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DART HARBOUR AND NAVIGATION BYELAWS 1998

The Dart Harbour and Navigation Authority, in exercise of the powers conferred on them by sections 39 and 40 of the Dart Harbour and Navigation Authority Act 1975, and of all other powers thereunto enabling them, and after consulting South West Water Services Ltd. and the Environment Agency, hereby make the following byelaws.

PART I - PRELIMINARY

Title, commencement and application

1. (1) These byelaws may be cited as the Dart Harbour and Navigation Byelaws 1998 and shall come into operation fourteen days after the date of their confirmation;

(2) These byelaws shall apply to all parts of the harbour.

Interpretation

2. In these byelaws, unless the context otherwise requires :

"the Authority" means the Dart Harbour and Navigation Authority incorporated by the Dart Harbour and Navigation Authority Act 1975;

"boardsailing" and "windsurfing" mean the navigation or operation of a sail board;

"by day" means between the hours of sunrise and sunset;

"by night" means between the hours of sunset and sunrise;

"Collision Regulations" means regulations for the prevention of collisions made under the Merchant Shipping Act 1995;

"garbage" has the same meaning as it has in the Merchant Shipping (Reception Facilities for Garbage) Regulations 1988;

"goods" includes cattle, livestock, animals, wares, merchandise, articles or things of any description;

"harbour" means the harbour the limits whereof are specified in section 38 of the Dart Harbour and Navigation Authority Act 1975;

"Harbour Master" means the harbourmaster, quay master and dock master appointed by the Authority and includes the authorised deputies and assistants of a person so appointed and any person authorised by the Authority to act in any of those capacities;

"the harbour premises" means the docks, piers, wharves, quays, berths, sheds and other works and conveniences, and the lands, buildings and property of every description and of whatever nature which are for the time being vested in or occupied by the Authority;

"Home Reach" means so much of the harbour as lies between the southern extremity of Long Marsh, Totnes and Totnes Weir;

"hovercraft" has the same meaning as in the Hovercraft Act 1968;

"hydrofoil vessel" means a vessel, however propelled, designed to be supported on foils;

"knot" means one international nautical mile of 1,852 metres per hour;

"master", in relation to any vessel, means any person for the time being having or taking (lawfully or otherwise) the command, charge or management thereof;

"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;

"passenger boat" means a boat used to carry passengers for hire or reward;

"power driven vessel" means any vessel which is propelled wholly or partly by mechanical means, and includes a vessel propelled by means of an outboard motor;

"quay" means any quay, wharf, jetty, dolphin, breakwater, landing stage, pontoon or other structure within the harbour used for berthing or mooring vessels and includes any pier, bridge, roadway or footway immediately adjacent and affording access thereto, and all erections, buildings, machinery, cranes, weighing machines, works or things belonging to the Authority whether on or attached to a quay or floating in the harbour;

"sailboard" means a vessel in the form of a raft or other floating board with a sail or sails designed to be navigated or operated by a person or persons standing upright thereon;

"sailing vessel" means any vessel under sail whether or not propelling machinery is also fitted;

"seaplane" includes a flying boat and any other aircraft designed to float or manoeuvre on water;

"small vessel" or "small craft" means any vessel or craft less than 20 metres in length;

"the standard scale" means the scale of fines for summary offences introduced by section 37 of the Criminal Justice Act 1982;

"under way" when used in relation to a vessel, means that the vessel is not at anchor or moored or made fast to the shore, or that it is not aground or that it is dropping up or down the harbour with its anchor on the ground;

"vessel" includes any ship, boat, raft or water craft of any description and includes non-displacement craft, a seaplane, whether on or in the water, a hydrofoil vessel and any other thing constructed or adapted for floating on or being submerged in water (whether permanently or temporarily) and a hovercraft or any other amphibious vehicle.

PART II - NAVIGATION

3. Vessels to navigate with care

The master of a vessel shall navigate his vessel with such care and caution, and at such speed and in such manner as not to endanger the lives of or cause injury or discomfort to persons or damage any property, and as not to interfere with the navigation, manoeuvring, loading or discharging of vessels or with moorings, river banks or other property, and shall cause his vessel to proceed slowly when passing a vessel engaged in dredging or other underwater work or activity or in work at a buoy or mooring or in rescue work

4. Vessels not to obstruct free passage

The master of a vessel shall not cause or permit the vessel to manoeuvre, come to anchor or be moored or placed so as to obstruct in any manner whatsoever the free passage of vessels in the harbour

5. Drift or trawling nets not to obstruct navigation, vessels etc.

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

6. Speed of vessels

Except with the permission of the Harbour Master, and subject to byelaw 3 and the Collision Regulations, the master of a vessel in the harbour shall not cause or permit the vessel to proceed:

- (a) in Home Reach at a speed greater than that necessary to maintain minimum steerage way;
- (b) elsewhere at a speed exceeding 6 knots through the water.

