

PERTH AND KINROSS COUNCIL

PERTH HARBOUR BYELAWS 2002

Perth and Kinross Council in exercise of the powers conferred on it by Section 83 of the Harbour Docks and Piers Clauses Act 1847 C.27 as incorporated into the Perth Burgh and Harbour Act 1856 (CXXXVIII) and Section 201 of the Local Government (Scotland) Act 1973 C.65 as amended by the Civic Government (Scotland) Act 1982 (C.45), and of all other powers enabling it in that behalf, hereby makes the following byelaws:-

PART I - PRELIMINARY

Title and Commencement

1. These byelaws may be cited as the Perth Harbour Byelaws 2002 and shall come into operation on the expiration of 28 days from the date of confirmation thereof by the Scottish Ministers.

Application

2. These byelaws shall apply to the harbour area and port limits as defined in byelaw 3 hereof.

Interpretation

3. In these byelaws, unless the context otherwise requires, the following words or expressions have the meanings hereby respectively assigned to them:

“the Authority” means Perth and Kinross Council and their successors;

“berthed” when used in relation to a vessel means secured to a pier, quay, jetty, wall, bank, pontoon, stage or dolphin, or to any other vessel so secured;

“competent person” means an individual who possesses such qualification, training or experience that he is competent to perform the duties required of him;

“diving operations” means commercial diving operations;

“fairway” means any navigable channel within the port limits which is marked, dredged or maintained as such by the Authority;

“goods” means all articles and merchandise of every description and includes fish, livestock and animals;

“harbour area” means that part of the port limits within which the Authority for the time being exercises jurisdiction as a harbour area authority and includes any harbour area premises adjacent thereto being the area within a line drawn from/

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from the seaward end of Berth Number 6 at the Lower Harbour and the outfall beacon on the west bank of the River Tay at the seaward end of the Lower Harbour, all as shown partly coloured orange and partly hatched and delineated in black on the plan marked "Plan Number 1" annexed and signed as relative hereto;

"the harbour master" means the person appointed as such by the Authority and includes deputies, assistants and any other person for the time being authorised by the Authority to act, either generally or for a specific purpose, in the capacity of harbour master;

"the harbour area premises" means the docks, quays, jetties, stages and all other works, lands and buildings for the time being vested in or occupied or administered by the Authority as harbour area authority all as shown hatched and delineated in black on the plan marked "Plan Number 1" annexed and signed as relative hereto;

"hovercraft" means a vehicle which is designed to be supported when in motion wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the ground, water or other surface beneath the vehicle;

"jet craft" means any watercraft (not normally used in navigation and not being a structure which by reason of its concave shape provides buoyancy for the carriage of persons or goods) propelled by a jet engine or other mechanical means of propulsion and steered either-

- (a) by means of a handlebar linkage system (with or without a rudder at the stern); or
- (b) by the person or persons riding the craft using his or their body weight for purpose; or
- (c) by a combination of the methods referred to respectively in (a) and (b) above;

"machinery" means all cranes, weighing machines, plant and equipment which belong to or are leased by the Authority in its capacity as harbour area authority or which belong to third parties and which are located at the harbour area premises with the permission of the harbour master;

"master" when used in relation to any vessel means any person having the command, charge or management of vessel for the time being;

"moored" when used in relation to a vessel, means any vessel-

- (a)/

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- (a) made fast to a mooring chain or mooring buoy either ahead or astern or both at mooring which is assigned by the harbour master for that purpose; or
- (b) made fast against any other vessel so made fast; or
- (c) made fast both ahead and astern by anchor in a position which has been approved by the harbour master;

“mooring” includes anchoring;

“owner” -

- (a) when used in relation to goods includes any consignor, consignee, shipper or agent for the sale, receipt, custody or unloading or clearance of those goods and includes any other person in charge of the goods and his agent in relation thereto;
- (b) when used in relation to a vessel includes any part owner, broker, charterer agent or mortgagee in possession of the vessel or other person or persons entitled for the time being to possession of the vessel; and
- (c) when used in relation to a vehicle includes any part owner or agent or person having charge of the vehicle for the time being;

“port limits” means the watery area between a line drawn from a point on the southside of the River Tay immediately above the junction with the River Earn to a point on the northside of the River Tay to a line across the eastern arm of the River Tay from the southeast corner of Moncrieffe Island to the north bank of the River and an east/west line immediately upstream of the limestone quay together with the “harbour area” all being the areas shown delineated in black and coloured green on the plan marked “Plan Number 2” annexed and signed as relative hereto;

