

# FOWEY HARBOUR COMMISSIONERS



BYELAWS  
1996

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# THE FOWEY HARBOUR ORDER 1937

## THE FOWEY HARBOUR (GENERAL). BYELAWS 1996

In exercise of the powers conferred by section 83 of the Harbours, Docks and Piers Clauses Act 1847 and section 46 of the Fowey Harbour Order 1937, the FOWEY HARBOUR COMMISSIONERS hereby make the following byelaws.

### PART 1 - PRELIMINARY

#### 1) Title and Commencement

These byelaws may be cited as the Fowey Harbour (General) Byelaws 1996 and shall come into operation on the expiration of 28 days from the date of confirmation thereof by the Secretary of State.

#### 2) Application

These byelaws shall apply within the limits of the harbour which is defined in byelaw 3 hereof and to the harbour premises as defined in byelaw 3 hereof.

#### 3) Interpretation

In these byelaws, except where the context otherwise requires, expressions to which meanings are assigned by the Harbours, Docks and Piers Clauses Act 1847 or the Fowey Harbour Orders 1937 and 1960 have the same respective meanings and:

“board sailing” and “windsurfing” mean the navigation or operation of a sail board; “boat” means any vessel, except a hovercraft, which plies for hire or reward within the harbour and which carries not more than 12 passengers;

“boat licence” means a licence issued by the Commissioners under byelaw 65 of these byelaws;

“boatman’s licence” means a licence issued by the Commissioners under byelaw 77 of these byelaws;

“by day” means between the hours of sunrise and sunset;

“by night” means between the hours of sunset and sunrise;

“Collision Regulations” means regulations for the prevention of collisions made under section 21 of the Merchant Shipping Act 1979;

“the Commissioners” means The Fowey Harbour Commissioners as constituted by the Fowey Harbour Order 1937;

“garbage” has the same meaning as it has in the Merchant Shipping (Reception Facilities for Garbage) Regulations 1988;

“the harbour” means the area comprising the harbour of Fowey and the river Fowey between a line drawn from Punches Cross to St. Catherine’s Point and Lostwithiel Bridge up to the high-water mark of ordinary spring tides, and all creeks, pills, rivers and inlets tributary to the river Fowey between those lines to the high-water mark of ordinary spring tides;

"Harbour Master" means the person appointed by the Commissioners and includes his authorised deputies, assistants and any other person authorised by the Commissioners to act in that capacity;

"harbour premises" means the docks, quays, jetties, stages and all other works, land and buildings for the time vested in or occupied or administered by the Commissioners for the purposes of the harbour;

"knot" means one international nautical mile of 1852 metres per hour;

"licensed boatman" means the holder for the time being of a boatman's licence;

"master" means the person, whether or not certificated, for the time being in charge or control of a vessel;

"motor boat" and "power driven vessel" mean any vessel which is propelled wholly or partly by mechanical means, and include a vessel propelled by means of an out-board motor;

"owner" when used in relation to goods includes any consignor, consignee, shipper or agent for the sale, receipt, custody, loading or unloading and clearance of those goods and includes any other person in charge of the goods and his agent in relation thereto, and 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 when used in relation to a vehicle includes any part owner or agent or person having charge of the vehicle for the time being);

"plying for hire or reward" includes the letting out of a boat on hire for any period, or on charter as defined in the MSA Code of Practice for small commercial craft;

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

"sailboard" means a vessel in the form of a raft or other floating board with a sail or sails designed to be navigated or operated by a person or persons standing upright thereon;

"sailing vessel" means any vessel under sail whether or not propelling machinery is also fitted;

"small vessel" or "small craft" means any vessel or craft less than 20 metres (65.6 feet) in length;

"the standard scale" means the scale of fines for summary offences introduced by section 37 of the Criminal Justice Act 1982;

\*under way" when used in relation to a vessel, means that the vessel is not at anchor or moored or made fast to the shore, or that it is not aground or that it is dropping up or down in the harbour with its anchor on the ground;

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

"vessel" includes any ship, boat, raft 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.

Any reference in these Byelaws to any Act whether public or general or any Order made thereunder shall be construed as a reference to the Act or Order as amended by any other Act or Order.