Provided that this byelaw shall not apply to a vessel which is:

- (i) by prior written agreement with the Authority designated as a rescue vessel;
 - (ii) clearly marked with the word "Rescue"; and
 - (iii) acting for purposes of rescue;
- or to a vessel being used in an emergency.

7. Persons under 16 years of age

No person under the age of 16 years shall navigate or operate anywhere within the harbour a power driven vessel which is capable of attaining a speed through the water in excess of 6 knots, unless in possession of an appropriate Royal Yachting Association qualification or unless accompanied by a competent and responsible person of 16 years or over, and no person shall cause or permit or encourage any person under the age of 16 years to navigate or operate such a vessel unless so qualified or accompanied.

8. Sailing vessels and small vessels not to obstruct fairway

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

9. Vessels meeting

If a fairway is restricted for any reason so as to make it unsafe for two vessels to pass one another when proceeding in opposite directions, the master of the vessel which is stemming the tide shall give way to the other vessel.

10. Public landing places not to be obstructed

The master of a vessel navigating in the harbour shall not place his vessel or allow it to be in such a situation as to obstruct or impede the access to any recognised landing place or leave it moored alongside any such landing place unattended without the permission of the person in charge thereof and the Harbour Master.

11. Navigation under influence or drink or drugs prohibited

No person shall navigate, or knowingly cause or permit another person to 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.

12. Unseaworthy vessels

(1) No person shall navigate a vessel in an unsafe or unmanageable condition otherwise than as shall be necessary for the safety of the vessel and her crew, and in such event shall proceed to such place as may be indicated by the Harbour Master for unloading and repairs.

(2) The master of a vessel which, in the opinion of the Harbour Master, is, or is likely to become, unsafe or in danger of sinking, shall, if the Harbour Master so directs, as soon as reasonably practicable remove it from the harbour or to any part of the harbour specified by the Harbour Master.

13. Notification of collisions, damage, sinkings, groundings etc.

The master of a vessel which:-

(a) has been involved in a collision with any vessel or property, or has been sunk or grounded, or become stranded in any area of the harbour so as to affect the safety of navigation or to damage other vessels or property 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

(c) in any manner gives rise to an obstruction to the 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, and shall take such safety precautions, including removal, as the Harbour Master may prescribe.

14. Vessels being towed

Where an occurrence as set out in byelaw 13 arises in respect of either vessel concerned in a towing operation, the master of each vessel shall report the occurrence to the Harbour Master; save that if the towed vessel is less than six metres in overall length, only the master of the towing vessel shall so report.

15. Vessel movement

The master of a vessel which trades to sea other than a fishing vessel based in the harbour shall, unless it is not practicable so to do, give 24 hours prior notice to the Harbour Master of the vessel's arrival at, departure from or movement within the harbour.

16. Declaration of particulars of vessel

(1) The master of any vessel arriving at the harbour shall, if requested, furnish the Harbour Master with a statement of:

(a) the name, call sign and description of the vessel;

(b) its draught and tonnage (or in the case of a hovercraft its gross weight);

(c) the name of the master and the name and address of the owner;

(d) the place from which the vessel has arrived;

(e) the port or place to which the vessel belongs if any;

(f) particulars of any cargo on board to be loaded or discharged;

(g) the number of passengers carried and voyage intentions when the vessel

is a passenger boat licensed to carry passengers for hire or reward by an authority other than the South Hams District Council;

provided that if the master of a small vessel is unable to declare its tonnage he may instead declare its overall length.

(2) The master of any passenger boat departing from the harbour shall furnish the Harbour Master with a statement of the number of passengers carried and the number of crew on board.

(3) The master of any vessel to which this byelaw applies may delegate this requirement to an agent subject to the consent of the Authority.

PART III - SIGNALS AND LIGHTS

17. Anchor lights

The master of any vessel in the harbour shall if such vessel be moored or anchored next to the fairway of the harbour provide and maintain between sunset and sunrise anchor lights in accordance with the Collision Regulations and light the vessel so as not to impede navigation of other vessels.

18. Sound Signals

The master of a vessel shall not sound or use any whistle or siren except:-

- (a) for the purposes defined by the Collision Regulations, or
- (b) as authorised by the Harbour Master as a means of communication with local agents, pilots or crews; or
- (c) to attract attention to a state of emergency or for testing purposes or race control; or
- (d) in connection with the training of persons in the handling of small vessels; or
- (e) as authorised by the Harbour Master.

19. Sound signals for vessels not under command or unable to give way

If for any reason the master of a power driven vessel or of a vessel not under command cannot perform his duty to give way to an approaching vessel, or it is unsafe or impracticable for him to keep his vessel out of the way of a sailing vessel, he shall signify the same by one prolonged blast followed by two short blasts on the vessel's whistle, and thereupon it shall be the duty of the approaching vessel or sailing vessel to keep out of the way of such power driven vessel or vessel not under command.