“quay” means any quay, wharf, jetty, dolphin, landing stage or other structure used for berthing or mooring vessels, and includes any pier, bridge, roadway or footway immediately adjacent and affording access thereto;

“sail board” means a raft with a sail or sails designed to be operated by a person or persons standing upright thereon;

“sailing vessel” means a vessel designed to carry sail, whether as the sole or as a primary or supplementary means of propulsion;

“small vessel” means any vessel of less than 12 metres in length and includes a/

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a vessel or craft used to tow water skiers or for other recreational use;

“vehicle” includes any vehicle propelled on rails, any machinery on wheels or caterpillar tracks, caravans and mobile homes and includes a hovercraft or any other amphibious vehicle;

“vessel” means a ship, boat, raft, sailing vessel or water craft of any description and includes non-displacement craft, seaplanes and any other thing constructed or adapted for floating on or being submerged in water (whether permanently or temporarily) and a hovercraft or any other amphibious vehicle.

PART II - NAVIGATION

Vessel movements

4. The master of a vessel shall give prior notice to the harbour master of the vessel's arrival at, departure from or movement within, the harbour area.

Declaration of particulars or vessel

5. The master of a vessel arriving at the harbour area shall, if required by the harbour master, furnish to him a declaration in the form to be obtained by him containing a correct statement of the tonnage and draught of the vessel, its last port of call, ownership and destination, and particulars of the cargo.

Vessels to navigate with care

6. The master shall navigate his vessel with such care and caution and at such speed and in such a manner as not to endanger the lives of or cause injury to persons or damage to property and as not to obstruct or prejudice the navigation, manoeuvring, loading or discharge of vessels or cause unnecessary damage to moorings, river banks or other property.

Speed limits

7. (1) Except in an emergency, the master of a vessel, other than a small vessel, navigating within the port limits, under exception of the harbour area, shall not, subject to the requirements of maintaining adequate steerage way and control, proceed at a speed in excess of 10 knots through the water.

(2) The master of a vessel navigating within the harbour area shall not proceed at a speed in excess of 3 knots through the water.

Small/

PAGE FIFTH

Small vessel not to obstruct fairway

8. The master of a small vessel which is not confined to a fairway shall not obstruct, endanger or otherwise impede other vessels which can navigate only within the fairway.

Vessels not to be made fast to navigation buoys or marks

9. The master of a vessel shall not make fast his vessel or lie against any buoy, beacon or mark used for navigation purposes.

Notification of collisions, etc

10. The master of a vessel which -

- (a) has been involved in a collision with any vessel or property, or has been sunk or grounded or become stranded within the port limits; or
- (b) by reason of accident, fire, defect or otherwise is in such condition as to affect its safe navigation or to give rise to danger to other vessels or property; or
- (c) in any manner gives rise to an obstruction to a fairway;
- (d) has discharged any pollutant or noxious substance; or
- (e) has jettisoned or lost any object which potentially obstructs the fairway; or
- (f) has experienced a "near miss" would could have resulted in any of the incidents in (a) to (e) above or any other incident with potentially serious consequences

shall as soon as reasonably practicable report the occurrence to the harbour master (and as soon as practicable thereafter) provide the harbour master with full details in writing and where the damage to the vessel is such as to affect or likely to affect its seaworthiness the master shall not move the vessel except to clear the fairway or to moor or anchor in safety, otherwise than with the permission and in accordance with the directions of the harbour master.

PART III – BERTHING, MOORING AND ANCHORING OF VESSELS

11. (1) The master of a vessel within port limits shall at all times keep his vessel properly and effectively moored when berthed or lying at any quay or mooring. Any vessel anchored within port limits shall be moored effectively so as to avoid danger to itself and obstruction to other vessels. A proper anchor watch shall be kept where appropriate to/

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to the conditions and the size of the vessel.

- (2) In general, no vessel with freeboard of less than 2 metres shall be moored at quays within the harbour area, except by prior consultation with and express approval from the harbour master.

Provision of proper fenders

12. The master and the owner of a vessel shall ensure that it is provided with a sufficient number of fenders adequate for the size of their vessel and, when berthing and leaving or lying at a quay or against other vessels, the master shall cause the vessel to be fended off from that quay, or those vessels so as to prevent damage to that quay, those other vessels or any other property.

