

ORKNEY HARBOURS AREAS



# **GENERAL BYE-LAWS**

**1977**

## **ORKNEY ISLANDS COUNCIL**

These Byelaws came into force on the 5<sup>th</sup> September 1977. Copies of these can be obtained from the Department of Harbours, Harbour Authority Building, Scapa, Orkney.

## **ORKNEY HARBOUR AREAS BYELAWS 1977**

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## Orkney Islands Council

### ORKNEY HARBOUR AREAS BYELAWS 1977

The Orkney Islands Council, in exercise of the powers by sections 46 and 47 of the Orkney County Council Act 1974 and of all other powers thereunto enabling them, hereby make the following byelaws:

#### PART I – PRELIMINARY

##### *1 Title and application*

These byelaws may be cited at the Orkney Harbour Areas Byelaws 1977, and shall apply to the harbour areas established and defined under the provisions of the Orkney County Council Act 1974.

##### *2 Interpretation*

(1) In these byelaws, except where the subject or context otherwise requires – “the Collision Regulations” has the meaning assigned to that expression by section 418 of the Merchant Shipping Act 1894;

“The Council” means the Orkney Islands Council;

“By day” means between the hours of sunrise and sunset;

“By night” means between the hours of sunset and sunrise;

“Dangerous goods” means any goods declared by the rules made under section 23 of the Merchant Shipping (Safety Convention) Act 1949 to be dangerous in their nature;

“Daymark” means a flag, burgee, pendant, ball, shape, cone, cylinder, drum or other object exhibited, whether singly or in combination, by a vessel as a visual signal;

“Dredger” means a vessel whether self-propelled or not, engaged in dredging, excavating, raising, raking, breaking, drilling, boring, screwing or eroding or dispersing sand or other materials;

“Fairway” means any navigable channel, marked, dredged or maintained by the Council;

“Harbour area” means the Scapa Flow area or the Wide Firth, Shapinsay Sound area, the respective limits of which are described in the Schedule to the Orkney County Council Act 1974, and includes port premises adjacent to either of those areas;

“Harbour craft” means any vessel normally employed on local work within a harbour area;

“Harbour master” means a person appointed by the Council to be a harbour master and includes the deputies and assistants of a person so appointed;

“Lighter” means any dumb barge or similar craft not having motive power as an integral part of its construction nor powered by an engine, which is used or normally used for the carriage of goods, and (subject as aforesaid) includes a sailing barge whilst its mast and sailing gear are lowered on deck;

“Master,” in relation to a vessel, means any person for the time being having or taking (lawfully or otherwise) the command, charge, or management of a vessel;

“Mooring” includes anchoring;

“Owner,” in relation to a vessel, including a chartered;

“Pleasure craft” means any vessel or boat whether self-propelled or not, not engaged in commercial activity;

“Port premises” means landing places and all other works and land for the time being belonging to or administered by the Council for the purpose of the harbour undertaking for the time being of the Council authorised by the said Act of 1974;

“Tug” means a vessel constructed or adapted for the towing or pushing of ships, barges or floating structures or articles and includes a tender;

“Vessel” means every description of vessel, however propelled or moved, and includes anything constructed or used to carry persons or goods by water, a seaplane on or in the water, a hovercraft and a hydrofoil vessel.

(2) Subject to paragraph (1) of this byelaw, the definitions in the Collision Regulations shall for the interpretation of these byelaws.

## **PART II – ENTRY AND DEPARTURE OF VESSELS**

### *3 Vessel movements*

The master of a vessel which trades to sea shall give prior notice to the harbour master of the vessel’s arrival at, departure from or movement within a harbour area.

### *4 Declaration of particulars*

The master of a vessel arriving at a harbour area 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 port of origin, ownership and destination, and particulars of its cargo.

### *5 Damaged vessels*

The master of a vessel which has sustained damage affecting or likely to affect its seaworthiness, or from which oil or some dangerous or inflammable substance is escaping or likely to escape, shall give notice thereof to the harbour master, and the vessel shall not (except in an emergency or in case of actual distress) enter a harbour area except with permission of the harbour master and in accordance with his directions.