20. Vessels - display of lights

(1) The master of any vessel under way by night shall display lights in accordance with the Collision Regulations.

(2) The requirement under the Collision Regulations for vessels of less than 50 metres in length to display an all round white light when at anchor shall not apply to small vessels which are secured to permanent yacht moorings in the harbour, but masters of such vessels shall, if required to do so by the Harbour Master, display such a light.

21. Vessels employed in diving etc.

(1) The master of a vessel employed in diving operations, or removing a sunken vessel or other obstruction, or working at any buoy or moorings shall fly from his vessel either the International Code Signal A, IR or RY as appropriate.

(2) During diving operations by night the master of a vessel involved in those operations shall carry in a conspicuous position a quick-flashing yellow light of such a character as to be visible all round the horizon at a distance of at least 2 miles, the flash rate not to exceed 30 flashes per minute.

(3) No person shall undertake underwater operations or diving activities of any kind within the harbour without the prior written consent of the Harbour Master.

(4) No person shall dive from a vessel within the harbour unless there is a lookout in the vessel at all times while such person is in the water.

(5) In this byelaw "diving" includes that form of diving known as sub-aqua diving and "dive" shall be construed accordingly.

(6) Nothing contained in this byelaw shall authorise any operation on the seabed or foreshore which is in the ownership of the Duchy of Cornwall without the consent of the Duchy of Cornwall having first be obtained.

22. Bright lights

No person shall exhibit in or over the harbour searchlights, floodlights or other bright lights or pyrotechnics other than those for indicating emergency or distress, in such a manner as to endanger navigation, unless the consent of the Harbour Master has first been obtained.

This is without prejudice to any obligations to display signs and flags under the Dangerous Substances in Harbour Areas Regulations 1987.

PART IV - BERTHING, ANCHORING AND MOORING

23. Vessels to be moored etc. as directed

(1) The master and crew of a vessel in the harbour shall moor, anchor, berth and move, and shall cease to moor, anchor, berth and move such vessel in accordance with directions given from time to time by the Harbour Master.

(2) The master and crew of a vessel in the harbour shall, if directed by the Harbour Master, cause to be cast off or adjusted any or all of the securing ropes or hawsers of the vessel.

24. Vessels not to anchor in vicinity of telephone or electric cables or pipes

No person shall anchor in such a position that any anchor or ground tackle used fouls or is likely to foul the pipes and cables laid between:

- (1) Bayards Cove and Kingswear Slipway (Kittery Court)
- (2) Higher Ferry Slipway Dartmouth and Higher Ferry Slipway Kingswear
- (3) Dittisham Pier and Greenway Quay
- (4) Blackness and Sandridge Point

25. Vessels not to anchor in fairway or swinging ground

- (1) No person shall anchor a vessel so as to obstruct the main fairway.
- (2) No person shall without the permission of the Harbour Master anchor or moor a vessel or cause it to remain in such a position as to obstruct or interfere with the turning of vessels in any areas set aside as swinging grounds.

26. Vessels to anchor clear of moorings

The master of any vessel shall not anchor or moor that vessel so close to any buoy or mooring as to foul in any way such buoy or mooring or any vessel lying thereto.

27. Vessels not to be made fast to navigational buoys etc.

No person shall make a vessel fast to, trespass on, or interfere with any navigational buoy, telephone buoy, light, beacon, seamark, or tideboard within the harbour.

28. Damage to navigation marks or mooring buoys to be reported

The master of any vessel colliding with or cutting adrift a navigation mark or mooring buoy, or running into, fouling or damaging any such mark, buoy or other seamark, shall as soon as reasonably practicable report the occurrence to the Harbour Master.

29. Vessels to be properly moored and secured

No master shall allow a vessel to be insecurely moored or improperly made fast within the harbour.

30. Laying down and moving of moorings, buoys and other tackle

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

(2) The owner or any other person claiming ownership of a mooring, buoy or similar tackle shall as soon as reasonably practicable remove it or move it to a new position if the Harbour Master so directs.

(3) If a person fails to comply with a direction made under paragraph (2) above the Harbour Master may cause the mooring buoy and tackle to be removed and he may recover the expenses of so doing where reasonably incurred from that person as a civil debt due to the Authority.

(4) No person shall move a mooring in the harbour or cause it to be moved without the consent of the Harbour Master.

31. Use of moorings and premises belonging to or controlled by the authority.

Except with the permission of the Harbour Master:

(1) no master shall cause or permit his vessel to be made fast to any mooring, buoy, dolphin, pontoon, bollard or ring belonging to or controlled by the Authority.

(2) no master shall cause or permit a vessel to be moored to or remain at any of the harbour premises, and when directed to do so by the Harbour Master a master shall move his vessel away from the premises.

32. Extra vessels at quay and moorings

(1) Except with the permission of the Harbour Master no master shall permit his vessel to lie more than two abreast alongside any quay or on any mooring.

(2) No person shall secure a vessel to any moored vessel so as to cause danger or damage to that vessel or mooring.