## **PART II - NAVIGATION**

### **4) Application of Collision Regulations**

The master of every vessel in any part of the harbour shall observe and obey the rules contained in Schedule 1 to the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1989.

### **5) Vessels to navigate with Caution**

Without prejudice to the provision of byelaw 4 of these byelaws the master shall navigate his vessel with such care and caution, and at such speeds and in such manner, as not to endanger the lives of or cause injury or discomfort to persons or damage any property, and as not to interfere with the navigation, manoeuvring, loading or discharging of vessels or with moorings, river banks or other property, and shall cause his vessel to proceed slowly when passing a vessel engaged in dredging or other underwater work or activity or in work at a buoy or mooring or in rescue work.

### **6) Special care to be exercised above Prime Cellars**

The Master of any vessel exceeding 30.48 metres (100 feet) registered length (or overall length in the case of hovercraft) shall not navigate his vessel north of a line between Prime Cellars and Pottery Corner without having first obtained the permission of the Harbour Master to do so.

### **7) Speed of Vessels**

Subject to byelaw (5) of these byelaws no person shall, without the express permission of the Harbour Master, navigate a vessel entering, leaving or using the harbour at a speed exceeding six knots over ground; provided that this byelaw shall not apply to any vessel on any occasion when it is being used in the service of the Commissioners, or in any emergency arising from illness, accident, collision, fire or other circumstances involving danger to persons or property, and a reasonable exceeding of such speed limit would likely to facilitate the use of the vessel for the purpose for which it is being used on that occasion or in such emergency; and provided also that the question of what is a reasonable excess over the speed limit shall be a matter for the judgement of the Harbour Master if present on such an occasion or in such an emergency.

### **8) Approaching Craft Engaged in Dredging or Other Underwater Work**

The master of a vessel shall at all times, except when it is impracticable to do otherwise, give a wide berth to all dredgers, hoppers, tugs and surveying craft, and shall navigate at dead slow speed when passing dredgers or diving boats.

### **9) Vessels not to overtake by Night**

The master of the vessel exceeding 30.48 metres (100 feet) registered length (or overall length in the case of hovercraft) and proceeding in the same direction as another vessel shall not overtake and pass that other vessel by night.



#### **10) Persons under 16 years of Age**

No person under the age of 16 years shall navigate or operate anywhere within the harbour a power driven vessel which is capable of attaining a speed through the water in excess of 6 knots, unless in possession of an appropriate Royal Yachting Association qualification or unless accompanied by a competent and responsible person of 16 years or over, and no person shall cause or permit or encourage any person under the age of 16 years to navigate or operate such a vessel unless so qualified or accompanied.

#### **11) Sailing Vessels and Small Vessels not to Obstruct Fairway**

The master of a sailing vessel or of a small vessel which is not confined to a fairway shall not intentionally make use of the fairway so as to cause obstruction to other vessels which can navigate only within the fairway.

#### **12) Vessels Meeting**

If a channel is restricted for any reason so as to make it unsafe for two vessels to pass one another when proceeding in opposite directions, the master of the vessel which is stemming the tide shall give way to the other vessel.

#### **13) Obstruction of the Bodinnick Ferry Prohibited**

The master of a vessel shall not navigate, manoeuvre, place, moor or anchor it so as to obstruct or impede the operation of the Bodinnick Ferry which normally plies between Caffa Mill and Bodinnick.

#### **14) Obstruction to Navigation**

Every person within the harbour who finds any buoy, beacon, timber and other article being the size and nature likely to impede or obstruct navigation, adrift or loose in the harbour or having reasonable grounds for believing that any buoy, beacon, timber or other such article is adrift or loose in the harbour shall, as soon as reasonably practicable, report the facts to the Harbour Master.

#### **15) Public Landing Places not to be Obstructed**

The master of the vessel navigating in the harbour shall not place his vessel or allow it to be in such a situation as to obstruct or impede the access to any recognised landing place or leave it moored alongside any such landing place unattended without permission of the person in charge thereof and the Harbour Master.

#### **16) Navigation under influence of Drink or Drugs Prohibited**

- (1) 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.
- (2) No master or owner of a vessel shall knowingly cause or permit any person to navigate or attempt to navigate that vessel in contravention of this byelaw.