6 *Berthing and mooring of vessels*

- (1) On the arrival in a harbour area of a vessel whose overall length exceeds 20 metres the master shall forthwith apply to the harbour master for a berth, and the master shall not thereafter change the berth without his approval.
- (2) Except with the permission of the harbour master no vessel shall use a mooring belonging to or controlled by the Council.
- (3) Except with the permission of the harbour master, not more than one vessel shall be placed at any one mooring, nor shall vessels lie more than two abreast alongside any pier, wharf or jetty.
- (4) Except with the permission of the harbour master, no vessel shall be moored to or remain at any of the port premises, and a vessel shall move away from any such premises when directed so to do by the harbour master.

**PART III – LIGHTS, DAYMARKS AND SIGNALS**

7 *Lighters under way to display white light*

A lighter under way by night (whether or not under tow) shall carry a WHITE light so constructed as to show an unbroken light all round the horizon for a distance of at least two miles: Provided that

- (i) If more than one lighter is being towed, the light shall be carried on the stern of that lighter which projects furthest astern in the tow or, if two or more lighters project equally far astern in the tow, shall be carried on the stern of that one of those lighters which is on the port side of the tow;
- (ii) If a lighter is being moved by another vessel secured alongside, the light shall be carried on that side of the lighter which is away from the other vessel.

8 *Vessels moored*

- (1) With the exception of-
  - a) Lighters lying at moorings approved by the harbour master;
  - b) Yachts moored or berthed in yacht mooring areas similarly approved;
  - c) Vessels used as hulks and moored fore and aft; every vessel moored to buoys either singly or alongside any other vessel shall display the same lights or daymarks as appropriate, as are required by the Collision Regulations or a vessel at anchor.
- (2) Any vessel used as a hulk shall exhibit such light or lights as the harbour master shall from time to time direct.

9 *Vessels carrying dangerous goods*

- (1) The master of every vessel within a harbour area which has dangerous goods on board exceeding in weight 50kg. Shall display on the vessel-
  - a) At all times whether moored, anchored or under way, Flag “B” of the International Code of Signals as shown in the schedule to these byelaws; and

- b) When moored or anchored but not whilst under way, a red light so constructed as to give a clear uniform and unbroken light in conditions of normal visibility all round the horizon for a distance of at least two nautical miles.
- (2) The flag and light to in this byelaw shall in each case be displayed in such a position as best to secure its visibility as aforesaid and the light shall be displayed above any other light which the vessel may show;  
 Provided that in the case of a harbour craft which has dangerous goods on board exceeding in weight 50kg. Which cannot normally comply with this byelaw, the master of the craft shall display in a conspicuous position above the deck a Flag “B” of the International Code of Signals made of metal and of the dimensions shown in the schedule of these bye-laws, and an all round red light.

#### *10 Restriction on use of sound signals*

Sound signals made by whistle prescribed in these byelaws shall not be used on any other occasion or for any other purpose except as so prescribed or as from time to time permitted by the harbour master.

#### *11 Power driven vessel turning*

A power driven vessel under way and about to turn, and whilst turning shall sound by whistle at intervals of not more than 2 minutes four short blasts in rapid succession followed, if the vessel is turning to starboard by one short blast, and if turning to port by two short blast.

#### *12 Power driven vessels aground*

A power driven vessel which runs aground shall immediately signify the fact by the signal “R” (one short blast, one long, one short) on her whistle and shall repeat the signal at short intervals until there are exhibited the lights or daymarks, or there are made the sound signals, prescribed by the Collision Regulations to indicate that the vessel is aground.

