
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2016 No.

The Aberdeen Harbour Revision Order 2016

PART 3

HARBOUR REGULATION

Limits of harbour

15.—(1) The harbour shall comprise—

- (a) the area shown delineated in green on sheet 8;
- (b) the area shown delineated in red on sheet 9; and
- (c) that area below the level of high water within a radius of 2.3 nautical miles from Girdle Ness Lighthouse at Aberdeen (which is located at latitude 57°08.34'N and longitude 002°02.91'W) which area is shown coloured pink on sheet 10.

(2) All references in the Aberdeen Harbour Orders 1960 to 2002 to the “harbour” and the “port and harbour” shall be construed as references to the “harbour” as defined in article 2.

General byelaws

16.—(1) The Board may from time to time make byelaws for the efficient management and regulation of the harbour.

(2) Without prejudice to the generality of paragraph (1), byelaws made under this article may provide for—

- (a) regulating the use, operation and superintendence of the harbour and the berths, quays, piers, warehouses, sheds, landing places, equipment, works and conveniences (including moorings) in the harbour;
- (b) regulating the admission to, and the movement within, and the departure of vessels from, the harbour, or the removal of vessels, and for the good order and government of vessels whilst within the harbour;
- (c) regulating the shipping and unshipping, landing, warehousing, stowing, depositing and removing of goods within the harbour;
- (d) regulating the navigation, berthing and mooring of vessels within the harbour, their speed and the use of tugs within the harbour;
- (e) preventing damage or injury to any vessel, goods, vehicle, plant, machinery, property or persons within the harbour;
- (f) regulating the conduct of all persons within the harbour not being members of a police force or officers or servants of the Crown whilst in the execution of their duties;
- (g) regulating the placing and maintenance of moorings within the harbour;
- (h) preventing and removing obstructions or impediments within the harbour;

- (i) prohibiting or regulating the discharge or deposit of ballast, ashes, refuse, rubbish or other material (including any polluting liquid) in or into the harbour;
 - (j) regulating the use of ferries within the harbour;
 - (k) regulating in the harbour the use of yachts, sailing boats, sailboards, rowing boats, rowing punts, pleasure craft and other small craft;
 - (l) regulating or prohibiting the activities in the harbour of divers, surfers, water skiers and other persons engaged in similar recreational pursuits but not so as to prohibit the use for navigation of the vessels referred to in paragraph (k);
 - (m) regulating the launching of vessels within the harbour;
 - (n) prohibiting persons working or employed in or entering the harbour or any part thereof, from smoking therein;
 - (o) regulating the use of fires and lights within the harbour and within any vessel within the harbour;
 - (p) making the carrying out of specified harbour operations, or the conduct of persons in the harbour, subject to the approval (with or without conditions), control or direction of the harbour master, and for authorising the harbour master to take such action as may be reasonably required in default of compliance with any such approval, condition, control or direction; and
 - (q) the conservation of the fauna, avifauna and flora in the harbour.
- (3) Byelaws made under this article may—
- (a) provide for fines on summary conviction not exceeding level 3 on the standard scale for breach of any approval, condition, direction or requirement imposed under the byelaws;
 - (b) relate to the whole of the harbour or to any part thereof;
 - (c) make different provision for different parts of the harbour or in relation to different classes of vessels or vehicles.

Confirmation of byelaws

17.—(1) Byelaws made by the Board under this Order shall not come into operation until they have been confirmed by the Ministers.

(2) Not later than one month before an application for confirmation of byelaws is made by the Board to the Ministers, notice of the intention to apply for confirmation and of the place at which and time during which a copy of the byelaws shall be open to inspection shall be published as follows—

- (a) once in the Edinburgh Gazette;
- (b) once in each of two successive weeks in a newspaper circulating in the area in which the harbour is situated.

(3) Not later than the first date on which the notice under paragraph (2) is published, the Board shall send a copy of the notice to the Chief Executive of Aberdeen City Council and to the Ministers.

(4) For a period of at least one month before application is made for confirmation of byelaws, the Board shall keep a copy of the byelaws open to public inspection, without payment, at their principal office at all reasonable hours.

(5) The Board shall supply a copy of the byelaws or of part of the byelaws to a person on payment of such reasonable charge as the Board may determine.