33 Fouling of moorings etc.

If at any time an anchor of a vessel fouls any moorings or pipes laid in the bed, or electric or other cables within the harbour, 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 await his instructions before proceeding to clear the same.

34. Provision of proper fenders

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 the vessel, and when berthing and leaving, or lying at a quay or against other vessels, the master shall cause the vessel to be fended off from that quay or those other vessels so as to prevent damage to that quay, those other vessels or other property.

35. Protruding obstructions

The master of a vessel in the harbour having any thing projecting outside the line of the hull of that vessel (other than projections which are integral parts of the vessel) which, in the opinion

of the Harbour Master, is liable to cause damage or obstruction to any other vessel or property shall, if so directed by the Harbour Master, cause that thing to be removed.

36. Vessels adrift

The master of a vessel which parts from its moorings shall as soon as practicable report the same to the Harbour Master.

37. Vessels not to be cast adrift

Except in the case of emergency no person shall unmoor any vessel moored within the harbour without previously consulting the master or owner of the vessel or cast adrift any vessel without the previous consent of both the master or owner of the vessel and the Harbour Master.

38. Lost anchor, chain, cable or propeller

(1) The master of a vessel which has slipped or parted from or lost, any anchor, chain, cable or propeller shall as soon as reasonably practicable give to the Harbour Master notice thereof and, if possible, of the position of the anchor, chain, cable or propeller and, if the Harbour Master so directs, shall take all reasonable steps to cause it to be recovered as soon as reasonably practicable.

(2) The master of a vessel slipping or parting from an anchor or propeller shall leave a buoy to mark the position of it as soon as reasonably practicable.

39. Access across decks

The master of a vessel alongside a quay or alongside a 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.

40. Use of engines while vessel berthed or moored

The master of a vessel which is at a quay or attached to any mooring device within the harbour shall not permit the engines of his vessel to be worked in such a manner as to cause injury or damage to the bed or banks of the harbour or to any other vessel or property.

PART V - MANNING AND MANAGEMENT OF VESSELS

41. Competent person(s) to be in charge

Unless the Harbour Master has given express permission to the contrary the master or owner of any vessel which normally trades to sea shall keep or place on board throughout the period that the vessel is in the harbour a sufficient number of persons competent to move, look after, protect or take charge of it, and shall ensure that a sufficient supply of hawsers, tow lines and necessary articles for moving and mooring the vessel is at all times kept on any such vessel ready for immediate use.

42. Vessels to be kept sufficiently ballasted and in proper trim

The master of a vessel that trades to sea shall ensure that the vessel has at all times sufficient cargo or ballast on board and is in proper trim to enable it to ride free at its moorings and if necessary be removed from one berth to another with safety.

43. Vessels to be kept in moveable condition

(1) The master of a seagoing vessel shall not, except where his vessel is lying aground, take any steps to render his vessel incapable of movement without first seeking permission of the Harbour Master.

(2) Where a vessel other than a small vessel or a vessel berthed within one of the marinas in the harbour 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.

44. Gangways etc., to be securely placed and fastened

The master of a vessel that trades to the sea shall ensure that it is equipped with efficient gangways and safety nets and shall cause all gangways and stages used for the purpose of access to or egress from the vessel to be placed in a safe position duly protected and securely fastened, and to be so maintained at all times.

45. Vessels to have names marked on them

The owner of a vessel which is not registered as a ship or as a fishing vessel under the Merchant Shipping Act, 1995 and marked accordingly, shall ensure that the vessel is marked conspicuously with its name or other means of identification unless otherwise exempted by the Authority.

46. Registration of vessels

The owner of a vessel normally kept within the harbour other than a sailboard shall register the same with the Harbour Master as soon as reasonably practicable and shall thereafter register the vessel at intervals of not more than one year, and shall inform the Harbour Master of the place where the vessel is kept.

47. Change of ownership of vessels

On any change in the ownership of a vessel kept within the harbour the parties to the change shall ensure that immediate written notification is given to the Harbour Master.

48. Inspection facilities etc. to be made available to Harbour Master

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

byelaws are being duly observed, and shall provide the Harbour Master with all relevant information concerning the vessel.

49. Abandonment etc. of vessels and gear prohibited

(1) 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 and, if necessary, a licence issued by the Ministry of Agriculture, Fisheries and Food under the Food and Environment Protection Act 1985.

(2) For the purpose of paragraph (1) of this byelaw a person who leaves a vessel on the banks or shore of 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 intentionally unless the contrary intention is shown.

(3) No person shall leave on the harbour premises or in any part of the harbour any disused gear or materials without the permission of the Harbour Master.

PART VI - LANDING AND SHIPPING OF CARGO

50. Superintendence during loading and discharging

The master of a vessel in the harbour shall during all the time employed in loading or discharging the vessel remain or leave some other person on board competent to superintend the loading or discharging.

