

SCHEDULE 1

REGULATION OF THE HARBOUR AND THE HARBOUR PREMISES

PART V: GENERAL

Inspection facilities, etc., to be made available to harbour master

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

Navigation under influence of drink or drugs prohibited

40. No person shall 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.

Vessels not to be fumigated without permission

41. The master or owner of a vessel shall not cause or permit it to be fumigated without the prior permission of the harbour master.

Discharges into harbour prohibited

42.—(1) No person shall discharge any matter or cause or permit any matter to be discharged into the waters or on to the bed of the harbour or place or cause or permit any matter or object to be placed so that it may fall, be blown, drift or flow into the harbour.

(2) The provisions of this paragraph shall not apply to—

- (a) the discharge or escape of any substance the discharge or escape of which is subject to the provisions of the Prevention of Oil Pollution Act 1971(1);
- (b) anything specifically authorised by, or by a consent given under, any other enactment.

Fishing

43.—(1) Any person fishing in the harbour shall comply with directions given to him by the harbour master.

(2) Subject to sub-paragraphs (4) and (5) below, no person shall fish—

- (a) in the main fairways;
- (b) in the controlled area;
- (c) within 150 metres of the harbour premises;
- (d) by trawl, nets or dredges within 100 metres of the line of any cable or pipe laid down in the harbour; and
- (e) with surface nets in the inner harbour, except with the written permission of the harbour master.

(1) 1971 c. 60.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (3) No person shall fish in Newton's Cove—
- (a) by trawl or dredges, west of a line drawn due north from "C" Head to the northern limit of the harbour; or
 - (b) by nets west of a line drawn 026° (true) from Torpedo Pier Light to the northern limit of the harbour.
- (4) With the written permission of the harbour master a person may lay and lift prawn and lobster pots at the following locations—
- (a) on and within 150 metres of the seaward side of the Inner Breakwater;
 - (b) on and within 150 metres of the seaward side of the Outer Breakwater;
 - (c) on and within 150 metres of the landward side of the Outer Breakwater between Beacon E and the South Ship Channel but excluding any area for the time being marked by buoys as set aside for a fish farm;
 - (d) on and within 150 metres of the North-eastern Breakwater and the Northern Arm; and
 - (e) within 150 metres of the harbour premises lying to the south of the Inner Breakwater.
- (5) With the written permission of the harbour master a person may lay and lift prawn pots on and within 10 metres of the landward side of the Outer Breakwater between Beacon E and the southern side of the jetty at Fort Head, but excluding any area for the time being marked by buoys as set aside for a fish farm.
- (6) 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 property including in particular, but without prejudice to the generality of the foregoing, any vessel or mooring.
- (7) All surface set nets and such other apparatus and equipment which could impede surface navigation in the harbour shall be attended at all times.
- (8) All markers used to indicate the position of fishing equipment shall be clearly marked with either the owner's name or boat registration number.

No dragging or grappling without permission

44. Without prejudice to paragraph 27 above, no person shall drag, dredge 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 from a vessel.

Vessels to have names marked on them

45. The owner of a vessel which is not registered as a ship under Part II of the Merchant Shipping Act 1995 and marked accordingly shall ensure that the vessel is marked conspicuously with its name or other means of identification and harbour of origin (if any) unless exempted from this requirement by the Company.

Abandonment of vessels prohibited

46.—(1) No person shall abandon a vessel on the banks or shore of the harbour or on any of the breakwaters.

(2) For the purposes of sub-paragraph (1) above, a person who leaves a vessel on the banks or shore of the harbour or on any of the breakwaters in such circumstances or for such 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.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Water-skiing, aquaplaning and similar activities

47.—(1) No person shall engage or take part in water-skiing, aquaplaning or any similar activity—

- (a) in the main fairways;
- (b) within 150 metres of the breakwaters;
- (c) south of a line drawn between Beacon E and a point on the shore at Latitude 50° 34.22' N, Longitude 002° 27.5' W (the Lattice Tower);
- (d) in the area west of lines drawn 127° (true) and 028° (true) from the light structure (New Channel Beacon) situated at Latitude 50° 34.87' N and Longitude 002° 27.61' W; and
- (e) in Newton's Cove, west of a line starting at a point on the northern side of the Northern Arm 1,120 metres from the eastern extremity of "C" Head and drawn 028° (true) to the northern limit of the harbour.

(2) Without prejudice to sub-paragraph (1) above, no person shall engage or take part within the harbour in water-skiing, aquaplaning or any similar activity except in areas designated by the Company and with the written permission of the harbour master, given either specifically or generally, and subject to such other reasonable terms and conditions as the harbour master may specify.

(3) A master of a vessel, whilst using the 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 such 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 or being towed a life jacket or a personal buoyancy aid;
- (b) two hand-held distress signals and a fire extinguisher; and
- (c) for each person water-skiing or aquaplaning, a rescue quoit with line or other sufficient hand-thrown rescue device.

Para-kiting, para-scending and similar activities

48. No person shall engage or take part in para-kiting, para-scending or any similar activity in any part of the harbour except with the written permission of the Company given either specifically or generally and only in such areas as may be designated by the Company and in accordance with such reasonable terms and conditions as the Company may impose.