Vessels to have name marked on

13. The owner of any vessel which is not registered as a ship under the Merchant Shipping (Regulations, Etc.) Act 1993, and marked accordingly shall ensure that the vessel is marked conspicuously with its name or other means of identification.

Access to and egress from vessels

14. The master and the owner (other than of a small vessel) while berthed alongside a quay shall provide and maintain a sufficient and proper gangway for the access and egress of all persons having lawful business on the vessel.

Sufficiency of crew

15. Except with the permission of the harbour master, the master of a vessel shall at all times when his vessel is within the harbour area ensure that his vessel is capable of being safely moored and navigated and that there are sufficient crew or other competent persons readily available -

- (a) to attend to his vessel's moorings;
- (b) to comply with any directions given by the harbour master for the unmooring, mooring and moving of his vessel; and
- (c) to deal, so far as reasonably practicable, with any emergency that may arise.

Vessels to be kept in a moveable condition within the harbour area

16. (1) The master of a vessel shall not, within the harbour area, except where his vessel is lying aground, take any steps to render his vessel incapable/

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incapable of movement without first notifying the harbour master and, subject as aforesaid, shall at all times keep his vessel so loaded and ballasted and in such condition that it is capable of being safely moved.

- (2) Where a vessel is at any time not capable of being safely moved by means of its own propulsive machinery, the master or owner shall as soon as is reasonably practicable inform the harbour master forthwith and give to him any further information which the harbour master may reasonably require.

Use of engines while vessel is moored

17. The master of a vessel which is moored at a quay or attached to any mooring device shall not permit the engines of his vessel to be worked in such a manner as to cause unnecessary injury or damage to the bed or banks of the harbour area or to any other vessel or property.

Vessels not to make fast to unauthorised objects

18. No person shall make a vessel fast to any post, quay, ring, fender or any other thing or place not assigned for that purpose.

Access across decks

19. The master of a vessel alongside a quay or alongside any vessel already berthed within the harbour area shall, if required to do so by the harbour master, give free access across the deck of the vessel for persons and goods to and from vessels berthed alongside his vessel.

Lost anchor, cable or propeller

20. The master of a vessel which has slipped or parted from or lost any anchor, chain, cable, propeller or other solid object which has the potential to obstruct the fairway or any part of the harbour area; the operator of any vehicle or plant which drops or otherwise loses from the quays a solid object with the potential to obstruct the harbour area shall:-

- (a) as soon as reasonably practicable give to the harbour master notice thereof and, if possible, of the position of the anchor, chain, cable, propeller or other object and, if the harbour master so directs, shall cause it to be recovered as soon as reasonably practicable;
- (b) leave a buoy to mark the position thereof if this is known.

Lights/

Lights on vessels at moorings

21. The Harbour master may, in his sole discretion, require the master of every vessel lying or moored at any quay to exhibit a white light on the outside of the vessel during the hours of darkness.

Requirements as to handling and movement of goods in the harbour area

22. The owner of any goods shall comply with such directions as the harbour master may from time to time give for regulating their time, place and manner of discharging, loading or otherwise bringing into or removing those goods from the quays.

Obstruction or interference at harbour area premises/dock estate

23. No persons shall -
 - (a) deposit or place on any part of the quays any goods; or
 - (b) park any vehicle so as to obstruct any road, building, mooring place, plant, machinery or apparatus or the access thereto; or
 - (c) use, work, move or tamper with any plant, machinery, equipment or apparatus at the harbour area premises

except with the permission of the harbour master;

Safe driving of vehicles

24. No person shall drive or otherwise operate a vehicle in the harbour area quays without due care and attention or without reasonable consideration for other persons using the quays.

Speed limit for vehicles

25. No person shall allow a vehicle to proceed on the quays, at a speed greater than 20 miles per hour.

Supervision of vehicles

26. A person having charge of a vehicle on the harbour area quays shall at all times comply with any directions of the harbour master with respect to the loading, discharging, manoeuvring and removal thereof and shall not, without permission of the harbour master leave the vehicle unattended anywhere within the quay.

Loads/

Loads not to leak, spill or drop

27. The owner, driver or other person having charge of a vehicle on the quays shall not permit any substance to leak, spill or drop from the vehicle.

Loads to be secured

28. The owner, driver or other person having charge of a vehicle on the quays shall ensure that any load carried thereon or therein is adequately supported and secured where appropriate and that it complies with all such statutory restrictions on the weight of goods to be so carried as are applicable on public roads.

