

NORTH DEVON DISTRICT COUNCIL

ILFRACOMBE HARBOUR

BYELAWS

The Ilfracombe Harbour Authority in exercise of the powers conferred by “The Harbours, Docks and Piers Clauses Act 1847” (10 and 11 Vic.,C.27; “The General Pier and Harbour Act 1861 (24 and 25 Vic.,C.45), “The General Pier and Harbour Act 1861, Amendment Act” (25 and 26 Vic.,C19); “The Pier and Harbour Orders Confirmation Act, 1870 (No.1)” (33 and 34 Vic., V.1xxxii); “The Pier and Harbour Orders Confirmation (No.5) 1897” (60 and 61 Vic., C.1xxx.); “The Pier and Harbour Orders Confirmation (No.1) Act 1900” (63 and 64 Vic., Ch.1x); and of all other powers them enabling, hereby make the following byelaws.

PART I – PRELIMINARY

Title and Commencement

1. These Byelaws may be cited as the “Ilfracombe Harbour Byelaws, 1992” and shall come into operation on the expiration of 28 days from the date of confirmation thereof by the Secretary of State

Application

2. These Byelaws shall apply to all parts of the Harbour the limits of jurisdiction of which are set forth in the schedule attached hereto and to the harbour premises as defined in Byelaw 3 hereof

Interpretation

3. In these Byelaws, unless the context otherwise requires, the following words or expressions have the meanings hereby respectively assigned to them :

“the Act” shall mean The Harbours, Dock and Piers Clauses Act 1847

“the Authority” means the North Devon District Council

“aquaplaning” see “waterskiing”

“Collision Regulations” means regulations for the prevention of collisions made under Section 21 of the Merchant Shipping Act 1979

“the Harbour Master” means the person appointed as such pursuant to Section 51 of the Act and includes his authorised deputies, assistant and any other person authorised by the Authority to act in that capacity

“Harbour” means all that area referred to in the Schedule attached hereto

“the Harbour Premises” means the quays, piers, jetties, stages and all other works, land and buildings for the time being vested in or occupied or administered by the Authority within the Harbour

“Hovercraft” means a vehicle which is designed to be supported when in motion wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the ground, water or other surface beneath the vehicle

“Master” when used in relation to any vessel means any person having the command charge or management of the vessel for the time being “Owner” when used in relation to goods includes any consignor, consignee, shipper or agent for the sale, receipt, custody, loading or unloading and clearance of those goods and includes any other person in charge of the goods and his agent in relation thereto; and when used in relation to a vessel includes any part owner, broker, charterer, agent or mortgagee in possession of the vessel or other person or persons entitled for the time being to possession of the vessel

“parascending” means any activity wherein a person or persons are towed by or carried on a power driven vessel with the intention that the person or persons so towed or carried shall become airborne by virtue of their being harnessed to a kite, parachute, balloon, glider or similar apparatus

“power driven vessel” means any vessel which is propelled wholly or partly by machinery

“Quay” means any quay, wharf jetty, dolphin, landing stage or other structure used for berthing or mooring vessels and includes any pier, bridge, roadway or footway immediately adjacent and affording access thereto

“small vessel” means a vessel of less than 20 metres in length (excluding projecting spars) or a sailing vessel and, for the purposes of this definition,

“sailing vessel” means a vessel designed to carry sail, whether as the sole or as a primary or supplementary means of propulsion

“vehicle” includes any machinery on wheels or caterpillar tracks, trailers, caravans and mobile homes and includes a hovercraft or any other amphibious vehicle

“vessel” includes every description of water craft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on water

“waterskiing” means any activity wherein a person or persons are towed by a power driven vessel and are supported on skis or a disc or sled or inflatable tube or cylinder or similar apparatus, and “aquaplaning” has a like meaning

PART II – NAVIGATION

Vessel movements

4. The Master of a seagoing vessel shall give prior notice to the Harbour Master of the vessel’s arrival at, departure from or movement within, the Harbour

Declaration of particulars of vessel

5. The Master of a vessel arriving at or passing through the Harbour shall, if required by the Harbour Master, furnish to him a declaration in the form to be obtained from him containing a correct statement of the tonnage and draught of the vessel, its last port of call, ownership and destination, and particulars of its cargo

Vessels to navigate with care

6. The Master shall navigate his vessel with such care and caution and at such speed and in such manner as not to interfere with the navigation, manoeuvring, loading or discharging of vessels or with moorings or other property

Speed of vessels

7. Except with the permission of the Harbour Master and, subject to Byelaw 6 above and the Collision Regulations, the Master of a vessel shall not cause or permit the vessel to proceed at a speed greater than 4 knots