## **17) Notification of Collisions etc.**

The master of the vessel which:

- (1) has been involved in a collision with any vessel or property, or has been stuck or grounded, or become stranded in the harbour; or
- (2) by reason of accident, fire, defect or otherwise is in such a condition as to affect its safe navigation or to give rise to danger to other vessels or property., or
- (3) in any manner gives rise to an obstruction to a fairway; shall as soon as reasonably practicable report the occurrence to the Harbour Master, and thereafter provide the Harbour Master with full details in writing and, where the damage to a vessel is such as to affect or be 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.

## **18) Movement to be Notified**

The master of the vessel exceeding 30.48 metres (100 feet) registered length or overall length in case of a hovercraft shall at no time move the vessel from any moorings to any other moorings to any commercial berth or vice-versa, or between commercial berths, or from any berth to proceed to sea unless he or his agent shall have previously notified the Harbour Master of such proposed movement or sailing.

## **19) Vessel Movement**

The master of the vessel which trades to sea other than a fishing vessel based at Fowey shall, unless it is not practicable so to do, give 24 hours prior notice to the Harbour Master of the vessel's arrival at, departure from or movement within the harbour.

## **20) Declaration of Particulars of Vessel**

(1) The master of any vessel arriving at the harbour shall furnish the Harbour Master with a correct statement of:

- a) the name, call sign and description of the vessel;
- b) its draught and tonnage (or in the case of a hovercraft its gross weight);
- c) the name of the master and the name and address of the owner;
- d) the place from which the vessel has arrived;
- e) the port or place to which the vessel belongs;
- f) particulars of any cargo on board to be loaded or discharged;
- g) the number of passengers carried and voyage intentions when the vessel is one licensed to carry passengers for hire or reward by an authority other than Commissioners;

provided that if the master of a small vessel is unable to declare its tonnage he may instead declare its overall length.

(2) The master of any vessel to which this byelaw applies may delegate this requirement to an agent recognised by the Commissioners.

## **PART III - SIGNALS AND LIGHTS**

### **21) Anchor Lights**

The master of any vessel in the harbour shall if such vessel be moored or anchored next to the fairway of the harbour provide and maintain between sunset and sunrise anchor lights in accordance with Collision Regulations and light the vessel so as not to impede navigation of other vessels.

### **22) Sound Signals**

- (1) The master of a vessel over 20 metres in length shall when approaching the Bodinnick Ferry during the hours of daylight sound two blasts on its whistle or siren, namely one long followed by one short blast;
- (2) The master of a vessel shall not otherwise sound or use any whistle or siren except:-
  - (a) for the purpose defined by the Collision Regulations for the time being in force; or
  - (b) as authorised by the Commissioners as a means of communication with local agents, pilots or crews; or
  - (c) to attract attention to a state of emergency or for testing purposes or race control; or
  - (d) as authorised by the Harbour Master.

### **23) Sound Signals for Vessels not under Command or Unable to give Way**

If for any reason the master of a power driven vessel or of a vessel not under command cannot perform his duty to give way to an approaching vessel, or it is unsafe or impracticable for him to keep his vessel out of the way of a sailing vessel the master shall signify the same by one prolonged blast followed by two short blasts on the vessel's whistle, and thereupon it shall be the duty of the approaching vessel or sailing vessel to keep out of his way of such power driven vessel or vessel not under command.

### **24) Small Vessels - Display of Lights**

The requirement under Rule 30(b) of the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1989 for vessels of less than 50 metres in length to display an all round white light when at anchor shall not apply to small vessels which are secured to permanent yacht moorings in the harbour, but masters of such vessels shall, if required to do so by the Harbour Master, display such a light.

### **25) Dredgers**

- (1) The master of a vessel at anchor or moored when engaged in dredging shall ensure that the following signals are displayed in the manner indicated:

By Day: The following black shapes displayed vertically where they be best seen namely a ball over a diamond over a ball.

By Night: Red over white over red all round lights displayed in a vertical line where they be best seen clear of other navigation lights.

- (2) The master of a suction dredger which is under way and engaged in dredging shall display from the dredger, in addition to the lights required by those Collision Regulations for a vessel of her size, the lights required by those regulations for a vessel engaged in under water work.