51. Prompt removal of goods or vehicles landed, etc.

Unless the Harbour Master otherwise expressly requires or permits, the owner or other person in charge of any goods landed or placed upon a quay by any person other than a person employed by the Authority, or of any timber and wood discharged, floated or put in the water of the harbour, shall remove the same within 48 hours (exclusive of Sundays and Bank Holidays).

PART VII - PASSENGER BOATS

52. Licence required

No boatman or other person who is not duly licensed for the purpose by the South Hams District Council or by another competent authority shall take charge in the navigation or management of a passenger boat plying for hire or reward in the harbour.

53. Licensing of passenger boats

The master of a passenger boat shall not cause or permit the boat to be used to carry any person or persons for hire or reward within the harbour unless the boat is duly licensed in that behalf by the South Hams District Council or by another competent authority or if carrying more than twelve passengers holds a valid Marine Safety Agency Passenger Certifi

54. Naming of passenger boats

(1) The owner of a passenger boat (other than a hovercraft) plying for hire or reward within the harbour shall cause the name of the boat to be painted in a conspicuous position on board the boat in letters of not less than 35 mm. in height and 25 mm. in breadth and of such a colour as to be clearly distinguishable from the colour of the ground whereon such letters are painted and he shall also cause to be painted near the name the number of persons the boat is licensed to carry.

(2) The said owner shall cause such name and number to be kept plainly and distinctly visible from outboard and legible at all times while the boat is plying for hire or reward.

(3) The foregoing requirements of this byelaw shall not apply in any case where the name of the boat is painted or marked thereon in pursuance of any enactment or other legal requirement for the time being in force apart from these byelaws.

55. Passenger boats to be sound and properly equipped

The master of a passenger boat within the harbour shall not let the boat or suffer any person to embark therein for the purpose of being carried for hire or reward, unless the boat is in every respect thoroughly sound and in complete repair and is properly furnished with all gear, tackle, appliances and other requisites for the safe navigation and management thereof as required by the licensing authority concerned.

56. Navigation of passenger boats through mooring areas

Except for the purpose of mooring no master shall navigate a passenger boat through mooring areas with the exception of vessels being used as water taxis and licensed to carry a maximum of 12 passengers.

57. Competence of crew

The master of a passenger boat shall not cause or suffer any incompetent person to take charge of the boat or to assist in the navigation or management thereof when the boat is being used to carry any person for hire or reward.

58. Conduct of master

The master of a passenger boat or any person acting on his behalf shall conduct himself in an orderly manner and shall not:

- (a) importune any person, by calling out or otherwise to his annoyance, to hire or be carried for hire or reward in the boat;
- (b) permit any drunken or disorderly person to embark in the boat;
- (c) permit any person to become drunk or disorderly while on the boat;
- (d) carry out touting on any pontoon or property belonging to the Authority.

59. Passenger hire in bad weather

The master of a passenger boat shall not permit any person to embark in the boat for the purpose of being carried for hire or reward when the state of the weather or water is likely to endanger persons using such vessel.

60. Hours of operation

Except with the written authority of the Harbour Master no person shall operate a passenger boat within the harbour between the hours of sunset and sunrise.

61. Number of persons to be carried in passenger boats

(1) The master of a passenger boat shall not cause or permit to be carried therein a greater number of persons than can be safely carried having regard to any unusual or heavy load which may also be carried, provided that the number of passengers carried shall not exceed that authorised in any licence or passenger certificate in force in respect of the boat.

(2) No person shall knowingly board a passenger boat at any time when there are already on board the maximum number of persons specified in the relevant boat licence, and no person on board when the maximum is exceeded shall remain on board after he shall have been requested to leave the boat.

62. Liability for offences under this Part

Where a person who is employed by the owner of a passenger boat in the operation of that boat and commits an offence under this Part of these byelaws in the performance or purported performance of his employment, then the owner of the boat shall also be guilty of the offence and may be charged with and convicted of the offence by virtue of this byelaw, whether or not proceedings for the offence are taken against the employee.

PART VIII - WATER SPORTS etc.

63. Boardsailing and windsurfing

(1) No person shall engage or take part in boardsailing or windsurfing in the fairway between Castle Ledge Buoy and Greenway Quay except for the purpose of recovery or launching, and boardsailors or windsurfers wishing to cross the fairway for such purposes shall do so by the shortest possible route.

(2) A person engaging or taking part in boardsailing or windsurfing between Greenway Quay and Totnes Bridge shall keep well clear of any other vessel using the fairway

64. Small vessels in regattas etc.

Without prejudice to byelaw 3 of these byelaws the master of every small vessel in the harbour on the occasion of any boat race, regatta, public procession or other occasion when a number of small vessels are assembled therein shall not permit his small vessel to obstruct or impede other craft or endanger the safety of persons in the harbour or prevent the maintenance of order therein and the masters of small vessels shall observe the directions of

the Harbour Master or other persons authorised by the Authority to superintend the execution of this byelaw.

