

HARBOUR BYELAWS

1989



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LERWICK HARBOUR

HARBOUR BYELAWS

The Trustees of the Port and Harbour of Lerwick, in exercise of the powers contained in Lerwick Harbour Acts and Orders 1877-1987 (hereinafter referred to as "the Acts and Orders") do hereby make and enact the following byelaws:

PART I – PRELIMINARY

Title and commencement

1. These byelaws may be cited as the Lerwick Harbour Byelaws 1989 and shall come into operation on the expiration of 28 days from the date of confirmation thereof by the Secretary of State for Transport and the Secretary of State for Scotland.

Application

2. These byelaws shall apply to all parts of the Port and Harbour of Lerwick as defined in the Lerwick Harbour Acts and Orders, and any future Acts and Orders. Nothing in these byelaws shall be deemed to apply to vessels and servants of Her Majesty or her allies engaged in operations for defence purposes, (as to which the Queen's Harbourmaster, Rosyth, shall be the sole judge).

Interpretation

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

"the Trustees" means the Trustees of the Port and Harbour of Lerwick as defined by the Acts;

"Collision Regulations" means regulations for the Prevention of Collisions at Sea made under section 21 of the Merchant Shipping Act 1979 and any amending Acts;

"goods" means all articles and merchandise of every description and includes fish, livestock and animals;

"the Harbourmaster" means the person appointed as such pursuant to section 2 of the Harbour Docks, Piers Clauses Act 1847 and includes his authorised deputies, assistants and any other person authorised by the Trustees to act in that capacity;

"the harbour premises/dock estates" means the docks, quays, jetties, stages and all other works, land and buildings for the time being vested in or occupied or administered by the Trustees;

"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 and 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 and used in relation to a vehicle includes any part owner or agent or person having charge of the vehicle for the time being;

“The North Harbour” means that part of the sea of Lerwick Harbour lying to the north of a line extending from the north-west point of North Ness, Lerwick on a bearing 068 degrees true and to the south of the North Harbour limits;

“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 any vessel of less than 20 metres in length 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 primary or supplementary means of propulsion;

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

“vessel” means a ship, boat, raft or watercraft of any description and includes non-displacement craft, seaplanes and any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily) and a hovercraft or any other amphibious vehicle.

PART II – NAVIGATION IN HARBOUR

Application of Collision Regulations

4. The Collision Regulations shall apply to vessels within the jurisdiction of the Authority, but subject to the other provisions of these byelaws.

Vessel movements

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

Declaration of particulars of vessel

6.
 - a) The Master of a vessel arriving at the Harbour shall, if required by the Harbourmaster, furnish to him a declaration in the form to be obtained from him containing a correct statement of the tonnage and draft of the vessel, its last port of call, ownership, destination and particulars of its cargo.
 - b) The Master of every fishing vessel who intends to trans-ship the catch of said vessel within the Harbour shall, before doing so, notify the Harbourmaster of this intention and shall furnish him with particulars of the carrying vessel and of the catch of said fishing vessel.

Vessels to navigate with care

7. The Master shall navigate his vessel with such care and caution and at such speed and in such manner as not to endanger the lives or cause injury to persons or cause damage to property and as not to interfere with the navigation, manoeuvring, loading or discharging of vessels or with moorings, riverbank or other property.

Speed of vessels

8. Except with the permission of the Harbourmaster and, subject to byelaw 7 and the Collision Regulations, the Master of a vessel shall not cause or permit the vessel to proceed at a speed greater than 5 knots.

Small vessels not to obstruct deep water channel

9. The Master of a small vessel whether under power or under sail that is not confined to a deep-water channel shall not make use of that channel so as to cause obstruction to other vessels which can navigate only within that channel and shall give such vessels a clear passage and as wide a berth as safe navigation requires.

Anchorage

- 10.
- a) Every vessel anchoring in the Harbour from Twageos Point northward shall leave clear space of no less than 330 metres distant from Victoria Pier, Breakwater and Alexandra Wharf, i.e. to the west of a line Loofa Baa Beacon bearing 317 degrees true.
 - b) No vessel shall anchor in the North Harbour to the south of a line Loofa Baa Beacon bearing 068 degrees true.