## **26) Vessels Employed in Diving**

- (1) The master of a vessel employed in diving operations, or removing a sunken vessel or other obstruction, or working at any buoy or moorings shall fly from his vessel either the International Code Signal A, IR or RY as appropriate.
- (2) During diving operations by night the master of a vessel involved in those operations shall carry in a conspicuous position a quick-flashing yellow light of such a character as to be visible all round the horizon at a distance of at least 2 miles, the flash rate not to exceed 30 flashes per minute.
- (3) No persons shall undertake underwater operations or diving activities of any kind within the harbour without the prior written consent of the Harbour Master.
- (4) No person shall dive from a vessel within the harbour unless there is a lookout in the vessel at all times while such person is in the water.
- (5) In this byelaw “diving” includes that form of diving known as sub-aqua diving and “dive” shall be construed accordingly.

## **27) Bright Lights**

No person shall exhibit in the harbour searchlights, floodlights or other bright lights or pyrotechnics other than those for indicating emergency or distress, in such a manner as to endanger navigation, unless the consent of the Harbour Master has first been obtained.

This is without prejudice to any obligations to display signs and flags under the Dangerous Substances in Harbour Areas Regulations 1987 and subsequent legislation.

## **PART IV - BERTHING, MOORING AND ANCHORING**

### **28) Vessels to be Mooted etc. as Directed**

The master and crew of a vessel in the harbour shall moor, anchor, berth and move, and shall cease to moor, anchor, berth and move such vessel in accordance with directions given from time to time by the Harbour Master.

### **29) Vessels not to Anchor in Vicinity of Telephone or Electric Cables or Pipes**

No person shall anchor in such a position that any anchor or ground tackle used fouls or is likely to foul the pipes and cables laid between Readymoney Cove on the west side and Lamp Rock on the east side and 50 metres east of Polruan Old Castle on the east side.

### **30) Vessels not to Anchor in Fairway**

No person shall anchor so as to obstruct the main fairway, the swinging grounds off Pont or Mixtow Pills or the approaches to the boat landings at Whitehouse, Town Quay, Albert Quay, Passage Slip, Bodinnick Slip, Polruan Town Quay, Golant Quay, Lostwithiel Quay, or any public landing place within the harbour except in emergency or with the permission of the Harbour Master.

### **31) Vessels not to be made fast to navigational buoys etc.**

No person shall make a vessel fast to or interfere with any navigational buoy, light, beacon, seamark, or tideboard within the harbour.

### **32) Vessels not to Obstruct Free Passage**

The master of the vessel shall not cause or permit the vessel to manoeuvre, come to anchor or to be moored or placed so as intentionally to obstruct in any manner whatsoever the free passage of vessels in the harbour.

### **33) Vessels to be Properly Secured**

No master shall allow a vessel to be insecurely moored or improperly made fast within the harbour.

### **34) Provision of Proper Fenders**

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 the 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 other vessels so as to prevent damage to that quay, those other vessels or other property.

### **35) Vessels Adrift**

The master of a vessel which parts from its moorings shall as soon as practicable report the same to the Harbour Master.

**36) Vessels not to be Cast Adrift**

Except in the case of emergency no person shall unmoor any vessel moored within the harbour without previously consulting the master or owner of the vessel or cast adrift any vessel without the previous consent of both the master or owner of the vessel and the Harbour Master.

**37) Ground Tackle**

The master of a vessel over 30.48 metres (100 feet) registered length (or overall length in the case of a hovercraft) moored to the buoys in the harbour shall ensure that at least 60 fathoms of chain be laid out when moored with one bridle and at least 30 fathoms of chain be laid out on each bridle when moored with two bridles.

**38) Lost Anchor, Cable or Propeller**

(1) The master of a vessel which has slipped or parted from, or lost, any anchor, chain or propeller shall as soon as reasonably practicable give to the Harbour Master notice thereof and, if possible, of the position of the anchor, chain, cable or propeller and if the Harbour Master so directs, shall take all reasonable steps to cause it to be recovered as soon as possible.

(2) The master of the vessel slipping or parting from an anchor or propeller shall leave a buoy to mark the position of it as soon as is reasonably practicable.