#### *13 Deep-draughted vessels*

- (1) A vessel drawing 9.14 metres or more shall carry-
  - a) By night, 3 RED lights so constructed as to show an unbroken light round the horizon and of such a character as to be visible at a distance of at least two nautical miles, the lights being placed vertically one above the other, so that the upper and lower lights shall be the same distance from and not less than 1.83 metres above or below the middle light;
  - b) By day, a BLACK cylinder not less than 0.61 metres in diameter not less than 1.07 metres in length, carried in a conspicuous position.
- (2) So far, as is practicable a vessel not carrying the lights or daymark required by this byelaw shall give way to any vessel carrying such light or daymark.

#### *14 Harbour craft*

The master of any harbour craft which on account of its special construction is unable to position lights or daymarks in the manner laid down in these byelaws shall comply therewith as closely as the construction of the craft permits.



## PART IV – NAVIGATION

### *15 Care and caution*

Every vessel shall be navigated with such care and caution and at such speed and in such manner as not to endanger the lives of or cause injury to persons or damage to property, nor to interfere with the loading or discharging of vessels or with moorings or other property, and in particular shall proceed slowly when passing a vessel engaged in dredging or other under-water work or in work at a buoy or mooring.

### *16 Power navigation in tidal stream*

The master of power driven vessel navigating against a tidal stream shall if necessary slacken speed or stop his vessel so as to allow any vessel navigating with the stream to pass clear of his vessel.

### *17 Obstruction of fairway*

- (1) A vessel whether under power or sail is not confined to a fairway shall not make use of it so as to cause obstruction to other vessels which can navigate only within the fairway, and shall give such vessels a clear course and as wide a berth as safe navigation requires.
- (2) No vessel shall enter or cross a fairway except when the fairway in the vicinity of the vessel is clear, nor in a manner which may impede or endanger other vessels navigating in the fairway.
- (3) A vessel crossing, turning or manoeuvring in a fairway shall be so navigated as not to hamper, impede or cause damage to any other vessel.

### *18 Ropes and fenders*

- (1) Every vessel navigating within a harbour area shall be equipped with good and sufficient ropes or warps ready for use and capable of securing the vessel safely.
- (2) Every vessel going alongside another, or berthing at a wharf or quay which itself is not adequately fendered, shall be equipped with a sufficient number of fenders, which shall be of such material as to ensure that they do not sink if lost overboard.

### *19 Loading and ballasting*

Every vessel shall be kept at all times so loaded or ballasted as to safely navigated or moored and the master shall regulate such loading or ballasting in accordance with any safety directions in that behalf which may be given by the harbour master.

### *20 Dredging, diving, etc.*

Every vessel shall, when passing another vessel employed in dredging, diving or underwater work, or working at any gas or other buoy or mooring, so reduce the speed of her engines as to ensure that no damage is caused to any person or property so employed or working.

### *21 Tugs required for certain vessels*

The master of any vessel carrying dangerous goods shall, if the harbour master so directs, ensure that at all times when the vessel is navigating in a harbour area the vessel is attended by a tug or tugs approved by the Council for the purpose of this byelaw.

## **PART V – MOORING**

### *22 Laying moorings*

No person shall lay down a mooring without the permission of the harbour master, and all such moorings shall be of such specification and placed in such position as the harbour master shall seem fit, and shall be removed forthwith if he so directs.

### *23 Gangways for vessels*

The master of any vessel whose overall length exceeds 20 metres, moored in a harbour area, shall where necessary ensure that a properly secured gangway or other satisfactory means is provided and maintained for safe access to and from the vessel.

### *24 Private chains at moorings*

No private chain or chains shall be affixed to any mooring owned or controlled by the Council.

### *25 Engine trials*

- (1) When a vessel is moored its propeller or propellers shall not be set in motion for the purpose of an engine trial except after notification to the harbour master and subject to such directions as he may give.
- (2) The master of a vessel shall ensure that whilst the vessel is moored and the propellers set in motion they shall be stopped on the approach of another vessel and not restarted until that vessel is again well clear of his own.

## **PART VI – MISCELLANEOUS**

### *26 Assistance to harbour master*

The master of a vessel shall, whenever so required by the harbour master, afford him access to any part of the 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.

