

SCHEDULES

SCHEDULE 2

REGULATION OF THE ESTUARY

PART 4

GENERAL

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

24. The master of a vessel must, so far as may be required by the harbour master in the exercise of the harbour master's duties, afford the harbour master access to the vessel or any part of it and provide all reasonable facilities for its inspection and examination.

Navigation under influence of drink or drugs prohibited

25.—(1) This paragraph applies to a person who—

- (a) is on board a ship which is under way,
- (b) is exercising, or purporting to exercise, a function in connection with the navigation of the ship, and
- (c) is not a person to whom section 78 or 79 (offences committed by professional staff on-duty and professional staff off-duty) of the 2003 Act applies.

(2) A person to whom this paragraph applies commits an offence if that person's ability to exercise the function mentioned in sub-paragraph (1)(b) is impaired because of drink or drugs.

(3) A person to whom this paragraph applies commits an offence if the proportion of alcohol in that person's breath, blood or urine exceeds the limit prescribed for the purposes of Part 4 (Shipping: alcohol and drugs) of the 2003 Act.

(4) In this paragraph, "the 2003 Act" means the Railway and Transport Safety Act 2003(1).

(5) This paragraph ceases to have effect on the date that section 80 (offences committed by non-professionals) of the 2003 Act comes into force.

Vessels not to be fumigated without permission

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

Discharges into estuary prohibited

27.—(1) A person must not discharge any matter or cause or permit any matter to be discharged into the waters or on to the bed of the estuary 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 estuary.

(2) The provisions of this paragraph do 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(2);

(1) 2003 c. 20.

(2) 1971 c. 60.

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- (b) anything specifically authorised by or exempted from any other enactment, or authorised by a consent given under, any other enactment.

Fishing

28.—(1) A person fishing in the estuary must comply with directions given to that person by the harbour master.

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

- (a) in the channels in contravention of a direction of the harbour master; or
- (b) by trawl, nets or dredges within 100 metres of the line of any cable or pipe laid down in the estuary.

(3) A person must not 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 any vessel or mooring.

(4) All surface set nets and such other apparatus and equipment which could impede surface navigation in the estuary must be attended at all times.

(5) All markers used to indicate the position of fishing equipment must be clearly marked with either the owner's name or boat registration number.

No dragging or grappling without permission

29. Without prejudice to paragraph 23 (lost anchor, cable or propeller), a person must not—

- (a) drag, dredge or grapple for any material or article, or
- (b) remove any material or article from the bed of the estuary,

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

30. The owner of a vessel greater than 10 metres in length which is not registered as a ship under Part II of the 1995 Act and marked accordingly must ensure that the vessel is marked conspicuously with its name or other means of identification and harbour of origin (if any).

Abandonment of vessels prohibited

31.—(1) A person must not abandon a vessel on the banks or shore of the estuary.

(2) For the purposes of sub-paragraph (1), a person who leaves a vessel on the banks or shore of the estuary in such circumstances or for such period that the person may reasonably be assumed to have abandoned it, is deemed to have abandoned it there unless the contrary intention is shown.

Water-skiing, aquaplaning and similar activities

32.—(1) A person must not engage or take part in water-skiing, aquaplaning or any similar activity in the main channels.

(2) Without prejudice to sub-paragraph (1), a person must not engage or take part within the estuary in water-skiing, aquaplaning or any similar activity except—

- (a) with the written permission of the harbour master given either specifically or generally,
- (b) only in such areas as may be designated by the conservancy authority, and
- (c) in accordance with such 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, must 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 must 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.

Parakiting, parascending and similar activities

33. A person must not engage or take part in parakiting, parascending or any similar activity in any part of the estuary except—

- (a) with the written permission of the harbour master given either specifically or generally,
- (b) only in such areas as may be designated by the conservancy authority, and
- (c) in accordance with such reasonable terms and conditions as the harbour master may specify.

Diving and underwater swimming

34.—(1) Subject to sub-paragraph (2), a person, other than a duly authorised employee, contractor or agent of the conservancy authority, must not swim underwater or dive in the channels without the written permission of the harbour master.

