners Club, at the Royal Gibraltar Yacht Club, or at a mooring provided by the Royal Gibraltar Yacht Club, shall not grant a permit to moor a small vessel within the Mid-Harbour Small Boats Marina to such person;

(e) shall not grant a permit to moor a small vessel within the Mid-Harbour Small Boats Marina to any person who in his opinion has used a vessel moored in a designated area as a house boat;

(f) shall not grant a permit to moor a small vessel within the Mid-Harbour Small Boats Marina to any person who is in arrears with HM Government of Gibraltar (for the purposes of this subparagraph arrears with HM Government of Gibraltar means

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being in arrears for a period of no less than three months to HM Government of Gibraltar, a Government Agency, Authority, Company, entity or agent in relation to any debt unless all such arrears are paid in full prior to granting of the permit).

G. Notwithstanding the above the Captain of the Port in his discretion, in consultation with the Director of Equality, may designate and allocate a number of berths within the Mid-Harbour Small Boats Marina for the use of persons who in his opinion-

(i) fall within the definition of having a disability as defined in section 3 of the Equal Opportunities Act 2006;

(ii) are bona fide users of small vessels; and

(iii) the circumstances justify such allocation.

The granting of permits to persons to moor small vessels at such berths shall be in the discretion of the Captain of the Port, in consultation with the Director of Equality.

Part II

Grant of permit to moor a small vessel within a designated area undertaken after the initial allocations set out in Part I of this Schedule.

In exercising his discretion to grant permits the Captain of the Port-

(a) prioritise allocations as per the order of applications contained in the waiting list for mooring permits held and operated by him;

(b) shall not grant more than one such permit per household;

(c) where the applicant has in his possession a permit (or permits) to moor a vessel in a designated area, the Captain of the Port shall not grant a permit to moor a small vessel elsewhere within that area or within another area to such person unless satisfied that such prior permit or permits are revoked;

(d) where the applicant or any other person who resides in the same household as the applicant has at the time one or more vessels moored at the Cormorant Camber Small Boats Owners Club, at the Royal Gibraltar Yacht Club, or at a mooring provided by the Royal Gibraltar Yacht Club, the Captain of the Port shall not grant a permit to moor a small vessel within a designated area to such person;

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(e) shall not grant a permit to moor a small vessel within the Mid-Harbour Small Boats Marina to any person who in his opinion has used a vessel moored in a designated area as a house boat;

(f) shall not grant a permit to moor a small vessel within the Mid-Harbour Small Boats Marina to any person who is in arrears with HM Government of Gibraltar (for the purposes of this subparagraph arrears with HM Government of Gibraltar means being in arrears for a period of no less than 3 months to HM Government of Gibraltar, a Government Agency, Authority, Company, entity or agent in relation to any debt unless all such arrears are paid in full prior to granting of the permit);

(g) may notwithstanding the above, in consultation with the Director of Equality, grant a permit to moor a vessel in a berth designated under paragraph G of Part I of this Schedule to a person who in his opinion

(i) falls within the definition of having a disability as defined in section 3 of the Equal Opportunities Act 2006;

(ii) is the bona fide user of a small vessels; and

(iii) the circumstances justify such grant.

Part III

General provisions as to allocation:

A. Each berth shall be allocated by the Captain of the Port a range indicating the minimum and maximum size of vessel that it is permitted may be moored there.

B. The allocation of berths by the Captain of the Port is without prejudice to his powers to regulate the Port.

C. Where an application is made on the basis of the mooring of a vessel which has either not been purchased or imported into Gibraltar at the time of the granting of the permit the Captain of the Port may include as a condition to the granting of the permit a date by which the vessel must occupy the mooring.

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