### *27 Adequacy of crew*

The master of a vessel which normally trades to sea shall ensure that at all times a responsible officer is on watch, and a crew on board which is adequate to comply effectively with the provisions of the Orkney County Council Act 1974 and any byelaws or directions made or given thereunder, and to deal with emergencies.

### *28 Safety of harbour craft*

- (1) No person shall take charge of a harbour craft who is under 18 years of age or who does not hold the minimum qualification of a valid boatman's licence issued by the Department of Trade.
- (2) No harbour craft shall be navigated which is not in all respects sound and in complete repair, and furnished with-
  - a) Such navigation lights, daymarks and equipment for signalling by sound as will enable the craft to comply with the Collision Regulations and with the Orkney County Council Act 1974 and any byelaws or directions made or issued thereunder;
  - b) Sufficient lifesaving apparatus for all persons on board.

### *29 Landing places – freedom of access*

The master of a vessel shall not allow it to be placed as to obstruct or impede access to any recognised landing place in a harbour area.

### *30 Dangerous goods*

- (1) The owner or master of a vessel having dangerous goods on board shall, at least 48 hours before bringing the vessel within a harbour area, inform the harbour master in writing of the nature of the goods, their classification (according to the United Kingdom Merchant Shipping (Dangerous Goods) Rules 1965 as from time to time amended) and quantity:  
Provided that in the case of a voyage of less than 48 hours the master shall provide the information by writing or otherwise as early as is practicable before entering the harbour.
- (2) Before dangerous goods are brought within any of the port premises the owner of the goods shall give to the harbour master at least 24 hours written notification of the correct technical name of the goods, their classification as aforesaid, description of packaging and quantity.
- (3) The master of a vessel carrying dangerous goods whilst it is at berth shall provide towing wires of sufficient strength and number secured to the off-shore bow and quarter bollards with the towing eyes maintained at water level.

### *31 Notification of collisions, 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 a harbour area; or
- b) By reason of accident, 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 of a fairway;

Shall forthwith 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 then with the permission and in accordance with the directions of the harbour master.

### *32 Lost anchor, cable or propeller*

- (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 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 cause it to be recovered as soon as practicable.
- (2) A vessel slipping or parting from an anchor or propeller shall leave a buoy to mark the position thereof.

### *33 Diving, etc. within harbour area*

- (1) No person who is wearing or equipped with clothing or apparatus designed or adapted for swimming underwater or diving shall swim underwater, dive or fish in a harbour area except with the written permission of the harbour master.
- (2) Without prejudice of the foregoing provisions of this byelaw no person shall swim underwater, dive or fish-
  - a) Within 100 metres of any of Her Majesty's ships or vessels, including the wrecks of any such ships or vessels within a harbour area, save with the licence in writing of the Queen's Harbourmaster, Rosyth and in accordance with any conditions attached thereto; nor
  - b) Within 30 metres of the walls, slipways or boundaries of Her Majesty's Royal Naval Oil Fuel Depot, Lyness.

### *34 Boat races, regattas, etc.#*

- (1) The organiser of any boat race, regatta, public procession or other public event, when a number of vessels is expected to assemble on the waters of a harbour area or its approaches, shall give not less than 28 days' notice thereof to the harbour master.
- (2) Every boat race, regatta, procession or other public event shall be conducted on courses 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 event.

### *35 Houseboats, etc.*

No house boat or pleasure craft used for residential shall be moored in a harbour area: Provided that nothing in this byelaw shall prevent a houseboat or pleasure craft so used from being berthed alongside frontages where there is direct access from the shore, by or subject to the agreement of the owner of the frontage and provided that in so doing or agreeing the owner of the frontage has rendered himself liable for removal of such houseboat or pleasure craft in the event of its becoming derelict.

### *36 Use of fires*

Except with the written permission of the harbour master and subject to any conditions attached thereto, no person shall have or use a fire on any of the port premises.

