

PORT CIRCULAR 11 OF 2022

TO: PORT OPERATORS

FROM: CAPTAIN OF THE PORT

DATE: 29 JUNE 2022

RE: CHANGES TO PORT OPERATOR LICENCE CONDITIONS FOR SHIP REPAIR ACTIVITIES

Please be advised that with effect from 1 July 2022 changes will be made to the licence conditions for ship repair activities.

These changes affect the following conditions and will be applicable to both new and renewal applications with effect from this date:-

- Health and safety systems and plans will need to be in place together with ISO accreditation which meets the satisfaction of the Gibraltar Port Authority.
- Clearer information will be required on plant, equipment and premises.
- Clearer guidelines for workforce requirements (including procedures where Detached Worker permits will be used).
- Insurance – additional elements of cover will be required in respect of liability cover/ warranty of works.
- Tighter governance – particularly in respect of banking and regulatory elements.
- Port Worker passes – clarification on issuance of passes for locally employed staff v those with detached workers

A copy of the licence conditions is attached for ease.

CAPTAIN OF THE PORT

LICENCE CONDITIONS FOR SHIP REPAIR ACTIVITIES (as at 1 July 2022)

- 1) Every application should be sent to the Gibraltar Port Authority (hereinafter referred to as the 'GPA') so as to reach not less than eight weeks before the date on which the applicant desires the Licence, Re – Licence, Re – Registration or amendment applied for to take effect.
- 2) For new applications, this must be submitted with evidence that a notice has been published in the Gazette and in one newspaper no later than 21 days before the date fixed by the GPA to consider the application.
- 3a) The applicant must be a fit and proper person or if the applicant is a company or a partnership, the directors and shareholders or the partners as the case may be, are fit and proper persons to carry on the business.
- b) The applicant must produce letters from two referees for each director and shareholder, one of which should be from someone who is aware of or are involved in shipping, stating that the applicant is a fit and proper person for the business in which they wish to engage. The other reference must be from a financial institution.
- 4) The applicant must have available financial and managerial resources appropriate to the business and must submit a full business proposal including financial projections. An organogram must also be included.
- 5) The applicant must comply with statutory requirements in respect of health and safety matters regarding any repairs undertaken on vessels in Gibraltar waters. The applicant must also provide evidence of its health and safety systems and plans in force which must meet the satisfaction of the GPA. The applicant must also provide details of ISO accreditation.
- 6) 'Hot works' carried out on vessels of any description while anchored or berthed in Gibraltar can only take place following receipt (in advance) by the Captain of the Port of a 'gas-free' certificate from a GPA-approved individual.
- 7) Permission to undertake work on a 'dead ship' will only be considered by the Captain of the Port on receipt of an application in writing.
- 8) Should there be a need to move all vessels at anchor to the Eastern Anchorage in the event of an emergency, the cost of towing a 'dead ship' undergoing repairs will be submitted to the local agent consigned to that vessel.
- 9) The applicant must submit documentary evidence to the Captain of the Port of copies of any pertinent licences for the purpose of operating a ship repair business in Gibraltar and, if appropriate, of the permission from the Collector of Customs to use premises for restricted purposes, ie: bonded warehouse.
- 10) The applicant must maintain suitable premises and warehousing appropriate to its business in Gibraltar. Suitable premises must be fit for both the administration of the business and also the storage of equipment either in the form of separate or whole premises. A copy of the rental agreement, leasehold agreement or confirmation of ownership of property for all premises must also be submitted showing that the activity for which licence is being applied for is included.

11) The applicant must supply the Captain of the Port with full details of the plant and equipment which will be used for carrying out its business in the form of an inventory of equipment held, together with details of where such equipment or plant will be stored.

12) Only vehicles owned and operated by the applicant will be given access to the restricted areas of the Port for the purpose of the applicant's business.

13) The applicant will, by its registration, contribute to the efficiency and viability of the Port and ensure continuity of service.

(a) The applicant must therefore provide the Captain of the Port with full details of the number of staff to be employed/currently employed along with details of their duties, and the Captain of the Port must be satisfied that the staff complement is adequate for carrying out the business. A list of employees must also be submitted along with confirmation of where the employee will operate from if different premises are used.

(b) Detached Worker Permits will only be accepted for individuals who have a specialist role which cannot be serviced by locally registered individuals. Additionally, Detached Worker Permits will only be accepted for the period of time that the works in question are planned for and must be accompanied by the individual's qualifications and, where applicable, their medical confirmation.

The applicant is required to notify the Gibraltar Port Authority in advance of the works being undertaken that individuals holding a Detached Worker Permit will be used.

Employment Legislation should be complied with where the same individual is utilised on multiple occasions using a Detached Worker Permit.

(c) It should be noted that all other employees of the licensed operator must be registered locally with the Employment Service and fulfil all legal obligations in respect of pay, tax and social insurance.

14) The applicant must further provide a Certificate of Good Standing from the Registry of Companies, full details of all Directors and Shareholders, as well as a full set of audited accounts. If audited accounts are not available due to the company being recently registered, then a simple balance sheet of assets will be acceptable.

15) The applicant must provide evidence that a local bank account is held.

16) The applicant must demonstrate their knowledge of ship repair work – this should be outlined within the business proposal.

17) Prior to the issue of a licence, the applicant must produce documentary evidence to the satisfaction of the Captain of the Port that adequate insurance has been taken out against both personal injury and damage to vessels or property and that third party liability cover is also in place at a minimum level set by the Gibraltar Port Authority. In addition, cover must also be in place for ship repair liability insurance or warranty for works. For ship repair services, the minimum level of cover is £10 million. The insurance policy must be in English and must include Gibraltar as the legal jurisdiction.

Additional insurance conditions must also be included as per our published 'Insurance Conditions'.

18) The applicant must abide by the Port Rules and the authority of the Captain of the Port and be cognisant of all ISPS requirements.

19) A Port Operator Licence holder must settle all port dues, levies and fees within 30 days of billing, and in default, the licence may be suspended or revoked.

20) A port operator may only carry out activities within the Port for the class or classes of activities for which they are licensed

21) A Port Operator Licence is valid for twelve months and must be renewed annually.

22) An applicant shall, within seven days of being notified that they have been licensed by the Authority, send to the GPA such particulars as may be prescribed in respect of all appropriate Port Workers employed with an application that they be registered or as Port Workers.

(a) Port Worker passes will only be issued to locally registered employees. Any individuals working under the Detached Worker Permit will be issued with a daily visitor pass.

23) If the Captain of the Port of the GPA believes that any of the above conditions are not met to his satisfaction, he may suspend or withdraw a licence at any time.