



Folkestone Harbour Act 1992

1992 CHAPTER vi

PART III

MISCELLANEOUS AND GENERAL

19 For protection of Folkestone Fishermen's Association, Folkestone Yacht and Motor Boat Club and Royal Yachting Association

For the protection of the Folkestone Fishermen's Association ("the Association"), the Folkestone Yacht and Motor Boat Club ("the Club") and the Royal Yachting Association ("the RYA") the following provisions shall have effect, unless otherwise agreed in writing between the Company and the Association (in the case of paragraphs (1) (a), (2) (a), (3), (4) (a), (9) to (14), (17) and (18) below), between the Company and the Club (in the case of paragraphs (1) (b), (2) (b), (3), (4) (b) and (5) to (18) below), or between the Company and the RYA (in the case of paragraphs (14) to (16) and (18) below):—

- (1) The Company shall each year offer to grant—
- (a) not fewer than 25 annual mooring licences to members of the Association; and
 - (b) not fewer than 36 annual mooring licences to such members of the Club as the Club may determine;

such licences to be for such type or types of moorings as the Company may determine:

- (2) During the construction of the works the Company shall continue to offer in accordance with paragraph (1) above—
- (a) facilities for mooring 25 fishing vessels to members of the Association; and
 - (b) facilities for mooring 36 pleasure craft (being yachts and motor vessels) to members of the Club;

albeit in either case if necessary in different locations in the harbour than those existing at the date of the passing of this Act; and during the construction of those works the Company shall continue to maintain facilities for the supply of fresh water for the filling of vessel water tanks:

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- (3) The Company shall be responsible for moving any mooring sinkers or, as the case may be, laying temporary mooring sinkers, in connection with the discharge of its duties under paragraph (2) above:
- (4) The Company shall use its reasonable endeavours to ensure that—
 - (a) so far as is practicable the moorings occupied by members of the Association from time to time are located in the north-eastern part of the harbour; and
 - (b) so far as is practicable (having regard to the overall requirements of persons wishing to use the harbour), the moorings occupied by members of the Club from time to time are reasonably contiguous:
- (5) Without prejudice to paragraph (1) above, the licences which the Company is required to offer to grant to members of the Club under sub-paragraph (b) thereof shall be for moorings for such sizes of vessel as the Club may reasonably request, having regard to the fact that the Club represents the interests of the owners of yachts and the owners of motor boats:
- (6) The Company shall re-locate the existing ladder on the west face of the harbour (or provide a substitute therefor) so as to ensure that there is access by ladder to the harbour at all times during and after construction of the works:
- (7) In the event of the Company constructing Work No. 2 in such a manner as to necessitate the removal of the existing slipway near the existing Fish Market before Work No. 4 becomes operational, then provided that the Company obtains all relevant planning consents (which it shall use its reasonable endeavours to obtain), the Company shall in connection with Work No. 2 construct a temporary slipway to be located as near as possible to the site of the existing slipway and that temporary slipway—
 - (a) shall be suitable for the launching and recovery of dinghies including those on road trailers; and
 - (b) shall be capable of accommodating any goods vehicle having a maximum laden weight not exceeding 3 tonnes in connection with the loading of fish for commercial purposes and the transportation of commercial fishing gear;and shall be made available by the Company on the same basis as the existing slipway until such time as Work No. 4 becomes operational:
- (8) The Company shall use its reasonable endeavours to ensure that the temporary slipway becomes operational as soon as practicable after the existing slipway has been removed:
- (9) Subject to paragraph (10) below, upon the completion of Work No. 4 the Company shall make it available for use by the public on such terms and conditions (including the payment of reasonable charges) as the Company thinks fit for the purpose of launching and recovering vessels and the Company shall provide reasonable facilities adjacent to Work No. 4 for the scrubbing, anti-fouling and maintenance of vessels belonging to members of the Association or of the Club by such members or their appointees (on such terms and conditions as aforesaid save that the use for such activities shall not be the subject of a separate charge):
- (10) The Company shall not levy a separate charge for the use of Work No. 4 for the launching and retrieving of vessels by any member of the Association or of the Club who has for the time being an annual mooring licence issued by the Company, and any charge for the use of that work by such a person shall be incorporated in the charge made for the use of his mooring:

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- (11) Subject to paragraph (12) below, paragraphs (2) to (4) of section 18 (For protection of Shepway District Council) shall (with the exception of the proviso to the said paragraph (4)) apply in relation to the Association and the Club as they apply in relation to the District Council of Shepway (hereinafter referred to as “the Council”):
- (12) In the event of the Council agreeing with the Company that the Company may construct any part of Work No. 1 in addition to that shown hatched red on the signed plan or permitted by paragraph (3) of the said section 18 (For protection of Shepway District Council) without a lock at the entrance to the harbour having first been constructed and brought into operation, the Company—
- (a) shall submit to the Association and the Club details of the steps it proposes to take in order to avoid or minimise the effects of turbulence upon the mooring of vessels in the harbour in consequence of that construction or, as the case may be, an explanation of the reasons why no such steps are considered to be necessary, for the consideration and approval of the Association and the Club, such approval not to be unreasonably withheld or delayed; and
 - (b) shall not construct the part of Work No. 1 in question unless the Company has taken all such steps (if any) as have been—
 - (i) approved by the Association and the Club under sub-paragraph (a) above; or
 - (ii) determined by the arbitrator under paragraph (18) below; as necessary in order to ensure that turbulence in the harbour will not be significantly worse (as regards its effects upon the mooring of vessels) following construction of that part than that generally prevailing at the date of the passing of this Act:
- (13) Without prejudice to paragraphs (11) and (12) above, in the event of the Company exercising its powers under subsection (2) of section 6 (Powers as to dredging and moorings) of this Act in order to construct pontoon moorings, the Company shall take all such steps as may be reasonably necessary in order to ensure that those moorings are not subjected to such turbulence as would be likely to cause injury to any person using such a mooring or damage to any vessel at such a mooring:
- (14) Notwithstanding anything contained in this Act the Company shall not have power to charge more than a reasonable fee for the use of any mooring provided under subsection (2) of the said section 6:
- (15) The Company shall ensure that the person in charge of any vessel having a mooring in the harbour which is accessible from the sea only by passing under a bridge constructed by the Company in pursuance of this Act shall be entitled (except in an emergency) to call for that bridge to be raised on demand in order to enable that vessel to pass thereunder in either direction:
- Provided that if there is more than one such bridge the Company shall determine which bridge is to be so raised and shall be entitled to complete the operating sequence of any lock which may be constructed at the entrance to the harbour before attending to raise such bridge:
- (16) In the event of the Company exercising its powers under subsection (2) of the said section 6 in order to construct pontoon moorings, the Company shall use its reasonable endeavours to ensure that certain of those moorings are available on a temporary basis for yachts visiting the harbour from elsewhere and that such facilities for visiting yachts are reasonably adequate to meet the anticipated demand from time to time

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arising; and, without prejudice to the generality of the foregoing, the Company may provide such facilities by reserving rights to make use of moorings held under annual licence which are temporarily unoccupied by the licence-holders:

- (17) (a) The Company shall not construct Work No. 2 so that any part of the southern face thereof extends more than 7 metres from the centre line of that work as shown on the deposited plans: Provided that the Company may construct in connection with Work No. 2 the temporary slipway referred to in paragraph (7) above and a vehicle turning area having a width of not more than 25 metres;
- (b) Not more than a total of 7 metres of the length of Work No. 2 (viewed horizontally in section) shall be constructed to a height which is the same or greater than that of The Stade:
- (18) Any difference arising between the Company, the Association, the RYA or the Club under this section (otherwise than a difference as to the meaning or construction of this section or the reasonableness of charges made by the Company) shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of any party (after notice in writing to the others) by the President of the Royal Institution of Chartered Surveyors.