

DRAFT NO. 18

TEIGNMOUTH HARBOUR BYELAWS 2003

PART 1 - PRELIMINARY

The Teignmouth Harbour Commissioners, in exercise of the powers conferred by Sections 4 and 34 of the Teignmouth Harbour Order 1924,**(i),(ii)** and other powers enabling them in that behalf make the following Byelaws:-

COMMENCEMENT

1. These byelaws may be cited as the Teignmouth Harbour Byelaws 2003 and shall come into force on the expiration of twenty eight days from the date of their confirmation by the Secretary of State.

APPLICATION

2. These byelaws shall apply within the Harbour.

PART II - INTERPRETATION

3. In these byelaws, unless the context otherwise requires, the following words or expressions shall have the following meanings:-

(i) *The Teignmouth Harbour Order 1924 as amended by SI 1987/222 and SI 1992/1049*

(ii) *The Teignmouth Harbour Revision Order 2003*

- (1) "Harbour Master" means the Harbour Master, his Deputy and any assistant or a person so appointed and authorised by the Commission to act in such a capacity.
- (2) "Master" means any person in command or control of any vessel at the time in question.
- (3) "Vessel" includes every description of watercraft including any ship, boat, dinghy, personal water craft, hydrofoil, hovercraft, sailboard non displacement craft or any device so constructed as being capable

of navigation on water. Any vessel so defined is for the purpose of these byelaws still a vessel when sunk or abandoned on a beach or middle ground.

- (4) "Quay" means any quay, wharf, jetty, dolphin, landing stage or other structure used for berthing or mooring vessels, and includes pier, bridge, road or footway immediately adjacent and affording access.
- (5) "Mooring" means any buoy, post, chain, pillar, pile, sinker or similar gear used to secure a vessel in a designated position.
- (6) "Nautical Mile" means the international nautical mile which is 1852 metres.
- (7) "Speed" in relation to a vessel, means velocity in knots or nautical miles per hour through on or over the water.
- (8) "Water ski-ing" means any activity wherein a person or persons are towed by a power driven vessel and supported on skis or a disc or sled or inflatable tube or cylinder or similar apparatus.
- (9) "Sail board" means a vessel in the form of a raft intended to be used with a sail sails kite parachute or similar and designed to be navigated or operated by a person or persons standing upright thereon.
- (10) "Board Sailing" means the navigational operation of a sail board whether by sail or parachute/kite or other means of propulsion.
- (11) "Parascending" means any activity by which a person, persons or object are towed or pulled by a vessel with the intention that person, persons or object shall become airborne through attachment to the vessel by some apparatus.

VESSELS TO NAVIGATE WITH CARE

1. The Master of a vessel shall navigate his vessel with such care and caution, and at such speeds and in such manner which shall include the effect of the wash from the vessel so as not to endanger the lives of or cause injury, inconvenience or discomfort to persons, or damage to any property, and so as not to interfere with the navigation, manoeuvring, loading or discharging of vessels or with moorings, river banks or other property, and not so as to adversely affect wildlife.
2. Throughout the Harbour no Master of a vessel shall cause or permit any vessel to exceed a speed of 8 knots through on or over the water or creating an excessive wash save in the case of emergency or in order to comply with the International Regulations for Preventing Collisions at Sea 1972 (as subsequently amended) made pursuant to Section 85 of the Merchant Shipping Act 1995 or as authorised by the Harbour Master.
3. No power driven vessel with an engine capacity exceeding 10 horsepower shall be in the control of any person under the age of fourteen unless that person holds a certificate of competency equivalent to RYA Powerboat Level II course save in an emergency.

NOTIFICATION OF COLLISIONS, ETC.

4. The Master of the vessel which;
 - (a) has been involved in a collision with any vessel or property, or has sunk or grounded, or become stranded in the Harbour, or
 - (b) 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 to be likely to create pollution or
 - (c) in any manner gives rise to an obstruction

shall as soon as reasonably practicable, report the occurrence to the Harbour Master, and 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 any fairway or to moor or anchor in safety, otherwise than with the permission, and in accordance with the directions of the Harbour Master.

VESSELS TO BE MOORED ETC. AS DIRECTED

5. No mooring shall be placed or used within the Harbour without the Harbour Master's permission.

ABANDONMENT ETC. OF VESSELS PROHIBITED

6. (a) No person who owns or has charge of a vessel shall intentionally abandon, break up, set fire to or otherwise destroy that vessel on the banks or shore of the Harbour except with the permission of the Harbour Master.

(b) A person who leaves a vessel 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 intentionally and the Commissioners may authorise such vessel's removal 14 days after attaching notice to such vessel to that effect without liability for loss and the Commission may recover the reasonable costs of removal and or disposal from the owner as if it were a charge of the Commissioners in respect of the vessel.

WATER SPORTS

WATER SKI-ING AND AQUAPLANING ETC.

7. There shall be no water ski-ing, aquaplaning, board sailing, use of personal watercraft, parascending nor the operation of any vessel for the purpose of parascending except with the specific permission of the

Harbour Master and upon such reasonable conditions including the relaxation of the speed limit and other byelaws as the Harbour Master may permit.

SUB-AQUA ACTIVITIES

8. No person shall engage in or take part in underwater or sub aqua operations such as diving or similar activity in the Harbour except with the permission of the Harbour Master and in accordance with such reasonable conditions as he may impose.

CONDUCT OF REGATTAS ETC.

9. The organisers of any regatta, boat race or any other occasion when a number of vessels is expected to assemble on the water of the Harbour shall give not less than 28 days notice to the Harbour Master and shall complete such risk assessment as may be required by the Harbour Master whose prior permission must be obtained before such an event may take place.

OBSTRUCTION OF HARBOUR

10. No person shall create any obstruction by depositing any article or material unless permission has previously been given in writing by the Harbour Master, and any such obstruction shall be removed within such reasonable time as may be specified by the Harbour Master and expenses incurred in the exercise of this power may be recovered against the person creating such obstruction as if it were a charge by the Commissioners in respect of a vessel.

THE HARBOUR MASTER'S POWER TO BOARD VESSELS

11. The Master of any vessel shall permit the Harbour Master to board such vessel at such time as the Harbour Master may desire for the purpose of inspecting such vessel and its contents in pursuance of his duties as Harbour Master including enforcement of the byelaws and

shall not obstruct or permit the Harbour Master to be obstructed whilst on board such vessel.

12. No person shall navigate or operate the engine of any vessel if it is not fitted with an efficient silencer.

PENALTIES DEFENCES AND CROWN RIGHTS

PENALTIES

13. (1) 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 any power conferred on him by these byelaws, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale¹.

(2) 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 are taken against any other person.

DEFENCES

14. (1) In any proceedings for an offence under these byelaws it shall be a defence for the person charged to prove:-

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

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

(2) If in any case the defence provided by paragraph (1)(a) of this byelaw involves the allegation that the commission of the offence

¹ Level 3 refers to

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.

REVOCATION

15. As from the coming into force of these byelaws the preceding byelaws made in 1964 and 1985 by the Commissioners of their predecessors are hereby revoked.

The Secretary of State hereby confirms the foregoing byelaws
SIGNED by the Authority of the Secretary of State this

.....day of.....200

Head of Ports Division
Department of Transport