

Brightlingsea Harbour Commissioners

Harbour Byelaws

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Harbour Byelaws

The Brightlingsea Harbour Commissioners, in exercise of the powers conferred by section 83 of the Harbours, Docks and Piers Clauses Act 1847 as applied by section 4 (1) of the Brightlingsea Harbour Order 1927 and of all other enabling powers, hereby make the following byelaws.

Part 1 - Preliminary

Title and Commencement

1. These byelaws may be cited as the Brightlingsea Harbour Byelaws 1990 and shall come in to operation on the expiration of 28 days from the date of confirmation thereof by the Secretary of State.

Application

2. a) These byelaws shall apply throughout the jurisdiction of the Commissioners as described in section 13 of the Brightlingsea Harbour Revision Order 1927 as amended by article 3 of the Brightlingsea Harbour Revision Order 1985 and to any premises or construction owned or occupied by the Commissioners in or in connection with the Harbour.
b) The existing limits of jurisdiction of the Commissioners are shown on the plan annexed to these byelaws.

Interpretation

3. In these byelaws, unless the context otherwise requires -
“Collision Regulations” means Regulations for the Prevention of Collisions under section 21 of the Merchant Shipping Act 1979;
“the Commissioners” means the Brightlingsea Harbour Commissioners;
“the fairway” means the channel which is for the time being the regular course or track of shipping;
“goods” means all articles and merchandise of every description and includes fish, livestock and animals;
“the harbour” means the area described in byelaw 2 hereof and includes any part of the harbour as so defined;
“the harbour master” means the harbour master for the time being appointed by the Commissioners and includes his authorised deputies, assistants and any other person authorised by the Commissioners to act in that capacity;
“master” in relation to any vessel means any person (whether the owner, master, pilot or other person and whether lawfully or otherwise) having taking command, charge, management or conduct of the vessel for the time being;
“owner” in relation to goods includes any consignor, consignee, shipper or agent for the sale, receipt, custody, loading or unloading and clearance of those goods and includes any other person in charge of the goods and his agent in relation thereto; and when used in relation to a vessel includes any part owner, broker,

charterer, agent or mortgagee in possession of the vessel or other person or persons entitled for the time being to possession of the vessel;
“pilot” means an authorised pilot for the area within the meaning of the Pilotage Act 1987;
“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 24 metres in length overall;
“vessel” means every description of vessel, however propelled or moved and includes hovercraft, a hydrofoil vessel and anything constructed or used to carry persons or goods by water and a seaplane on or in the water.

Part II - Navigation

Application of Collision Regulations

4. To the extent that they are not inconsistent with these byelaws, the Collision Regulations have full force and effect within the harbour.

Vessel Movements

5. The master of a vessel other than a small vessel shall give prior notice to the harbour master or his agent of the vessel’s arrival at, departure from or movement within, the harbour.

Entry to Harbour

6. Except with the permission of the harbour master, the master of a vessel other than a small vessel shall not cause that vessel to enter the harbour whilst another vessel (not being a small vessel) is under way in any part of the harbour between the mouth of the harbour and an imaginary line extending north and south across the harbour from the easternmost point of Cindery Islands at ordinary mean high water.

Declaration of particulars of vessel

7. The master of a vessel arriving in the harbour shall if required by the harbour master, furnish to him a declaration in the form to be obtained from him containing a correct statement of the particulars of the vessel, its last port of call, ownership, destination (if known), and particulars of its cargo.

Master to remain on bridge

8. The master of a power driven vessel underway shall either:
 - a) Be on the bridge or at the control position of the vessel; or
 - b) Ensure that there is on the bridge or at the control position a member of the crew who is capable of taking charge of the vessel and, when a pilot is on board, is capable of undertaking the pilot’s directions for the conduct of the vessel.

Vessels to have a competent helmsman.

9. The master of a vessel shall ensure that it is steered at all times by a person competent to do so and no automatic devices or equipment shall be used for steering purposes unless attended by a competent helmsman.