65. Conduct of regattas etc.

(1) The organiser of any race, regatta or other occasion when a number of small vessels are expected to assemble on the waters of the harbour shall obtain for it the permission of the Harbour Master and shall give not less than 28 days notice thereof to the Harbour Master.

(2) All regattas, races or similar events shall be conducted on recognised courses in accordance with conditions and at times previously approved by the Harbour Master.

(3) The Harbour Master may cancel or alter any conditions of such approval on giving where reasonably practicable notice to the organiser at least 7 days before the proposed date of the event.

(4) The Harbour Master may delay, postpone or cancel any event in consultation with the organiser in the case of bad weather or large commercial vessel movement, or other conditions that may affect the safety of participants and the safe navigation of vessels.

PART IX SAFETY, HEALTH ETC.

66. Throwing stones, discharging firearms etc.

No person shall within the harbour, over the harbour or on the harbour premises throw stones or other missiles or discharge any catapult, gun, pistol, or other arms loaded with ball, shot, slug or other destructive material.

67. Fireworks

(1) No person shall within the harbour or on the harbour premises ignite any firework or other explosive substance, provided that this byelaw shall not preclude the proper use of any lawful distress signals or race starting guns loaded with blank cartridges, or pyrotechnic displays authorised by the Harbour Master for which application must be made in writing not less than 14 days before the intended occasion.

(2) No person shall within the harbour set off distress flares or pyrotechnics except in emergency situations or with the permission of the Harbour Master.

68. Fire precautions

(1) The master of a vessel in the harbour shall take all reasonable precautions for the prevention of accidents by fire, and in particular shall not permit any person to smoke, or allow any open fire or naked light to be present on board the vessel while it is loading or discharging flammable dangerous goods.

(2) No person shall bring on board a vessel or shall use on a vessel in the harbour any flammable dangerous materials, fuel oils or gases 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 on or within the vessel for propulsion, maintenance or safety purposes, or in connection with domestic cooking, lighting or heating.

(3) No person shall burn or heat any flammable materials or have or permit any fire or light on any vessel in the harbour:-

(a) in such a manner as to cause danger of fire; or

(b) without due precautions to prevent danger of fire on or to such vessel or elsewhere.

(4) No person shall light a fire or permit a fire to be lighted on any part of the harbour premises except with the permission of the Harbour Master.

(5) No tanks, containers or other facilities used for stowage or transport of flammable materials shall be repaired within the harbour or on the harbour premises with hot rivets, welding or burning equipment until the operators of such equipment have ensured that such facilities have been rendered safe for the making of repairs and that all necessary precautions to prevent fire or explosion from the use of such equipment have been taken.

69. Interference with fire fighting or other appliances

Except in an emergency no person shall without being duly authorised by the Harbour Master open or shut any fire hydrants or taps, or move or interfere with any fire, lighting, safety or other appliances used or being in or about the harbour or interfere with any lights or signals exhibited upon or within the harbour.

70. Fire extinguishing equipment to be available for use at all times

The master of every vessel within the harbour, with the exception of sailboards, 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.

71. Smoking

No person shall smoke or carry a lighted pipe, cigar or cigarette on the harbour premises:-

(a) where smoking is expressly prohibited by the Authority by a notice exhibited in a conspicuous position;

(b) if requested by the Harbour Master not do so within the harbour or in any part of the harbour premises where smoking or carrying a lighted pipe, cigar or cigarette may in his opinion be dangerous.

72. Dumping in the harbour prohibited

(1) Except with the permission of the Harbour Master and, if necessary, a licence issued by the Ministry of Agriculture, Fisheries and Food under the Food and Environment Protection Act 1985, no person shall deposit, throw, unload, put or suffer to fall any spoil, gravel, ballast, or substance which has been used as ballast, or any stones, earth, mud, ashes or household garden waste or refuse or any dangerous or offensive matter into the waters of the harbour or onto the shores thereof below the level of high water.

(2) No person shall dispose of garbage from a vessel in the harbour except into reception facilities provided by the Authority or by marina or terminal operators.

73. Petrol and oil not to be discharged into the harbour

No person on board a vessel shall cause or permit petroleum spirit or oil of any description or water mixed with these liquids to be pumped or permitted to run into the waters of the harbour.

74. Loading, discharging or transfer of fuel oils, lubricating oils or other pollutant liquids

(1) No person shall proceed with the loading, discharging or transfer of fuel oils, lubricating oil or other pollutant liquid in excess of 1,000 litres by pipe either on vessel or on to harbour premises unless the proposed operation has been previously approved by the Harbour Master.

(2) All requirements or instructions relating to the said operation given by the Harbour Master must be complied with.

(3) Records of all such transactions shall be kept as directed by the Harbour Master and produced as requested.

75. Lifesaving Equipment

No person shall use any equipment provided by the Authority or South Hams District Council for the purpose of lifesaving except for that purpose.