Small vessels not to obstruct a fairway

8. The Master of a small vessel which is not confined to a fairway shall not intentionally or recklessly make use of the fairway so as to cause obstruction to other vessels which can navigate only within the fairway

Vessels not to be made fast to navigation buoys or marks

9. The Master of a vessel shall not make fast his vessel to or cause it to lie against any buoy, beacon or mark used for navigational purposes

Notification of collision etc

10. The Master of a vessel which :

- (i) has been involved in a collision with any vessel or property, or has been sunk or grounded or become stranded in the Harbour, or
- (ii) by reason of accident, fire, defect or otherwise is in such a condition as to affect its safe navigation or to give rise to danger to other vessels or property, or
- (iii) in any manner gives rise to an obstruction to a fairway;

shall as soon as reasonably practicable report the occurrence to the Harbour Master and as soon as practicable thereafter provide the Harbour Master with full details in writing and where the damage to a vessel is such as to affect or be likely to affect its seaworthiness the Master shall not move the vessel except to clear the fairway or to moor or anchor in safety, otherwise than with the permission and in accordance with the directions of the Harbour Master

Vessels adrift

11. The Master of a vessel which parts from its mooring shall as soon as reasonably practicable report the same to the Harbour Master

PART III – BERTHING AND MOORING

Provision of proper fenders

12. The Master and the Owner of a vessel shall ensure that it is provided with a sufficient number of fenders adequate for the size of their vessel and when berthing or leaving, or lying at a quay or against a buoy or other vessels, the Master shall cause the vessel to be fended off from that quay or those other vessels

Vessels to be properly berthed

13. The Master of a vessel shall at all times keep his vessel properly and effectively moored when berthed or lying at any quay or against a buoy

Access to and egress from vessels

14. The Master and the Owner of a vessel (other than a small vessel) while berthed alongside a quay shall provide and maintain a sufficient and proper gangway for the access and egress of all persons having lawful business on the vessel and shall during the hours of darkness provide sufficient lighting to illuminate the whole length of the gangway

Sufficiency of crew

15. (i) Except with the permission of the Harbour Master, the Master of a vessel shall at all times when his vessel is within the Harbour ensure that his vessel is capable of being safely moved and navigated and in the case of a vessel other than a small vessel ensure that there are sufficient crew or other competent person(s) readily available to :

- (a) attend to his vessel's moorings;
- (b) comply with any directions given by the Harbour Master for the unmooring, mooring and moving of his vessel; and
- (c) deal, so far as reasonably practicable, with any emergency that may arise

(ii) In the event of any danger, accident, disturbance or fire at the quay or at a buoy at which a vessel is berthed or moored or on board any vessel within the Harbour the crew or other competent person should as soon as reasonably practicable sound the alarm and notify the Harbour Master

Vessels to be kept in a moveable condition

16. (i) The Master of a vessel (other than a small vessel) shall not, except where his vessel is lying aground, take any steps to render his vessel incapable of movement without first notifying the Harbour Master in writing and, subject as aforesaid, shall at all

times keep his vessel so loaded and ballasted and in such condition that it is capable of being safely moved

(ii) Where a vessel is at any time not capable of being safely moved by means of its own propulsive machinery, the Master or Owner shall inform the Harbour Master as soon as reasonably practicable and give to him any further information which the Harbour Master may reasonably require

Vessels not to make fast to unauthorised objects

17. Save with the express written consent of the Harbour Master, the Master of a vessel shall not permit or allow his vessel to be made fast to any post, quay, ring, fender or any other thing or to any quay, pier or other place not assigned for that purpose by the Harbour Master as suitable for making fast the vessel concerned

Access across decks

18. The Master of a vessel alongside a quay or alongside any vessel already berthed within the harbour shall, if required so to do by the Harbour Master, give free access across the deck of his vessel for persons and goods to and from vessels berthed alongside his vessel

Lost anchor, cable or propeller

19. (i) The Master of a vessel which has slipped or parted from or lost any anchor, chain, cable, propeller or rudder shall as soon as reasonably practicable give to the Harbour Master notice thereof and, if possible, of the position of the anchor, chain, cable, propeller or rudder and, if the Harbour Master so directs shall cause it to be recovered as soon as practicable at the expense of the owner of the vessel

(ii) The Master of a vessel slipping or parting from an anchor or chain, cable, propeller or rudder shall leave a buoy to mark the position where practicable thereof