(2) Sub-paragraph (1) does not apply to persons swimming underwater or diving for the purposes of undertaking repairs to recreational vessels or clearing obstructions to recreational vessels and their anchors.

(3) Subject to sub-paragraph (4), the conservancy authority may only give permission to dive and swim underwater under sub-paragraph (1) to a person who is—

- (a) a member of a club or association which is either—
 - (i) a registered branch of the British Sub-Aqua Club,
 - (ii) a registered club of the Sub-Aqua Association,
 - (iii) a Professional Association of Diving Instructors registered diving school, or
- (b) a member of any other recognised and competent organisation.

(4) Permission for the purposes of sub-paragraph (1) may be given by the conservancy authority to a club or association mentioned in sub-paragraph (3) for the benefit of those of its members specified in the permission.

(5) Any permission granted under sub-paragraph (1) may be given subject to such reasonable terms and conditions, including as to the payment of charges, as the harbour master may consider appropriate.

(6) Any person diving or swimming underwater in the channels must comply with—

- (a) any terms and conditions that are imposed on that person, and
- (b) any directions given to that person,

by the harbour master.

Regattas, races and similar events

35.—(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 estuary, must—

- (a) supply to the harbour master such information with regard to the event as the harbour master may reasonably require,
- (b) seek the prior consent of the harbour master to the holding of the event or the part of such event within the estuary, which consent must not be unreasonably withheld.

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(2) A person must not organise or conduct any of the events referred to in sub-paragraph (1) except—

- (a) on such courses,
- (b) at such times, and
- (c) in accordance with such other conditions,

as the harbour master may reasonably specify for the purposes of this paragraph.

Aids to navigation

36.—(1) A person must not—

- (a) erect,
- (b) exhibit,
- (c) alter,
- (d) tamper with, or
- (e) remove,

any of the items mentioned in sub-paragraph (2) without the written permission of the conservancy authority.

(2) The items referred to in sub-paragraph (1) include any—

- (a) light,
- (b) fog signal,
- (c) buoy,
- (d) beacon,
- (e) mark,
- (f) radar reflector, or
- (g) other object,

within or adjoining the estuary which is used as an aid to navigation in the estuary.

Assistance to fire and other services

37. The master of a vessel must 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

38. The master of a vessel must take all reasonable precautions for the prevention of accidental fire or accidents by fire.

Obstruction of officers of the conservancy authority

39. A person must not intentionally obstruct any officer or employee of the conservancy authority in the execution of that officer's or employee's duties.

Firearms

40.—(1) Except with the prior consent of the harbour master, a firearm or air-gun must not be discharged from any vessel within the estuary otherwise than by—

- (a) a member of a police force, or
- (b) a member of Her Majesty's naval or military forces,

properly authorised to do so in the course of that member's duty.

(2) A ship's gun on board any vessel lying within the estuary must not 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.

(3) The gun mentioned in sub-paragraph (2) must not be discharged except as a signal of distress.
Silencers

41. A person, being the master of a vessel propelled by an internal combustion engine, must not use that vessel in the estuary unless the engine is fitted with 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

42.—(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 conservancy authority or the harbour master in the exercise of the powers conferred upon the authority or harbour master by this Schedule, is 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 26 (vessels not to be fumigated without permission);
- (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 is guilty of an offence.

(3) The other person referred to in sub-paragraph (2) 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.

(4) In any proceedings for an offence under this Schedule, it is a defence for the person charged to prove—

- (a) that the person took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence; or
- (b) that the person had a reasonable excuse for the act or failure to act alleged to constitute the offence.

(5) If, in any case, the defence provided by sub-paragraph (4)(a) involves the allegation that the commission of the offence was due to the act or default of another person, the person charged is not, without leave of the court, entitled to rely on that defence unless that person satisfies the condition set out in sub-paragraph (6).

(6) The condition referred to in sub-paragraph (5) is that within a period ending seven clear days before the hearing, the person must serve on the conservancy authority a notice in writing giving such information identifying, or assisting in the identification of, the other person as is in the possession of the person charged.