Vessels to navigate with care

10. The master of a vessel in the harbour shall navigate the vessel with care and caution and in such a manner and at such a speed as shall not cause excessive wash, damage or injury nor damage or injury to any other vessel, person or property in the harbour nor to the banks of the harbour or any person or property thereon.

Speed of vessels

11. Except with the permission of the harbour master and, subject to byelaw 9, the requirements of maintaining adequate steerage way and control and the Collision Regulations, the master of a vessel shall not cause or permit the vessel to proceed at a speed over the ground in excess of 4 knots: provided this byelaw shall not apply to any vessel on any occasion when it is being used by or on behalf of the Commissioners or for police, fire fighting or rescue operations in circumstances where such a speed limit would likely hinder the use of the vessel for the purpose for which it is being used on that occasion.

Small vessels not to obstruct fairway

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

Vessels leaving dock or anchorage

13. A vessel leaving a dock, quay or anchorage shall not do so in a manner which may hazard or impede the movement of another vessel underway

Small vessels to keep clear of berths and anchorages

14. A small vessel shall not obstruct or impede the movement of any other vessel in any anchorage or the approach to any berth.

Sound signal for power driven vessel aground

15. A power driven vessel which runs aground whilst underway shall immediately signify the same by six short blasts in rapid succession on her whistle and shall repeat such signal at short intervals until she shall have exhibited the lights or shapes, or commenced to make the sound signals prescribed in the Collision Regulations to indicate that she is aground.

Sound signals - when to be used

16. No person shall use the sound signals prescribed in the Collision Regulations or these byelaws on any other occasion or for any other purpose except those so prescribed or those from time to time authorised by the harbour master.

Vessels proceeding with bow rudder

17. a) A vessel fitted with a bow rudder, when proceeding stern foremost, shall by day exhibit from a yard on the main mast two black spherical shapes each not less than 0.6 metres in diameter, placed horizontally not less than 2.4 metres apart and at least 1.8 metres higher than the funnel
- b) During such time as a vessel is exhibiting the signal prescribed by paragraph a) of this byelaw, the vessel shall comply with the Collision Regulations as if the starboard side were the port side and the port side were the starboard side.

Notification of collisions etc

18. The master of a vessel which -
- a) Has been involved in a collision with any vessel or property, or has been sunk or grounded through accident or become stranded in the harbour; or
 - b) By reason of accident, fire, defect or otherwise is in such a condition as to affect its safe navigation or to give rise to danger to other vessels or property; or
 - c) In any manner gives rise to an obstruction to a fairway;

Shall give immediate notice of the fact to the harbour master and (as soon as reasonably 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.

Part III - Berthing and Mooring

Provision of proper fenders

19. 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 low at a quay or against other vessels, the master shall cause the vessel to be fendered off from that quay or those vessels so as to prevent damage to that quay, those other vessels or other property.

Vessels to be properly berthed

20. The master of a vessel shall at all times keep his vessel properly and effectively moored when berthed or lying at any quay.

Vessels not to lie abreast without permission

21. Vessels other than small vessels shall not lie two or more abreast alongside any public quay or mooring or at anchor without the permission of the harbour master.

Sufficiency of crew

22. Except with the permission of the harbour master, the master of a vessel other than a small vessel shall at all times when that vessel is within the harbour ensure that the 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 directions given by the harbour master for the unmooring, mooring and moving of the vessel; and
- c) To deal, so far as reasonably practicable, with any emergency that may arise.

Use of engine while vessel is moored or berthed

23. The master of a vessel which is at a quay or lying at anchor or attached to any mooring device 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, to any quay or mooring device or to any other vessel or property.

Vessels not to anchor in fairway except in an emergency

24. A vessel shall not except in an emergency anchor in the fairway of the harbour in such a manner as to obstruct navigation.