### *37 Electric welding plant, etc.*

- (1) No person shall use any electric welding plant or oxy-acetylene cutting or welding plant within port premises or on a vessel within a harbour area, or cause such plant to be used at or within 30 metres of any such vessel, except with the written permission of the harbour master and subject to such conditions as he may prescribe.
- (2) At no time shall a vehicle carrying such plant enter any shed, warehouse or similar building within the port premises.

### *38 Interference with harbour apparatus, etc.*

No person shall, without the permission of the harbour master, set in motion, interfere with, obstruct or impede the use of any machinery, equipment or apparatus provided by the Council in the harbour area.

### *39 Trespass*

No person shall enter or remain on the harbour premises or any part thereof unless he has lawful business thereon or has received permission from the harbour master so to do.

### *40 Disorderly behaviour*

No person shall on any port premises use threatening, abusive, indecent, obscene, profane or offensive language or behave in such a manner as is calculated to cause a disturbance or breach of the peace nor molest or wilfully interfere with the comfort or convenience of other persons using those premises.

### *41 Intoxication, etc.*

No person shall be within a harbour area whilst under the influence of drugs or intoxicating liquor.

### *42 Defacing premises*

No person shall write upon, soil, deface, mark or injure any of the quays, sheds, barricades, railings, fences, posts or other part of the premises of the Council except on the authority of the Council.

### *43 Obstructing officers*

No person shall resist, obstruct or impede any of the Council's officers or servants in the execution of his duty, or disobey his lawful orders.

#### *44 Rubbish not to be thrown in harbour area*

- (1) No person shall throw or cast, or cause to procure to be thrown or cast, any dirt, rubbish, soil, ashes, plastic or other matter, or put or cause to procure or allow to fall or throw any offensive or injurious matter or thing, whether solid or liquid, into a harbour area or upon the shores of any part thereof.
- (2) This byelaw shall not apply to the discharge or escape of any substance, the discharge or escape of which is subject to the provisions of any public general statute.

#### *45 Taking of water*

Except to prevent or extinguish a fire, no person shall, without the permission of the harbour master, take water from any tap, hydrant or container belonging to the Council.

#### *46 Weighing and measuring*

No person who is not a weigher or meter appointed by the Council or by a person duly authorised in writing by the Council to appoint weighers or meters or by the Commissioners of Custom and Excise, or a tally clerk employed by a shipowner for the sole purpose of calculating freight, shall weigh or measure or employ any person not being a weigher, meter or tally clerk as aforesaid to weigh or measure any goods shipped, unshipped or delivered in a harbour area, nor use any weighbridge provided by the Council in such area.

#### *47 Responsibility for compliance with byelaws*

- (1) Any person contravening 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 liable on summary conviction-
  - a) In respect of byelaws 9 or 30, to a fine not exceeding £100;
  - b) In any other case, to a fine not exceeding £200;
- (2) 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.
- (3) If any case the defence provided by paragraph (2) (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.
- (4) 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 the offence; and a person may be charged with and convicted of an offence by virtue of this byelaw whether or not proceedings for the offence are taken against any other person.

(5) Without prejudice to the generality of paragraph (1) of this byelaw, in relation to any vessel the master thereof, and in relation to any goods the owner, shall except as otherwise provided be responsible for complying with these byelaws and with any directions given thereunder and liable to any penalty imposed for a contravention of such byelaws or directions.

Given under the Common Seal of the Orkney Islands Council this Sixth day of June 1977.

(Signed) G. R. MARWICK,

Councillor.

(Signed) O. L. WORK,

Councillor.

(Signed) H. A. GRAEME LAPSLEY,

Chief Executive.

The Secretary of State hereby confirms the foregoing byelaws as modified at Byelaw 2.

Signed by authority of the Secretary of State this 5<sup>th</sup> day of September 1977.

(Signed) F. A. OSBORN,

An Assistant Secretary in  
the Department of  
Transport.

## **SCHEDULE – Byelaw 9**

Red Flag to be displayed

Dimensions:

“a” shall not be less than 75 centimetres for a ship and 45 centimetres for a harbour craft.

“b” shall not be less than 90 centimetres for a ship and 54 centimetres for a harbour craft.