Diving and underwater swimming

49.—(1) Subject to sub-paragraph (2) below, no person, other than a duly authorised employee, contractor or agent of the Company, shall swim underwater or dive in the areas specified in paragraph 43(2)(a), (b) and (c) above.

(2) With the written permission of the Company a person may dive and swim underwater—

- (a) seawards from the seaward side of the Inner Breakwater (including the South Ship Channel entrance);
- (b) seawards from the seaward side of the Outer Breakwater but remaining clear of the main fairway concerned;
- (c) within 50 metres of the landward side of the Outer Breakwater but remaining clear of the main fairway concerned for the purpose of diving on the wreck adjacent to Beacon E, commonly known as the "Enecuri" or "Spaniard"; and

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (d) on the wrecks along the landward side of the Outer Breakwater between Beacon E and “D” Head.
- (3) An application for permission to dive the wrecks mentioned in sub-paragraph (2)(d) above shall be made at least 2 working days before the day on which it is desired to carry out the dive in question and the permission, if given, shall relate to that particular dive alone.
- (a) (4) (a) Subject to (b) below, the Company shall only give permission to dive and swim underwater for the purposes of sub-paragraph (2) above to a person who is a member of a club or association which is either a registered branch of the British Sub-Aqua Club, a registered club of the Sub-Aqua Association, a Professional Association of Diving Instructors registered diving school or a member of any other recognised and competent organisation.
- (b) Permission for the purposes of sub-paragraph (2) above may be given by the Company to a club or association mentioned in (a) above for the benefit of those of its members specified in the permission.
- (5) Permission given under the said sub-paragraph to dive or swim underwater shall not authorise any person to land or set foot on the Inner Breakwater or the Outer Breakwater.
- (6) Any permission granted under the said sub-paragraph may be given subject to such reasonable terms and conditions (including as to the payment of charges) as the Company may consider appropriate, and any person diving or swimming underwater in the harbour shall comply with any such terms and conditions that are imposed, and with any directions given to him by the harbour master.

Regattas, races and similar events

- 50.**—(1) The person responsible for organising any regatta, race, procession, pageant or any other similar event, or any part of any such event in which a number of vessels is expected to participate or to assemble within the harbour, shall supply to the harbour master such information with regard to the event as the harbour master may reasonably require and shall seek the prior consent of the harbour master to the holding of the event or the part of such event within the harbour, which shall not be unreasonably withheld.
- (2) No person shall organise or conduct any of the events referred to in sub-paragraph (1) above except on such courses, at such times and in accordance with such other conditions as the harbour master may reasonably specify for the purposes of this paragraph.

Aids to navigation

- 51.** No person shall erect, exhibit, alter, tamper with or remove any light, fog signal, buoy, beacon, mark, radar reflector or other object within or adjoining the harbour used as an aid to navigation in the harbour without the written permission of the Company.

Assistance to fire and other services

- 52.** 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

- 53.** The master of a vessel shall take all reasonable precautions for the prevention of accidental fire or accidents by fire.

Obstruction of officers of the Company

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

Meetings

55.—(1) Except with the consent of the harbour master, no person shall within the harbour premises—

- (a) take part in any general meeting; or
- (b) gather together with other persons, or deliver any address to an audience,

whereby any work or business at the harbour or the control, management or use of the harbour is, or likely to be, obstructed, impeded or hindered.

(2) This paragraph shall not apply to any meeting held for the purposes of, or in connection with requirements under, the Health and Safety at Work etc. Act 1974⁽²⁾ or any regulations made under that Act.

Unauthorised trading prohibited

56. No person shall engage by way of trade, in buying or selling any goods or property in the harbour premises without the written consent of the Company.

Landing on breakwaters

57. No person may at any time land on the breakwaters except with the permission in writing of the harbour master and in accordance with any conditions attached thereto.

Firearms

58.—(1) Except with the prior consent of the harbour master no firearm or air-gun shall be discharged from any vessel within the harbour or from the harbour premises otherwise than by a member of a police force or a member of Her Majesty's naval or military forces properly authorised to do so in the course of his duty.

(2) No ship's gun on board any vessel lying within the harbour shall be loaded, except in so far as may be necessary from time to time for training personnel in the loading and unloading of the gun or for testing its mechanism, nor shall any such gun be discharged except as a signal of distress.

Silencers

59. No person, being the master of a vessel propelled by an internal combustion engine, shall use that vessel in the harbour unless the engine is fitted with a silencer or such other apparatus suitable and sufficient for reducing as far as may be reasonable the noise caused by the escape of the exhaust gases from the engine.

Penalties

60.—(1) Any person who contravenes or otherwise fails to comply with any of the provisions of this Schedule, or any condition, requirement or prohibition imposed by the Company or the harbour

(2) 1974 c. 37.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

master in the exercise of the powers conferred upon them or him by this Schedule, shall be guilty of an offence and liable on summary conviction—

- (a) to a fine not exceeding level 4 on the standard scale in the case of an offence under paragraph 40 above;
- (b) to a fine not exceeding level 3 on the standard scale in any other case.

(2) Where the commission by any person of an offence under this Schedule 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 paragraph, whether or not proceedings for the offence are taken against any other person.

(3) In any proceedings for an offence under this Schedule, 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 sub-paragraph (3)(a) above 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 Company a notice in writing giving such information identifying, or assisting in the identification of, that person as was then in his possession.