Vessels not to be made fast to navigation buoys or marks

25. No person shall make fast a vessel to or knowingly cause or permit a vessel to lie against any light, beacon, buoy, marker, tide pole, notice board, post, quay, ring, fender or other thing or place within the harbour which is not assigned for that purpose.

Landing places not to be obstructed

26. The master of a vessel navigating in the harbour shall not place his vessel or allow her to be in such a situation as to obstruct or interfere with the access to any recognised landing place or leave it moored alongside any such landing place unattended without the permission of the owner or person in charge of such a landing place.

Vessels to anchor clear of moorings

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

Access across decks

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

Lost anchor, cable or propeller

29. a) The master of a vessel which has slipped or parted from or lost any anchor, chain, cable or propeller shall give immediate notice of that fact to the harbour master and, if the harbour master so directs shall cause it to be recovered as soon as practicable

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

Vessels adrift

30. The master of a vessel which parts from its moorings shall as soon as reasonably practicable report the same to the harbour master.

Obstruction of piers

31. No person transferring gear, equipment or stores to or from any vessel shall deposit any portion thereof on any public landing place including any public pier, jetty, pontoon, slipway or hard within the harbour in such a way as to obstruct the free and safe use of such public landing place or any crane, mooring post or fixture thereon.

Part IV - Goods

Requirements as to handling and movement of goods in the harbour

32. 1) The owner of any goods loaded or discharged at any public landing place at the harbour shall ensure that the goods are removed therefrom as soon as practicable and in any case within 48 hours unless the harbour master otherwise agrees.

2) The owner of any goods loaded or discharged at any public landing place at the harbour shall comply with such directions as the harbour master may from time to time give for regulating the time, place and manner of discharging, loading or otherwise bringing into or removing those goods from the harbour.

Precaution against goods etc falling into harbour waters or the Authority's premises

33. The master of a vessel and a person undertaking the loading of cargo into, or the discharging of cargo from a vessel shall use or cause to be used all reasonable care to prevent cargo, dunnage, ballast or other materials from falling or escaping into the waters of the harbour and shall comply with such directions as the harbour master may give for that purpose.

Part V - Miscellaneous

Quays to be adequately marked

34. The owner or manager of any quay or other fixed obstruction shall mark the quay or obstruction with such lights and signals exhibited at such places and at such times as the harbour master may direct for securing the safety of navigation

Laying down moorings, buoys and other tackle

35. 1) A person shall not place or lay down any mooring, buoy or similar tackle without prior consent in writing of the harbour master, nor except in accordance with such conditions as the harbour master may impose.
2) A mooring, buoy or similar tackle shall as soon as is reasonably practicable be removed by its owner or any other person claiming possession of it if the harbour master so directs

Dumping in harbour waters prohibited

36. No person shall intentionally deposit in the harbour any rubbish, refuse, ballast, stones, earth, clay or other abandoned article or material, whether solid or liquid, other than water, provided that this byelaw shall not apply to the discharge from a vessel's sea-toilets or the return to the water of material unintentionally raised from the bottom in the course of fishing or dredging for oysters.

Drift or trawling nets not to obstruct vessels

37. 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 any person or property including in particular, but without prejudice to the generality of the foregoing, any vessel or mooring.

No dragging or grappling without permission

38. No person shall drag or grapple for any material or article nor remove the same from the bed of the harbour without the written consent of the harbour master save for the purpose of immediately recovering any article dropped overboard.

Vessels to have names marked on them

39. The owner of a vessel which is not registered as a ship under the Merchant Shipping Act 1894 or 1983 or as a fishing vessel under the Merchant Shipping Act 1988 and marked accordingly shall ensure that the vessel is marked conspicuously with its name or other means of identification unless otherwise exempted by the Commissioners.

Abandonment of vessels prohibited

40. 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 contrary intention is shown.

