

SCHEDULE 2

PROTECTIVE PROVISIONS

PART IV:

GENERAL PROVISIONS

Marking prohibited, restricted and constrained areas

12. The Secretary of State for Defence may with the approval of the Trinity House erect or place, maintain, renew, alter, discontinue or remove such lights, buoys, beacons or other marks (and any structure required to house the same) and take such other steps as may be necessary for the purpose of indicating to vessels or persons using the harbour the extent of the various areas referred to in this Schedule where activities of those vessels or persons are prohibited, restricted or constrained.

Enforcement

13.—(1) The Secretary of State for Defence may provide and use in the harbour such vessels as are necessary and appropriate to secure compliance by persons using the harbour with the provisions of this Schedule, but all such vessels and the masters thereof shall be subject to any general or special direction given by the Company or the harbour master.

(2) The Secretary of State for Defence shall have power to institute criminal proceedings against any person alleged to have contravened any provision of this Schedule.

Consents and directions

14. Consents and directions given by the Secretary of State for Defence under this Schedule may be subject to such terms and conditions as he considers necessary and appropriate.

Penalties

15.—(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 Secretary of State for Defence in the exercise of the powers conferred upon him by this Schedule, shall be guilty of an offence and shall 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 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

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seven clear days before the hearing, he has served on the Secretary of State for Defence a notice in writing giving such information identifying, or assisting in the identification of, that person as was then in his possession.

Cessation

16.—(1) Part I of this Schedule shall cease to apply upon the cessation of use of the North-eastern Breakwater and the Northern Arm for defence research purposes by the Defence Evaluation and Research Agency or its successors and the occurrence of either of the events specified in sub-paragraph (4) below.

(2) Part II of this Schedule shall cease to apply upon the cessation of use of the areas and ranges specified in paragraph 5(1) above for defence research purposes by the said Agency or its successors.

(3) Part III of this Schedule shall cease to apply upon closure of the Royal Naval Air Station, Portland and, thereafter, the occurrence of either of the events specified in sub-paragraph (4) below.

(4) The events mentioned in sub-paragraphs (1) and (3) above are, in relation to Part I or Part III of this Schedule, as the case may be—

- (a) the coming into force of byelaws made by the Company under article 15 of this Order declared to be in substitution for some or all of the provisions of that Part; or
- (b) the first publication in accordance with sub-paragraph (5) below of a declaration by the Company that they do not intend to make any byelaws in substitution therefor.

(5) A declaration made in the terms referred to in sub-paragraph(4)(b) above shall be published by the Company in the London Gazette and in a newspaper circulating in the locality of the harbour.