Fouling of moorings

20. If at any time the anchor of a vessel fouls any moorings or cable the Master of the vessel shall as soon as reasonably practicable give notice thereof to the Harbour Master and shall if it is safe and practicable to do so await his instructions before proceeding to clear the same

Obstructing Accesses

21. The Master of a vessel shall not intentionally place his vessel nor allow it to be so intentionally placed in such a position as to obstruct the access to any recognised landing place or leaving it moored alongside any such landing place unattended

PART IV – GOODS AND ROAD TRAFFIC

Requirements as to handling and movement of goods in the Harbour

22. (i) The Owner of any goods loaded or discharged at the Harbour shall ensure that the goods are removed therefrom as soon as practicable and, in any case, within FORTY EIGHT HOURS (48) unless the Harbour Master otherwise agrees

(ii) The Owner of any goods shall comply with such directions as the Harbour Master may give for regulating the time, place and manner of discharging, loading or otherwise bringing into or removing those goods from the Harbour premises

Precautions against goods etc falling into Harbour waters or the Authority's premises

23. The Master of a vessel and any person undertaking the loading of cargo into or onto a vessel or the discharging of cargo from a vessel shall use or cause to be used such methods as the Harbour Master may direct for the prevention of any cargo, dunnage, ballast or other materials from falling, escaping or being discarded into or onto the waters of the Harbour or onto the premises of the Authority

Obstruction or interference at Harbour premises

24. No person shall:

(i) except with the permission of the Harbour Master, deposit or place on any part of the Harbour premises any goods or park any vehicle so as to obstruct any road, building, mooring, parking place, plant, machinery or apparatus or the access thereto or

(ii) without lawful authority, use, work, or move any plant, machinery, equipment or apparatus at the Harbour premises or

(iii) for the purposes of this subsection 'lawful authority' shall include the use of fire appliances in the harbour in the event of an emergency

Safe driving of vehicles

25. No person shall drive or otherwise operate a vehicle in the Harbour premises without due care and attention or without a reasonable consideration for other persons using the Harbour Premises

Speed limit for vehicles

26. No person shall allow a vehicle to proceed anywhere in the Harbour Premises at a speed greater than 10 miles per hour

Supervision of vehicles

27. A person having charge of a vehicle in the Harbour Premises shall at all times

comply with any directions of the Harbour Master with respect to the loading, discharging, manoeuvring and removal thereof and shall not, without the permission of the Harbour Master :

- (i) leave the vehicle unattended anywhere within the Harbour Premises except where such action is authorised directly or indirectly by the Authority or
- (ii) take it into any shed or working area

Loads not to leak, spill or drop

28. The Owner of a vehicle, driver or other person having charge of a vehicle in the Harbour Premises shall not permit any noxious substance to leak, spill or drop from the vehicle

Loads to be secured

29. The Owner, driver or other person having charge of a vehicle in the Harbour Premises shall ensure that any load carried thereon or therein is properly secured, and that it complies with all such statutory restrictions on the weight of goods to be so carried as are applicable on public roads

Refuelling etc of vehicles

30. No person shall within the Harbour Premises charge or recharge any vehicle with or empty it of fuel except with the permission of the Harbour Master

Accidents to be reported

31. Any person driving or otherwise operating a vehicle involved in an accident in the Harbour Premises whereby any injury is caused to any person or persons or any damage is caused to any property shall stop the vehicle and report the accident to the Harbour Master as soon as is reasonably practicable thereafter and shall give his name and address to the Harbour Master such reporting being without prejudice to any reporting obligations under the Reporting of Injuries Diseases and Dangerous Occurrences Regulations 1985

Unauthorised parking of vehicles

- 32. (i) Any person leaving a vehicle in a parking place on the Harbour Premises shall display on that vehicle a ticket issued by the Authority authorising the parking of that vehicle during such time as may be specified on that ticket
- (ii) A person shall not leave a vehicle in a parking place on the Harbour Premises for longer than the time specified in the ticket issued in respect of that vehicle

Operation of the Emergency Services

33. Clauses 25, 26, 27 and 32 shall not apply to any of the emergency services

attending the Harbour in the normal course of their duties

PART V – GENERAL

Inspection facilities etc to be made available to Harbour Master

34. The Master of a vessel shall, so far as may be required by the Harbour Master in the exercise of his duties, afford the Harbour Master access to any part of a vessel and provide all reasonable facilities for its inspection and examination

Navigation under influence of drink or drugs prohibited

35. A person shall not navigate any vessel in the Harbour whilst under the influence of drink or drugs to such an extent as to be incapable of taking proper control of the vessel