**39) Access Across Decks**

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

**40) Use of Engines while Vessel Moored or Berthed**

The master of a vessel which is at quay or attached to any mooring device within the harbour shall not permit the engines of his vessel to be worked except with the permission of the Harbour Master and the owner or manager of the quay to which a vessel is secured.

**41) Use of Moorings etc. Belonging to or Controlled by the Commissioners**

Except with the permission of the Harbour Master no person shall cause or permit his vessel to be moored at a mooring belonging to or controlled by the Commissioners, nor at any steps or any landing place within Fowey Harbour.

**42) Protruding Obstructions**

The master of a vessel berthed within the harbour shall ensure that his vessel's anchors are securely housed and that all projections (other than projections which are integral parts of the vessel) are stowed within the vessel's rail, and that outboard motors are adequately fendered.

#### **43) Vessels not to Anchor or Remain in Swinging Grounds**

No person shall without the permission of the Harbour Master anchor or moor a vessel or cause it to remain in such a position as to obstruct or interfere with the turning of vessels in any areas set aside as swinging grounds.

#### **44) Vessels to Anchor Clear of Moorings**

The master of any vessel shall not anchor or moor that vessel so close to any buoy or mooring as to foul in any way such buoy or mooring or any vessel lying thereto.

#### **45) Laying Down Moorings, Buoys and Other Tackle**

- (1) No person shall lay down any mooring, buoy, or similar tackle without a licence or prior written consent of the Harbour Master nor except in accordance with such conditions as the Commissioners and the Harbour Master may impose and state in the terms and conditions of any mooring licence issued.
- (2) The owner or any other person claiming ownership of a mooring, buoy or similar tackle shall as soon as reasonably practicable remove it if the Harbour Master so directs.
- (3) If a person fails to comply with a direction made under paragraph (2) above the Harbour Master may cause the mooring buoy and tackle to be removed and he may recover the expenses of so doing where reasonably incurred from that person as a civil debt due to the Commissioners.
- (4) No person shall move a mooring in the harbour or cause it to be moved without the consent of the Harbour Master.
- (5) The owner or other person in charge of a private mooring shall on the instruction of the Harbour Master remove it from the harbour or to a new position therein.

#### **46) Extra Vessels at Moorings**

No person shall secure a vessel to a mooring or to any moored vessel so as to cause danger or damage to any vessel or mooring.

#### **47) Fouling of Moorings etc.**

If at any time an anchor of a vessel fouls any moorings or pipes laid in the bed, or electric or other cables within the harbour, the master of the vessel shall, as soon as reasonably practicable, give notice thereof to the Harbour Master and shall if it is safe and practicable await his instructions before proceeding to clear the same.

#### **48) Vessels Sinking or Grounding**

- (1) The master of a vessel which has sunk or has grounded in the harbour shall as soon as reasonably practicable give to the Harbour Master notice thereof and of the position of such vessel and such particulars as may be required for the safety of navigation.
- (2) The master of a vessel which is attached to another vessel for the purpose of towing or manoeuvring the same shall give the notice required by this byelaw in the event of such other vessel sinking through accident or other cause.

## **PART V - MANNING AND CONTROL OF VESSELS**

### **49) Manning of Vessels**

Unless the Harbour Master has given express permission to the contrary the master or owner of any vessel exceeding 30.48 metres (100 feet) registered length (or overall length in the case of a hovercraft) shall keep or place on board a sufficient number of crew competent to move, look after, protect or take charge of it, and shall ensure that a sufficient supply of hawsers, tow lines and necessary articles for moving and mooring the vessel is at all times kept on any such vessel ready for immediate use.

### **50) Unseaworthy Craft**

- (1) No person shall navigate a vessel in an unsafe or unmanageable condition in the harbour otherwise than as shall be necessary for the safety of the vessel and her crew, and in such an event shall proceed to such place as may be indicated by the Harbour Master for unloading and repairs.
- (2) The master of a vessel shall not take his vessel into the harbour without the permission of the Harbour Master if his vessel:
  - (a) is or may be in danger of foundering or sinking or is incapable of being safely navigated; or
  - (b) is on fire, or has been on fire at any time within the period of 14 days ending on the day on which his vessel is ready to enter the harbour.
- (3) The master of a vessel which, in the opinion of the Harbour Master, is, or is likely to become unsafe or in danger of sinking, shall, if the Harbour Master so directs, forthwith remove it from the harbour or to any part of the harbour specified by the Harbour Master.