Refuelling of Vehicles, Cranes and other Equipment

29. (1) No person shall within the harbour area quays charge or recharge any vehicle, crane or other equipment with, or empty it of, fuel except with the permission of the harbour master or at a place designated by the Authority for that purpose.
- (2) No person shall load or unload fuel or bunkers from a vessel in the harbour area except with the permission of the harbour master and at a place approved by the harbour master.
- (3) In all cases when fuel or bunkers are loaded on or unloaded from vehicles, plant or vessels, a responsible and competent person shall be in charge of the operation. All reasonable precautions shall be taken to prevent spillage of that fuel.

Repair of Vehicles, Cranes and other Equipment

30. No person within the harbour area shall repair or maintain any vehicle, crane or other equipment except with the permission of the harbour master.

Accidents to be reported

31. Any person driving or otherwise operating a vehicle involved in an accident on the quay whereby any injury is caused to any person or any damage is caused to any property, shall stop the vehicle and report the accident to the harbour master and shall give his name and address to the harbour master. The requirements of this byelaw are without prejudice to any reporting obligations under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995.

Deposit of Refuse

32. No person shall deposit refuse on the quays except in suitable receptacles approved/

approved by the harbour master.

Smoking

- 33 The harbour master may prohibit any person from smoking tobacco or any herb or other substance whatsoever in such part of the harbour area as he deems appropriate.

Fire appliances etc

34. (1) No person shall, save for the purpose of testing or carrying out maintenance work, or of extinguishing fire, remove or interfere with any fire appliance or fire apparatus within the harbour area.
- (2) No person shall place any vehicle, machine, goods, or other thing whatsoever in such a position as to obstruct access by the fire authority or use of any fire appliance or apparatus within the harbour area.

Fire Precautions

35. (1) No person shall make use of welding, burning or cutting equipment within the harbour area for the purpose of effecting repairs or any other work on board vessels or on the harbour area premises without the consent of the harbour master and subject to such conditions as the harbour master may impose. Any person using such equipment shall take all reasonable precautions to minimise the risk of fire therefrom.
- (2) The master and every person working on or in a vessel in the harbour area shall take all reasonable precautions for the prevention of fire or accidents by fire.

Inspection facilities etc to be made available to harbour master

36. 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 any part of the vessel and provide all reasonable facilities for its inspection and examination.

Navigation under influence of drink or drugs prohibited

37. A person shall not navigate any vessel in the harbour area 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

38. The master or owner of a vessel shall not cause or permit it to be fumigated without/

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without the prior permission of the harbour master.

Laying down moorings, buoys and other tackle

39. (1) No person shall lay down any mooring, buoy or similar tackle without a licence or prior consent in writing of the Authority/harbour master nor except in accordance with such conditions as the Authority/harbour master may impose.

(2) A mooring, buoy or similar tackle shall as soon as reasonably practicable forthwith be removed by its owner or any other person claiming possession of it if the harbour master so directs. Without prejudice to byelaw 56, if a direction by the harbour master under this paragraph is not complied with the harbour master may himself remove the mooring, buoy or tackle in question and the amount of the cost he incurs in so doing may be recovered by the Authority from the owner of the mooring, buoy or tackle as a debt in any court of competent jurisdiction.

Dumping in harbour area water prohibited

40. No person shall deposit or throw into the waters of the harbour area any rubbish or other material whatsoever or place it in a position it can fall, blow or drift into the harbour area.

Precautions to be taken against goods etc falling into harbour area water or onto harbour area premises

41. The master of a vessel and a person undertaking the loading of cargo into, or discharging of cargo from, a vessel shall use or cause to be used such methods as the harbour master may direct for the prevention of any cargo, dunnage, ballast or other materials from falling or escaping into the waters of the harbour area or onto the harbour area premises.

Drift or trawling nets not to obstruct vessels

42. Within port limits, 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.

No dragging or grappling without permission

43. Without prejudice to byelaw 20 (relating to lost anchor, cable or propeller), no person shall drag or grapple for any material or article nor remove the same from the bed of any water area within port limits, without the written consent of the/

the harbour master.

Abandonment of vessels prohibited

44. (1) No person shall abandon a vessel on the banks or shore of the port limits, of which the harbour area forms part.
- (2) For the purposes of paragraph (a) of this byelaw, a person who leaves a vessel on the banks or shore of the port limits, of which the harbour area forms part, in such circumstances or for such a period that he may reasonably be assumed to have abandoned it shall be deemed to have abandoned it unless the contrary intention is shown.
- (3) If any vessel abandoned within port limits or deemed to be abandoned is or becomes a danger or obstruction to navigation, then the harbour master may direct that vessel be removed, or if ownership is not readily apparent may arrange for the removal of that vessel and charge the owner with the costs of that removal.