Vessels not be fumigated without permission

36. The Master or Owner of a vessel shall not knowingly cause or permit it to be fumigated without the prior written permission of the Harbour Master

Laying down moorings, buoys and other tackle

37. (i) No person shall lay down any mooring, buoy or similar tackle without a licence or prior written consent of the Harbour Master nor except in accordance with such conditions as the Authority and/or Harbour Master may impose

(ii) Any mooring, buoy or similar tackle shall as soon as reasonably practicable be removed by its Owner or any other person claiming possession of it if the Harbour Master so directs

(iii) If a person fails to comply with a direction made under byelaw 37(ii) above the Authority may cause the moorings buoy or similar tackle to be removed and the Authority may recover the expense of so doing from the Owner of the vessel

Drift or trawling nets not to obstruct vessels

38. No person shall cast or place any drift, trawl or other net or pot in such a position as to be likely to become an intentional obstruction or danger to any property or person including in particular but without prejudice to the generality of the foregoing any vessel or mooring

Vessels to have names marked on them

39. The Owner of a vessel which is not registered as a ship under the Merchant Shipping Acts 1894 to 1988 shall ensure that the vessel is marked conspicuously with its name unless otherwise exempted in writing by the Authority

Abandonment of vessels prohibited

40. (i) No person who owns or has charge of a vessel shall intentionally abandon, break up, set fire to or otherwise destroy that vessel within the Harbour except with the written consent of the Harbour Master.

(ii) For the purposes of Paragraph (i) of this Byelaw a person who leaves a vessel within the Harbour in such circumstances or for such a period that he may reasonably be assumed to have abandoned it shall be deemed to have abandoned it there unless a contrary intention is shown

Waterskiing, aquaplaning, parascending etc.

41. (i) No person shall engage or take part in or operate a power driven vessel for the purpose of aquaplaning, waterskiing or parascending except with the written permission of the Harbour Master or the Authority and only in such areas as may be designated by the Harbour Master or the Authority and in accordance with such reasonable conditions as may be imposed by the Harbour Master of the Authority

(ii) A Master whilst using his vessel for the purpose of towing a water skier, or a person aquaplaning or parascending shall have on board at least one other person capable of taking charge of the vessel and of giving such assistance as may be reasonably required during the towing and in the recovery of the person engaged in waterskiing, aquaplaning or parascending and shall carry :

(a) for each person on board a life jacket manufactured in accordance with the appropriate British Standards Specification or a personal buoyancy aid of the Ship and Boat Builders' National Federation approved type and two hand held distress signals, and

(b) for each person engaged in waterskiing, aquaplaning or parascending a rescue quoit with line or other sufficient hand-thrown line

Fire Precautions

42. The Master of every vessel shall :

(i) within the limits of the Harbour with the exception of rowing boats and other similar light non-powered vessels, shall have adequate fire-extinguishing equipment available for immediate use in any part of the vessel at all times, and the nature and amount of such equipment shall take into account any abnormal fire risk associated with any such vessel

(ii) take all reasonable precautions for the prevention of accidents by fire

Smoking within the Harbour

43. No person shall smoke or carry a lighted pipe, cigar or cigarette within the Harbour :

(i) Where smoking is expressly prohibited by the Authority by notice(s) exhibited in a conspicuous position in such parts of the Harbour

(ii) If requested by the Harbour Master or any Constable or authorised person not to do so in or upon any part of the Harbour when smoking or carrying a lighted pipe, cigar or cigarette may in his opinion be dangerous

(iii) Near to or amongst any goods in or on any of the docks, quays, wharfs, jetties, piers or buildings within the Harbour

Use of flammable materials

44. No person within the Harbour shall, without written permission of the Harbour Master, heat any pitch, tar or any other substance or flammable matter, or have or allow any fire, naked light or flame in any place other than for the immediate ignition of any authorised fire, light or flame or, subject to Byelaw 43, for the purpose of smoking.