### **51) Vessels to be kept in a Moveable Condition**

- (1) The master of a seagoing vessel shall not, except where his vessel is lying aground, take any steps to render his vessel incapable of movement without first seeking permission of the Harbour Master.
- (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 inform the Harbour Master as soon as reasonably practicable and give to him any further information which the Harbour Master may reasonably require.

### **52) Drift or Trawling Nets not to Obstruct Navigation, Vessels etc.**

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 navigation or to any property including, in particular, but without prejudice to the generality of the foregoing, any vessel or mooring.

### **53) Vessels to be kept Sufficiently Ballasted and in Proper Trim**

The master of a vessel that trades to sea shall ensure that the vessel has at all times sufficient cargo or ballast on board and is in proper trim to enable it to ride free at its moorings and if necessary be removed from one berth to another with safety.



**54) Vessels & Machinery to be Effectually Silenced**

- (1) No person shall operate within the harbour a power driven vessel unless the engine is fitted with a silencer or suitable arrangement for reducing as far as may be reasonable the noise caused by the escape of the exhaust gases from the engine.
- (2) No person shall operate machinery on a vessel within the harbour so as to give reasonable cause for annoyance to any other person.

**55) Vessels to have Names Marked on Them**

The owner of a vessel which is not registered as a ship under the Merchant Shipping Act, 1894 or as a fishing vessel under the Merchant Shipping (Registration etc.) Act 1993 and the Merchant Shipping (Registration of Ships) Regulations 1993 and marked accordingly, shall ensure that the vessel is marked conspicuously with its name or other means of identification unless otherwise exempted by the Commissioners.

**56) Registration of Vessels**

The owner of a vessel normally kept within the harbour shall register the same with the Harbour Master as soon as reasonably practicable and shall thereafter register the vessel at intervals of not more than one year, and shall inform the Harbour Master of the place where the vessel is kept.

**57) Change of Ownership of Vessels**

On any change in the ownership of a vessel kept within the harbour the parties to the change shall ensure that immediate written notification is given to the Harbour Master.

**58) Inspection Facilities etc. to be made Available to Harbour Master**

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

**59) Abandonment etc. of Vessels Prohibited**

- (1) No person who owns or has charge of a vessel shall intentionally abandon, break up, set fire to or otherwise destroy that vessel on the banks or shore of the harbour except with the permission of the Harbour Master and, if necessary, a licence issued by the Ministry of Agriculture, Fisheries and Food under the Food Environment Protection Act 1985, which it is the responsibility of a person to obtain.
- (2) For the purpose of paragraph (1) of this byelaw a person who leaves a vessel on the banks or shore of the harbour 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 there intentionally unless the contrary intention is shown.

## **PART VI - WATER SPORTS etc.**

### **60) Boardsailing and Windsurfing**

No person shall engage or take part in boardsailing or windsurfing in the main fairway between Caffa Mill and Bodinnick except for the purposes of recovery or launching, and boardsailors or windsurfers wishing to cross the fairway for those purposes shall do so by the shortest possible route.

### **61) Sub-Aqua and Swimming Activities**

- (1) No person shall engage in or take part in under water swimming operations or sub-aqua swimming or any similar activity except with the permission of the Harbour Master and in accordance with such reasonable conditions as he may impose.
- (2) No person shall without the permission of the Harbour Master jump or dive into or swim in the harbour from adjacent to Whitehouse Quay, Polruan Quay, Town Quay or landing pontoons situated in the harbour except to render assistance to person in difficulties or distress.
- (3) Except with the permission of the Harbour Master, no person shall swim more than 50 metres from the shoreline except in areas designated by the Commissioners.
- (4) From 1st June to 30th September no person shall operate a power driven vessel or any vessel in excess of 4 metres (13.1 feet) overall length in an area marked by buoys in Readymoney Cove as a swimming zone.