Notice of regatta etc to be given to harbour master

41.a) The secretary or other officer responsible for the management of any boat, yacht or sailing club or other organisation promoting an event likely to involve the assembly of more than 10 vessels in the harbour shall give not less than 28 days' notice thereof to the harbour master.

b) No person shall organise or conduct any race, regatta, public procession or similar event within the harbour except on such courses and at such times as may be previously approved by the harbour master on an application made for such approval not less than 7 days before the event.

Water skiing, aquaplaning etc

42. 1) No person shall engage or take part in water skiing, aquaplaning, para-kiting or water-biking or any similar activity within the harbour except with the written permission of the harbour master given either specifically or generally, and except in such areas and subject to such other terms and conditions as he may impose.

2) A master whilst using his vessel for the purpose of towing a water skier or a person aquaplaning shall have on board at least one other person capable of taking charge of the vessel and of giving assistance as may be reasonably required during the towing and in the recovery of the water skier or person aquaplaning and shall carry -

a) for each person on board a life jacket manufactured in accordance with the appropriate British Standard Specification or a personal buoyancy aid of the British Marine Industries Federation approved type, 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 device.

Firefighting equipment

43. The master of every vessel with the exception of rowing boats and other similar light non-power 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.

Assistance to fire and other services

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

Fire precautions

45. The master of a vessel shall take all reasonable precautions for the prevention of fire.

Fuel containers

46. No person shall carry or store or knowingly cause or permit to be carried or stored on any vessel within the harbour any petrol or other flammable fuel or flammable

gas in any container other than a container that is in good condition, is suitably marked to indicate its contents and is suitably constructed and of approved material for carrying such fuel or gas.

Obstruction of officers of the Commissioners

47. No person shall intentionally obstruct any officer or employee of the Commissioners in the execution of his duties

Silencers

48. 1) The master of a vessel having an internal combustion engine shall not use that vessel or knowingly cause or permit it to be used within the harbour unless it is fitted with a silencer expansion chamber or other apparatus suitable and sufficient for reducing as far as may be reasonable the noise caused by the exhaust gases from the engine.

2) Nothing in paragraph 1) above shall preclude the use of an engine fitted with a device for cutting out the silencer or other apparatus provided that the device is only used to enable the engine to be started.

Shipbreaking etc

49. No person shall break up, set fire to or destroy a vessel in the harbour or knowingly cause or permit a vessel to be broken up, set fire to or destroyed in the harbour except with the previous written permission of the harbour master and at such a place as he shall appoint and subject to such terms and conditions as he may stipulate.

Part VI - General

Notices under byelaws

50. When any notice, declaration or report is required to be given to the harbour master under the provisions of these byelaws, such notice, declaration or report may in the event that the harbour master is absent from his office be given by leaving it at the harbour master's office or, in the case of a notice required under Byelaw 5 or a report under Byelaw 18, may be given by telephone message to the harbour office.

Penalties

51. 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 powers conferred upon him by these byelaws shall be guilty of an offence and be liable on summary conviction to a fine 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 for the offence are taken against the other person.

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 a reasonable excuse for his act or failure to act.

4) If in any case the defence provided by paragraph 3) 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.

Saving of Crown and other rights

52. Nothing in these byelaws affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing in these byelaws shall be deemed to be or shall operate as a grant of any portion of the shore or bed of the sea or river, channel, creek, bay or estuary or shall prevent the exercise thereon of any public rights or other rights legally exercisable by any person.

Revocation

53. The Brightlingsea Harbour Byelaws made by the Brightlingsea Harbour Commissioners on the 25th July 1973 and confirmed by the Secretary of State on 22nd October 1973 are hereby revoked.

GIVEN under the COMMON SEA of BRIGHTLINGSEA HARBOUR COMMISSIONERS this 18th day of January 1990.

Signed by:-

J R Fells	Assistant Secretary in the Department of Transport
B. N. Newman	Chairman, Brightlingsea Harbour Commissioners
J. R. Pitt	Clerk to the Commissioners