Kiting, Parachute Towing and Water Skiing

45. No person shall engage in water skiing, kiting or parachute towing within the harbour area. Within the remainder of the port limits, operators of craft undertaking water skiing, kiting or parachute towing shall, in accordance with byelaw 8, avoid impeding vessels constrained to the navigation channel by their size, draft or other constraint and shall take every precaution to ensure the safety of themselves and the persons being towed.

Jet craft

46. No person shall operate or cause to be operated a jet craft within the harbour area. Within the remainder of the port limits, operators of jet craft shall, in accordance with byelaw 8, avoid impeding vessels constrained to the navigation channel by their size, draft or other constraint and shall take every precaution to ensure the safety of themselves and other persons using the water way.

Sailing Vessels, Boat Races, Regattas

47. (1) Sailing vessels under sail, boat races, regattas, public processions and other public events involving a number of vessels and/or craft are prohibited within the harbour area, except with the express, written permission of the harbour master following previous consultations.
- (2) The organiser of any boat race, regatta, public procession or other public event, when a number of vessels are expected to assemble on the waters within port limits, of which the harbour area forms part, shall give/

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give not less than 14 days notice thereof to the harbour master.

- (3) Every boat race, regatta, procession or other public event shall be conducted on courses and at times previously approved by the harbour master.

Diving operations, Swimming and Bathing

48. No diving operation, swimming or bathing shall be carried out within the harbour area, except with the written consent of the harbour master.

Prohibition on Fishing

49. No person shall engage in any fishing activities from any quay, or within any part or parts of the harbour area by means of angling, lines, nets or any other method.

Unauthorised trading prohibited

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

Vessels not to be used for commercial purposes

51. Except with the written consent of an authorised officer no person shall use or permit or allow to be used any vessel moored in the harbour area (other than a vessel bona fide used for navigation) for the purpose of carrying on therein any trade, profession or other business.

Loitering on harbour area premises prohibited

52. No person shall loiter within the harbour area premises and all persons shall, when ordered by the harbour master or a police constable leave the same.

Launching of vessels

53. No person shall launch or allow to be launched any vessel into the harbour area unless that person has obtained the prior consent in writing of the harbour master to such a launch.

Life-saving equipment

54. No person shall use any equipment provided by the Authority for the purpose of life-saving except for that purpose.

Use/

Use of Cranes, Similar Equipment or Grabs

55. (1) Except with the written consent of the harbour master no person shall use a crane or similar equipment or use or attach a grab on any of the quays or harbour area premises.
- (2) No person shall use a crane, similar equipment or a grab on the quays:-
- (a) to lift articles of a weight heavier or of a nature different from those which he declared to the harbour master than it was his intention to lift, or
- (b) for a purpose other than a purpose so declared and approved by the harbour master.
- (3) No person shall lift by crane, similar equipment or a grab operated on the quays or harbour area premises any load in excess of the safe working load displayed on that crane.

Penalties

56. (1) Any person who contravenes or otherwise fails to comply with any of these byelaws or any condition, requirement or prohibition imposed by the Authority or the harbour master in the exercise of the powers conferred upon them or him by these byelaws shall be guilty of an offence and be liable, on conviction before a court of summary jurisdiction, to a fine not exceeding level 4 on the standard scale.
- (2) When the commission by any person of an offence under these byelaws 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 byelaw whether or not proceedings for the offence are taken against any other person.
- (3) In any proceedings for an offence under these byelaws, 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 reasonable excuse for his act or failure to act.
- (4) If in any case the defence provided by paragraph 3 of this byelaw 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/

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without the 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 prosecutor a notice in writing giving such information identifying or assisting in the identification of that person as was then in his possession.

THE COMMON SEAL of Perth and Kinross Council was affixed on these Byelaws on the Twenty-eighth day of November Two thousand and two in the presence of:

**Ian Taylor Innes
Head of Legal Services**

Confirmed by the Scottish Ministers by virtue of Section 202 of the Local Government (Scotland) Act 1973

.....
**A member of the staff of
The Scottish Executive
Victoria Quay
Edinburgh**

..... **Date**

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Eng: 29 August 2002
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PERTH AND KINROSS COUNCIL

PERTH HARBOUR BYELAWS

2002

Perth and Kinross Council
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