### **62) Small Craft in Regattas etc.**

Without prejudice to byelaw (4) of these byelaws the master of every small craft in the harbour on the occasion of any boat race, regatta, public procession or other occasion when a number of small craft is assembled therein shall not permit his small craft to obstruct or impede other craft or endanger the safety of persons in the harbour or prevent the maintenance of order therein and the masters of small craft shall observe the directions of the Harbour Master or other persons authorised by the Commissioners to superintend the execution of this byelaw.

### **63) Conduct of Regattas etc.**

- (1) The organiser of any race, regatta or other occasion when a number of small craft is expected to assemble on the waters of the harbour shall obtain the permission of the Harbour Master and shall give not less than fourteen days notice thereof to the Harbour Master.
- (2) All regattas, races or similar events shall be conducted on recognised courses in accordance with conditions and at times previously approved by the Harbour Master.
- (3) The Harbour Master may cancel or alter any conditions of such approval on giving where reasonably practicable notice to the organiser at least seven days before the proposed date of the event.

- (4) The Harbour Master may delay, postpone or cancel any event in consultation with the organiser in the case of bad weather or large commercial vessel movement, or other conditions that may effect the safety of participants and the safe navigation of craft.

## **PART VII - REGULATION AND LICENSING OF BOATS etc.**

### **64) Restriction on Use of Unlicensed Boats**

No person shall use, or cause or permit the use of, a boat for the conveyance of passengers for hire or reward within the harbour unless a valid licence has been issued for that boat by the Commissioners, or otherwise than in accordance with the terms and conditions specified in such licence.

### **65) Application For and Issue of Boat Licence**

Applications for a boat licence shall be made to the Harbour Master and shall be accompanied by the policies of insurance referred to in byelaw 67 of these byelaws, the receipt for the current premiums, and the fee fixed in respect of such licence by the Commissioners at a meeting held for the purpose.

A boat licence shall not be issued except where the Harbour Master is satisfied that the boat is seaworthy and fit and suitable for the conveyance of passengers for hire or reward.

Every boat licence shall, unless earlier suspended or revoked, be valid from the date of issue until 31st March next following.

### **66) Invalid Licences to be Returned**

The person to whom a boat licence has been issued shall, upon the revocation or suspension of the licence, return it to the Harbour Master as soon as reasonably practicable.

### **67) Insurance**

(1) The owner of a boat shall at all times when the boat is available for the carriage of passengers for hire or reward be responsible for effecting and maintaining in force a passenger liability insurance policy and a policy against third-party claims for such amount and on such terms as shall be specified or approved by the Commissioners.

(2) Every such policy shall be in joint names of the owner and the Commissioners.

(3) In the event of any such insurance policy lapsing the boat licence shall become void.

(4) Any such policy shall be produced to the Harbour Master following a request to that effect made by him.

### **68) Information to be Painted etc.**

(1) Every owner of a boat shall cause to be legibly painted where it can be seen by passengers or as specified by the Harbour Master a number corresponding in every particular with the number of the relevant boat licence, and shall display a statement of the number of passengers and crew for which the boat is licensed.

(2) The number and statement and annual inspection sticker showing date of inspection by the Harbour Master shall be kept plainly and distinctly visible at all times when the boat is in use.

## **69) General Safety Requirements**

- (1) Every owner of a licensed boat shall be responsible for its soundness, stability and good condition and shall provide therein buoyancy, life-saving and fire fighting appliances of such description as may from time to time be specified in the terms and conditions appertaining in the boat licence.
- (2) Such appliances shall be kept in an efficient state ready for use.
- (3) Petrol shall not be put into the tank of a licensed motor boat whilst passengers are on board and may only be stowed on board in approved containers.

## **70) Working Equipment**

- (1) The owners of licensed motor boats and sailing boats let on hire without a licensed boatman shall ensure that they are equipped with an adequate pair of oars and rowlocks, and a means of anchoring comprising a rope of minimum length of 9 metres and an adequate weight or anchor.
- (2) The owners of licensed motor boats having sparking plug ignitions shall, in addition, ensure that they carry a spare plug and spanner, and their position shall be pointed out to the hirer when he takes over a boat.