Notification of collisions, etc.

11. 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 a Harbour area; 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 a deep water channel; shall forthwith report the occurrence to the Harbourmaster (and as soon as practicable thereafter provide the Harbourmaster 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 that channel or to moor or anchor in safety, otherwise than with the permission and in accordance with the directions of the Harbourmaster.

Vessels adrift

12. The Master of a vessel which parts from its moorings shall as soon as possible report the same to the Harbourmaster.

PART III – BERTHING AND MOORING

Provision of proper fenders

13. The Master 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 and leaving or lying at a quay 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.

Vessels to be properly berthed

- 14.
- a) The Master of a vessel shall at all times keep his vessel properly and effectively moored when berthed or lying at any quay.
 - b) The Master of a vessel lying or moored at any quay shall during the hours of darkness exhibit on the outside of the said vessel a white light. Provided that in the event of there being two or more vessels lying or moored as aforesaid in a tier; the outermost vessel of said tier shall exhibit the said white light.

- c) The Master of a vessel which is moved from its moorings (in a tier of vessels) must ensure that the moorings of any other vessel disturbed in the process are made safe.
- d) The Master of a vessel shall at all times during the hours of darkness keep the hatches of said vessel closed. Provided however that it shall not be an offence against this direction if either of the following conditions is observed:
 - I. During said hours the vessel is in course of being loaded or unloaded; or
 - II. At all times during said hours there remains onboard said vessel a person responsible for the guarding of said open hatches.
- e) The Master of a vessel lying or moored at any quay shall ensure that no small boats, anchors or other gear shall project beyond the hull of the said vessel.

Sufficiency of crew

15. Except with the permission of the Harbourmaster, 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 that there are sufficient crew or other competent persons readily available:
- a) to attend to the vessel's moorings;
 - b) to comply with any direction given by the Harbourmaster for the unmooring, mooring and moving of his vessel; and
 - c) to deal, so far as reasonably practicable, with any emergency that may arise.

Vessels to be kept in a moveable condition

- 16.
- 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 notifying the Harbourmaster 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.
 - 2) 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 Harbourmaster forthwith and give to him any further information which the Harbourmaster may reasonable require.

Use of propulsive machinery while vessel is moored or berthed

17. The Master of a vessel which is at any quay or attached to any mooring device shall not permit the propulsive machinery 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.

Vessels not to make fast to unauthorised objects

18. No person shall make a vessel fast to any post, quay, ring, fender or any other thing or place not designed for that purpose.

Access across decks

19. The Master of a vessel on mooring alongside a quay or pier or alongside any vessel already berthed within the Harbour shall, if required to do so by the Harbourmaster, 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

- 20.
- 1) The Master of a vessel which has slipped or parted from or lost any anchor, chain, cable or propeller shall forthwith give to the Harbourmaster notice thereof and, if possible, of the position of the anchor, chain, cable or propeller and, if the Harbourmaster so directs shall cause it to be recovered as soon as practicable.

- 2) The Master of a vessel slipping or parting from an anchor or propeller shall leave a buoy to mark the position thereof.

PART IV – GOODS AND ROAD TRAFFIC

Requirement as to handling, movement and storage of goods in the harbour premises/dock estate

21.

- 1) The owner of any goods loaded, discharged or stored at the harbour premises/dock estate shall ensure that the goods are removed therefrom as soon as practicable and in any case within 48 hours unless the Trustees otherwise agree.
- 2) The owner of any goods shall comply with such directions as the Harbourmaster may from time to time give for regulating the time, place and manner of discharging, loading, storing or otherwise bringing into or removing those goods from the harbour premises/dock estate.

Precaution against goods, etc. falling into Harbour waters or the Authority's premises

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

Obstruction or interference at harbour premises/dock estates

23. No person shall:

- a) except with the permission of the Harbourmaster, deposit or place on any part of the harbour premises/dock estate any goods, fishing gear or park any vehicle so as to obstruct any road, building, mooring place, plant, machinery or apparatus or to the access thereto; or
- b) without lawful authority, use, work, move or interface with any plant, machinery, equipment or apparatus at the harbour premises/dock estate.