76. Vessels not to be fumigated without permission

The master of a vessel shall not cause or permit it to be fumigated without the permission of the Harbour Master.

PART X - NUISANCES

77. Vessels to be effectually silenced

No master of a vessel propelled by means of an internal combustion engine which can reasonably be fitted with a silencer or other contrivance suitable and sufficient for reducing as far as may be reasonable the noise caused by the escape of the exhaust gases from the engine shall navigate or operate such vessel in the harbour unless the engine is so fitted, and the master of such a vessel shall not cause or permit the engine to be run so as to give reasonable cause for annoyance to any other person.

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78. Machinery on vessels to be effectually silenced

No person shall operate machinery on a vessel within the harbour unless it is so effectually silenced as to avoid giving reasonable cause for annoyance to any other person.

79. Outboard engines

The master or owner of any vessel fitted with an outboard engine shall not cause or permit the use of such outboard engine within the harbour so as to give reasonable grounds for annoyance to any other person.

80. Vessel rigging

The master or owner of any vessel in the harbour shall ensure that all rigging is so secured as to prevent noise from ropes, wires or lines rattling against the mast.

81. High pressure hoses

No person shall at any time within the harbour use a high pressure water hose for any purpose whatsoever, except with the prior approval of the Harbour Master and subject to such reasonable conditions as he may impose on the use thereof.

82. Dogs and animals etc.

(1) No person shall permit any dog or other animal aboard any vessel in the harbour to behave in such a manner as to give reasonable grounds for annoyance to any other person.

(2) No person shall have any ferocious or vicious animal or bird or poisonous or dangerous reptile on board any vessel unless properly secured.

83. Sound and alarm signals

No person shall sound or use or knowingly cause or permit to be sounded or used in the harbour a siren, steam whistle, foghorn, alarm or other instrument, appliance or system for producing alarm signals on any occasion or for any purpose other than in connection with navigation, distress or race control.

84. Loud hailers, musical instruments and sound amplification systems

No person shall use or cause or permit the use of any loudhailer, musical instrument or any sound amplification system, whether fitted on a vessel or not, within the harbour so as to give reasonable cause for annoyance to any other person.

85. Alarm systems on vessels

No person shall use on a vessel in the harbour any alarm system emitting a loud and persistent sound signal unless the system has an automatic cut-off after not more than twenty minutes of operation.

PART XI MISCELLANEOUS AND GENERAL

86. No dragging or grappling without permission

No person shall drag or grapple for any material or article, nor remove the same from the bed of any water area of the harbour, without the permission of the Harbour Master, save for the purpose of immediately recovering an object dropped overboard.

87. Depositing goods etc. on harbour premises and use of plant etc. on harbour premises

(1) No person shall, except with the permission of the Harbour Master, deposit or place on any part of the harbour premises any goods or impediment so as to obstruct any road, building, mooring place, plant, machinery fire hydrant or other apparatus, or the access thereto, and any such goods or impediment may be removed by the Harbour Master.

(2) No person shall without the permission of the Harbour Master use, work or move any plant, machine, equipment, fire hydrant or other apparatus on the harbour premises.

88. Fishing gear

No person shall so place fishing gear as to obstruct any quay or the working space behind any quay without the permission of the Harbour Master.

89. Use of quays and equipment

(1) No person shall use or attempt to use any quay, stage, grid, crane, weight, measure or other equipment or apparatus provided by or belonging to the Authority except under and in accordance with the terms and conditions of a permission given by the Harbour Master.

(2) A master shall not allow his vessel to stop at any quay, stage, grid, crane or berth nor allow any machine, weight or measure provided by or belonging to the Authority to be used after the time appointed or allowed in that behalf by the Harbour Master.

90. Store pots and rafts

No person shall keep in the harbour a store pot for shell fish or a raft of any kind without the permission of the Harbour Master

91. Crab and lobster pots

No person shall keep in the harbour a crab or lobster pot without the permission of the Harbour Master.

92. Digging ballast etc.

No person shall without permission in writing of the Harbour Master, dig or take from any part of the harbour or from any land belonging to the Authority, any ballast, soil, sand or other material whatsoever. Nothing contained in this byelaw shall authorise any operation on the seabed or foreshore which is in the ownership of the Duchy of Cornwall without the consent of the Duchy of Cornwall having first been obtained.

93. Digging of bait

No person shall without permission in writing of the Harbour Master, in any part of the harbour dig for lugworm, ragworm, or any form of fishing bait within 6 metres of any mooring, pile, beacon, mark, hard, causeway, jetty, quay, wharf or similar structure.

94. Obstruction of officers and employees of the authority

No person shall intentionally obstruct, impede, molest or interrupt any officer, agent or employee of the Authority in the execution of their duties or in the execution of any work, matters or things to be done by them.