(6) During the period of one month beginning with the last date of publication of any notice required by paragraph (2), any person may make, in writing to the Ministers, any objection to or representation about the byelaws to which the notice relates.

(7) The Ministers may confirm the byelaws (with or without modifications) or may refuse to confirm them.

(8) Where the Ministers propose to make a modification that appears to them to substantially affect the character of the byelaws, they shall inform the Board and require them to take any steps the Ministers consider necessary for informing persons likely to be concerned with the modification.

(9) For the purposes of paragraph (8), the Ministers shall give the Board and any person who is to be informed of a proposed modification the opportunity to make representations in writing about that proposed modification during a period determined by the Ministers and the Ministers shall take such representations into account before making a decision under paragraph (7).

(10) The Board shall—

- (a) keep a copy of confirmed byelaws open to public inspection at all reasonable hours, without payment, at the Board's principal office; and
- (b) provide a copy of the byelaws to any person on payment of such reasonable charge as the Board may determine.

General directions to vessels

18.—(1) The Board may, after consultation with the UK Chamber of Shipping, give general directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation or for the conservation of fauna, avifauna and flora in the harbour and the approaches and channels leading thereto and, without prejudice to the generality of the foregoing, for any of the following purposes—

- (a) for designating areas, routes or channels in the harbour and the approaches thereto which vessels are to use, or refrain from using, for movement or mooring;
- (b) for requiring the master of a vessel to give to the harbour master information relating to the vessel reasonably required by the harbour master for the purposes of this paragraph.

(2) Directions given under paragraph (1) may apply—

- (a) to all vessels or to a class of vessel designated, or the designation of which is provided for, in the direction; and
- (b) to the whole of the harbour and the approaches and channels leading thereto, or to a part designated, or the designation of which is provided for, in the direction; and
- (c) at all times or at times designated, or the designation of which is provided for, in the direction,

and every direction given under this article shall specify the extent of its application in relation to the matters referred to in sub-paragraphs (a) to (c).

(3) The Board may, after consultation with the UK Chamber of Shipping, revoke or amend directions given under this article.

Publication of general directions

19.—(1) Notice of the giving of a general direction and of any amendment or revocation of a general direction shall, except in case of emergency, be published by the Board as soon as practicable, once in Lloyd's List or in some other newspaper specialising in shipping news; and, if the notice relates to the giving or amendment of a general direction, the notice shall state a place at which copies may be inspected or bought and, in the latter case, the price of those copies.

(2) In an emergency, notice of the giving of a general direction or of any amendment or revocation of a general direction may be given in any manner the Board consider appropriate.

Special directions to vessels

20.—(1) The harbour master may give a special direction—

- (a) requiring a vessel anywhere within the harbour limits to comply with a requirement made in or under a general direction;
- (b) for regulating the time at which and the manner in which a vessel shall enter into, go out of, or lie in or at the harbour;
- (c) for securing that a vessel moves only at certain times or during certain periods;
- (d) prohibiting the mooring of a vessel in any particular part or parts of the harbour;
- (e) regulating or requiring the movement, mooring or unmooring of a vessel; and
- (f) regulating the manner in which a vessel takes in or discharges passengers, cargo, fuel, water, ship's stores or ballast in the harbour.

(2) A special direction may be given in any manner considered by the harbour master to be appropriate.

(3) The harbour master may revoke or amend a special direction.

Master's responsibility to be unaffected

21. The giving of a general direction or a special direction shall not diminish or in any other way affect the responsibility of the master of the vessel to which the direction is given in relation to his vessel, persons on board, its cargo or any other person or property.

Failure to comply with directions

22. The master of a vessel who fails without reasonable excuse to comply with a general direction or a special direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Enforcement of special directions

23.—(1) Without prejudice to any other remedy available to the Board, if a special direction is not complied with within a reasonable time, the harbour master may, where practicable, put persons on board the vessel to carry out the direction or may otherwise cause the vessel to be handled in accordance with the direction.

(2) If there is no one on board the vessel to comply with a special direction, the harbour master may proceed as if the direction had been given and not complied with; but he shall not do so unless, after reasonable inquiry has been made, the master cannot be found.

(3) Expenses incurred in the exercise of the powers conferred by this article shall be recoverable by the Board from the owner of the vessel.