Control of flammable materials

45. No person shall bring on board a vessel or shall use on a vessel any flammable materials, fuels, oils and gasses or warning flares or similar safety equipment unless the same are securely contained in a safe and proper manner and are intended to be used or are being used on or within a vessel for propulsion, maintenance or safety purposes or in connection with domestic cooking, lighting or heating

Supervision of fires

46. Whilst any naked flame or fire is being used on board any vessel within the Harbour the owner or master of that vessel shall provide and keep at least one person continually on board the vessel who shall be specifically charged with the care of naked flame or fire

Use of firearms

47. (i) Without prejudice to the Firearms Act 1968 and 1988 no person shall:

(a) Without lawful authority or reasonable excuse have with him

(A) a loaded shotgun

(B) a loaded air weapon

(C) any other firearm, whether loaded or not, together with ammunition suitable for use in that firearm, or

(D) an offensive weapon, or

- (b) discharge any firearms other than:
 - (A) with the written authority of the Harbour Master for the purposes of pest control
 - (B) as a lawful distress signal
 - (C) in the proper use of life-saving apparatus, or
 - (D) a firearm loaded with blank ammunition for use as a starting signal where he has the permission of the Harbour Master to discharge it for that purpose

(ii) In this Byelaw “offensive weapon” has the same meaning as in the Prevention of Crime Act 1953 and the other expressions have the same meanings as in the Firearm Acts 1966 and 1988

Fireworks

48. Except in an emergency no person other than H.M. Coastguard shall, without the written permission of the Harbour Master, set off rockets, fireworks or other explosive substances in the Harbour area

Assistance to fire and other services

49. The Master of a vessel shall give every reasonable facility and assistance to the fire, police, ambulance and other emergency services for dealing with, alleviating or preventing any emergency

Property of the Authority

50. No person shall intentionally obstruct the Harbour Master or any other Officer, Workman, Agent or any other person whomsoever may from time to time be employed by the Authority in the performance of his duties or in the execution of any work matters or things to be done by him

Meetings

51. Except with the consent in writing of the Harbour Master no person shall within the harbour premises :

- (i) take part in any general meeting, or
- (ii) gather together or deliver any address to an audience, or gather together any persons, whereby any work or business at the harbour or the control, management or use of the harbour is, or is likely to be obstructed, impeded or hindered

Unauthorised trading prohibited

52. No person shall engage by way of trade in buying or selling any goods, services or property without the written consent of the Authority which consent shall not be unreasonably withheld

Advertising

53. No person shall deposit or cause to be deposited any advertising handbills, leaflets or circulars on any vessel, vehicle or property in the Harbour

Licensing of passenger vessels

54. The Master of a vessel which carries passengers from or to or both from and to Ilfracombe shall if such a vessel has a berth or mooring in the Harbour obtain a passenger licence from the Authority; such licence to be additional to that required by the Department of Transport

Penalties

55. (i) Any person who contravenes or otherwise fails to comply with any of these Byelaws or any condition, requirement or prohibition imposed by the Harbour Master in the exercise of the powers conferred upon him by these Byelaws shall be guilty of an offence and be liable, on summary conviction to a fine :

(a) In respect of an offence under Byelaws 14, 32 or 39 above not exceeding Level 2 or the standard scale

(b) In respect of any offence under any other Byelaw not exceeding Level 3 on the standard scale

(ii) Where the commission by any person of an offence under these Byelaws is due to the act or default of some other person, that other person shall be guilty of an offence, and that other person may be charged with, and convicted of, the offence by virtue of this Byelaw whether or not proceedings for the offence are taken against any other person

(iii) In any proceedings for an offence under these Byelaws, it shall be a defence for the person charged to prove :

(a) that he had a reasonable excuse for his act or failure to act,

or

(b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence

(iv) If in any case the defence provided by Paragraph (iii(b)) of this Byelaw

involves the allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the Court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a Notice in writing giving such information identifying or assisting in the identification of that person as was then in his possession

Crown Estate

56. Nothing contained in any of the foregoing byelaws shall be deemed to be or shall operate as a grant by or on behalf of the Crown as owner of the foreshore below high water mark of any estate or interest in or right over such foreshore, or any part thereof, nor shall anything contained in or done under any of the provisions of the foregoing byelaws in any respect prejudice or injuriously affect the rights and interests of the Crown in such foreshore, or prevent the exercise thereof of any public rights or prejudice or injuriously affect any right, power or privilege legally exercisable by any person in over and in respect of the seashore

Revocation

57. The Ilfracombe Harbour Byelaws 1899 are hereby revoked

SCHEDULE

The Harbour area is all that area more particularly delineated on the plan annexed hereto and thereon edged in red

GIVEN under the COMMON SEAL)
of the NORTH DEVON DISTRICT)
COUNCIL)
this 20th day of March 1992

WBY
SOLICITOR TO THE COUNCIL



THE SECRETARY OF STATE HEREBY
CONFIRMS THE FOREGOING BYELAWS

Signed by Authority of the
Secretary of State

M W Jackson

M. W. JACKSON

An Assistant Secretary in the
Department of Transport

on the 26th day of May 1992³
RF/ILFHAR/R6