Safe driving of vehicles

24. No person shall drive or otherwise operate a vehicle in the harbour premises/dock estate without due care and attention or without reasonable consideration for other persons using the harbour premises/dock estate.

Speed limit for vehicles

25. No person shall allow a vehicle to proceed anywhere in the harbour premises/dock estate at a speed greater than 20 miles per hour, or as otherwise directed by the Trustees from time to time.

Supervision of vehicles

26. A person having charge of a vehicle in the harbour premises/dock estate shall at all times comply with any directions of the Harbourmaster with respect to the loading, discharging, manoeuvring and removal thereof and shall not, without the permission of the Harbourmaster:
- a) leave the vehicle unattended anywhere within the harbour premises/dock estate other than in a parking area designated by the Trustees; or
 - b) take it into any shed or working area.

Loads not to leak, spill or drop

27. The owner, driver or other person having charge of a vehicle in the harbour premises/dock estate shall not permit any substance to leak, spill or drop from the vehicle. This byelaw shall not apply to spillage from a vehicle in which fish are being transported in bulk where that spillage could not have been reasonably prevented.

Loads to be secured

28. The owner, driver or other person having charge of a vehicle in the harbour premises/dock estate 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

29. No person shall within the harbour premises/dock estate charge or recharge any vehicle with, or empty it of, fuel except with the permission of the Harbourmaster.

Driving on weighbridge

30. No person shall drive or otherwise operate a vehicle across any weighbridge within the harbour premises/dock estate except for the purpose of weighing the vehicle.

Accidents to be reported

31. Any person driving or otherwise operating a vehicle involved in an accident in the harbour premises/dock estate whereby any injury is caused to any person or any damage is caused to any property, shall stop the vehicle and report the accident to the Harbourmaster and shall give his name, address, vehicle registration number and the name of the owner of vehicle to the Harbourmaster.

PART V – GENERAL

Inspection facilities, etc., to be made available to Harbourmaster

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

Lifesaving equipment

33. No person shall use equipment provided by the Trustees for the purpose of live saving except for that purpose.

Display of bills and notices

34. No person shall affix or cause to permit to be affixed on any part of the harbour any Bill or Notice without having first received the authority of the Trustees for this purpose and said Bill or Notice shall be affixed upon the notice boards which may from time to time be provided by the Trustees.

Navigation under the 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 having proper control of the vessel.

Vessels not to be fumigated without permission

36. The Master or owner of a vessel shall not cause or permit it to be fumigated without the prior permission of the Harbourmaster.

Laying down moorings, buoys and other tackle

37.

- a) No person shall lay down any mooring, buoy or similar tackle without a licence or prior consent in writing of the Trustees/Harbourmaster nor otherwise than in accordance with such conditions as the Trustees/Harbourmaster may impose.
- b) A mooring, buoy or similar tackle shall forthwith be removed by its owner or any other person claiming possession of it if the Harbourmaster so directs.

Dumping in harbour waters prohibited

38. No person shall deposit or throw into the waters of the harbour any rubbish or other material whatsoever or place it in such a position that it can fall, blow or drift into the harbour.

Drift or trawling nets not to obstruct vessels

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

No dragging or grappling without permission

40. 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 written consent of the Harbourmaster.

Vessels to have names marked on them

41. The owner of a vessel which is not registered as a ship 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 Trustees.

Abandonment of vessels prohibited

42.

- 1) No person shall abandon a vessel on the banks or shore of the harbour.
- 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 unless the contrary intention is shown.

Water skiing, aquaplaning, etc

43.

- 1) No person shall engage or take part in water skiing or aquaplaning without the written permission of the Trustees given either specifically or generally and only in such areas as may be designated and in accordance with such reasonable conditions as may be imposed.
- 2) A Master whilst using his vessel for the purpose of towing a water skier or a person aquaplaning shall have onboard 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 water skier and shall carry:
 - a) for each person onboard a life jacket manufactured in accordance with the appropriate British Standards Specification or a personal buoyancy aid of a type approved by the Ship and Boat Builders' National Federation, two hand-held distress signals and a fire extinguisher;
 - b) for each person water skiing or aquaplaning, a rescue quoit with line or other sufficient hand thrown rescue device.
- 3) No person shall engage in kiting or parachute towing in the harbour without the prior written consent of the Trustees given either specifically or generally and in accordance with such reasonable conditions as may be imposed by the Trustees.