PART XII - PENALTIES, DEFENCES, CROWN RIGHTS AND REVOCATION OF BYELAWS

95. Penalties

(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 the power conferred on him by these byelaws, shall be guilty of an offence and be liable, on conviction before a court of summary jurisdiction, to a fine as follows:-

(a) for the contravention of byelaws 16,45,46,47,54 and 82 not exceeding Level 2 on the Standard Scale;

(b) for the contravention of any other byelaw, not exceeding Level 3 on the Standard Scale.

(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.

96. Defences

(1) In any proceedings for an offence under these byelaws, except an offence of which an owner is guilty by virtue of byelaw 62, 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 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.

97. Crown rights

Nothing contained in any of these byelaws shall be deemed to be or shall operate as a grant by or on behalf of the Duchy of Cornwall, as owners of the foreshore and seabed below the level of high water, of any estate or interest in, or right over such foreshore, seabed or any part thereof, nor shall anything contained in or done under any of the provisions of these byelaws in any respect prejudice or injuriously affect the rights and interest of the Duchy of Cornwall in such foreshore or seabed.

98. Revocation of byelaws

The Dart Harbour and Navigation Byelaws 1978 and the Dart Harbour and Navigation Byelaw 1995 are hereby revoked.

MADE this Sixth day of July 1998

THE COMMON SEAL of the Dart Harbour and Navigation Authority was hereto affixed in the presence of:

Miss J Westacott, Chairman

Miss M.S. Clay, Clerk

The Secretary of State for Transport hereby confirms the foregoing byelaws

Signed by the authority of the Secretary of State for Transport this eighteenth day of August 1999

S. K. REEVES

Head of Ports Division

Department of Environment,

Transport and the Regions

NOTES

(These notes do not form part of the Byelaws)

1. Limits of the Harbour

As specified in section 38 of the Dart Harbour and Navigation Authority Act 1975 the limits within which the Authority exercise jurisdiction as harbour authority, and in respect of which the powers of the Harbour Master can be exercised, extend from the weir at Totnes in the County of Devon southward by the level of high water to an imaginary straight line drawn between the south-western extremity of the Inner Froward Point at the eastern side of the entrance to the River Dart and the eastern extremity of Coombe Point at the western side of that entrance and include all creeks, inlets, bays and tributaries as far as the tide flows, with the exception of the Boatfloat, Dartmouth, and Waterhead Creek, Kingswear.

2. Collision Regulations

These regulations, currently The Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1996, apply throughout the harbour.

3. Damage to Property

In addition to any liability under these byelaws it is an offence under the Criminal Damage Act, 1971 for any person without lawful excuse to destroy or damage any property belonging to another intending to destroy or damage any such property or being reckless as to whether any such property would be destroyed or damaged. It is also an offence under section 219 of the Merchant Shipping Act 1995 to cause damage intentionally or recklessly to any lighthouse, lightship, buoy or beacon.

4. Oil in Navigable Waters

Under Section 131 of the Merchant Shipping Act 1995 it is an offence to discharge any oil, or mixture containing oil, or to allow it to escape into certain areas including the whole of the limits of jurisdiction of the Authority and areas seawards of those limits.

5. Litter and Pollution

It is an offence under the Environment Protection Act 1990 to drop litter on the harbour premises or harbour surroundings, and it is an offence under the Water Resources Act, 1991 to cause pollution of a river or coastal water by poisonous, noxious or offensive matter or liquid. Attention is also drawn to the Merchant Shipping (Prevention of Pollution by Garbage) (Amendment) Regulations 1993 which regulate the disposal of garbage from vessels at sea.

6. Pilotage

The Dart Harbour and Navigation Authority is a Competent Harbour Authority for the purposes of the Pilotage Act, 1987. Information about pilotage arrangements can be obtained from the Harbour Office.

7. Passenger Ships

The Merchant Shipping (Passenger Counting and Recording Systems) Regulations 1990 apply to United Kingdom passenger ships (vessels carrying more than 12 passengers) when operating as passenger ships of Classes III, IV, V, VI and VI(A) within the meaning of the Merchant Shipping (Life Saving Appliances) Regulations 1986, and require the operation of passenger counting and recording systems for all voyages on which passengers are carried.

8. Nautical Miles

The international nautical mile is 1.18 metres less than the imperial nautical mile of 6,080 feet which equals 1,853.18 metres.

9. Standard Scale of Fines

The Criminal Justice Act, 1982 provided for a standard scale of fines for summary offences. At the time these byelaws were made Level 2, as amended by the Criminal Justice Act, 1991, was £500 and Level 3 was £1,000. These sums may be altered by further Act of Parliament or Statutory Order from time to time in the light of changes in the value of Money.

10. Coast Protection

Under Sections 18 and 34 of the Coast Protection Act 1949 it is an offence, subject to certain exceptions, to remove sand, shingle, gravel, earth and other materials from the seashore or, without the written consent of the Secretary of State for Transport, to deposit objects or material on the seashore below the level of mean low water springs if the operation causes or is likely to cause obstruction or danger to navigation.