Boat races, regattas, etc.

44.

- 1) No person shall cause or permit a sailing regatta to take place within the harbour without forty-eight hours' notice thereof having been given to and the written consent of the Trustees obtained to such regatta taking place.
- 2) No person shall cause or permit a sailing boat or yacht race involving more than two vessels or a series of such races to take place in the harbour without the prior written consent of the Trustees to such a race or series of races.
- 3) No person shall cause or permit a sailing boat or yacht race to commence unless he shall have first notified the Harbourmaster of the courses which are to be sailed in said race.
- 4) No person shall cause or permit a sailing boat or yacht race to take place within the harbour without having deployed guard and rescue boats around the course of said race sufficient in number and capacity to ensure the safety of those persons taking part in the race.
- 5) No person shall take part in a sailing boat or yacht race unless he is wearing at all times during the said race a life jacket or buoyancy aid manufactured in accordance with the appropriate British Standard specifications.

Assistance to fire and other services

45. 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.

Fire Precautions

46. The Master of a vessel shall take all reasonable precautions for the prevention of accidents by fire.

Meetings

47. Except with the consent of the Harbourmaster, no person shall within the harbour premises/dock estate:

- a) take part in any general meeting; or
- b) 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

48. No person shall engage by way of trade, in buying or selling any goods or property in the harbour premises/dock estate without the written consent of the Trustees.

Protection of wrecks

49. Without the previous consent of the Trustees no one shall within the harbour:

- a) tamper with, damage or removing any part of a vessel lying wrecked on the seabed or any object formerly contained in such a vessel.
- b) carry out diving or salvage operations directed to the exploration of any wreck, or to remove any objects from it or from the seabed, or use equipment constructed or adapted for any purpose of diving or salvage operations.
- c) deposit so as to fall and lie abandoned on the seabed anything which if it were to fall on the site of a wreck (whether it so falls or not) would wholly obliterate the site or obstruct access to it or damage any part of the wreck.

This bylaw shall not apply to an area designated as a restricted area by the Secretary of State under the Protection of Wrecks Act 1973.

Penalties

50.

- 1) Any person who contravenes or otherwise fails to comply with any of these bye laws or any condition, requirement or prohibition imposed by the Harbourmaster in terms of these byelaws shall be guilty of an offence and be liable, on conviction before a court summary jurisdiction, to a fine not exceeding level three of the standard scale of fines referred to in section 289G of the Criminal Procedure (Scotland) Act 1975 as amended.
- 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 the proceedings for the offence are taken against persons other than him.
- 3) 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 reasonable excuse for his act or failure to act.

Revocation

51. The Lerwick Harbour Byelaws made in 1973 are hereby revoked.

A.B. LAURENSEN, General Manager & Clerk

T.W. STOVE, Trustee

W.A. SMITH, Trustee

Dated at Lerwick this 15th day of August, 1989.

The Secretary of State for Transport and the Secretary of State for Scotland hereby confirm the forgoing byelaws, and fix the 27th day of December, 1989, as the date when these byelaws shall come into operation.

Signed by authority of the Secretary of State for Transport this 13th day of November, 1989.

J.R. FELLO
An Assistant Secretary of
The Department for Transport

Signed by authority of the Secretary of State for Scotland this 29th day of November, 1989.

W. MOYES
An Assistant Secretary of
The Department for Agriculture
and Fisheries for Scotland

Note

- a) Section 14 of the Lerwick Harbour Order Confirmation Act 1985 states: "14. Any person who obstructs or interferes with the Harbourmaster or with any officer or servant of the Trustees in the exercise of his powers or the performance of his duties under this Act shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale."
- b) Penalties. Penalties are provided for by sections 20 and 20a of the Lerwick Harbour Order Confirmation Act 1985 as amended by the Lerwick Harbour Confirmation Act 1987 namely to a fine not exceeding level 3 of the standard scale.