## **71) Change of Condition of Boats**

- (1) Every owner of a licensed boat shall, on demand, make it available for inspection by the Harbour Master or by any person authorised by him in writing.
- (2) If there is any variation of the condition of the licensed boat as specified in the relevant boat licence the owner shall report it to the Harbour Master as soon as reasonably practicable.

## **72) Excess Passengers**

No person shall knowingly board a licensed boat at any time when there are already on board the maximum number of persons specified in the relevant boat licence, and no person on board when the maximum is exceeded shall remain on board after he shall have been requested to leave the boat.

## **73) Efficiency etc. of Crew**

The person for the time being in charge of a licensed boat shall not permit any person or persons to embark therein for the purpose of being carried for hire, unless they are employed in the navigation and management of the boat such number of competent persons as may be necessary for its safe navigation and management, having regard to the size, build or mode of propulsion of the boat, the number of persons to be carried therein, the state of the weather, wind or water, the limits whether of time or distance, within or beyond which the boat may be intended to be used, and any other circumstance or condition in relation to the intended use of the boat.

#### **74) Safety limitations on Number of Passengers**

The person for the time being in charge of a licensed boat shall not carry or cause or permit to be carried therein, or cause or permit to be carried on board for the purpose of being carried therein, a greater number of persons than may be safely so carried consistently with the due observance of such precautions as may be rendered necessary by the state of the weather, wind or water the age or sex of the persons to be carried, the limits, whether of time or distance, within which the licensed boat may be intended to be used and any other circumstance or condition in relation to the intended use of the boat.

#### **75) Suspension of Boat Licence**

Any boat licence may be suspended or revoked by the Commissioners, if in the opinion of the Harbour Master or the Commissioners the licensed boat in respect whereof such licence is granted shall have become unfit for the use of passengers.

## **PART VIII - LICENSING OF BOATMEN**

### **76) Restriction on Operation of Boats**

No person shall operate or direct the operation of a boat for the conveyance of passengers for hire or reward unless he is the holder of a valid licence issued to him by the Commissioners or otherwise than in accordance with the terms and conditions specified in such licence.

### **77) Application for and Issue of Boatman's Licence**

- (1) Application for a boatman's licence and payment of such fee as shall be prescribed by the Commissioners shall be made to the Harbour Master.
- (2) Before issuing a boatman's licence the Commissioners may require the applicant to produce a medical certificate:
  - (a) as to his capability and suitability to hold such a licence; and
  - (b) as to his mental or physical fitness:

and if after the issue of boatman's licence the Harbour Master deems it necessary so to do he may require the holder of the licence to furnish such a certificate.

- (3) Except as provided in paragraph (4) of this byelaw no person under the age of 19 years shall be permitted to hold a boatman's licence.
- (4) A boatman's licence may be issued to a person who has attained the age of 17 years but is under the age of 19 years if:
  - (a) the harbour Master reports to the Commissioners that he is satisfied of that person's competence to be in charge of a boat notwithstanding his age; and
  - (b) the boatman's licence issued to that person is restricted to voyages no parts of which are undertaken outside the harbour.

### **78) Offence to permit use of licensed boat when under influence**

No licensed boatman authorised to permit the use of a licensed boat by another person for payment shall do so whilst under the influence of drink or drugs to such an extent as to be incapable of exercising that function responsibly.

### **79) Dangerous Overloading**

No person shall, except for the purpose of rescuing any person in peril, allow anyone to embark in a licensed boat when, by reason of state of the weather, the navigation and management of the boat, or the embarkation or disembarkation of such persons, may be attended with danger.

### **80) Obligation to Produce Licence etc.**

Every licensed boatman shall, upon demand by any person hiring or seeking to hire his boat, or by any police officer, produce his licence.

**81) Obligation to Carry out Hire etc.**

- (1) Every licensed boatman plying for hire shall, immediately upon the amount of his fare being paid or tendered to him, proceed to the places directed by, and carry out all reasonable requests of, the hirer.
- (2) A licensed boatman plying for hire shall not refuse a hire without reasonable grounds for such refusal.
- (3) No licensed boatman shall at any time permit a drunken or disorderly person to enter his boat.



## **PART IX - HEALTH & SAFETY, GOOD CONDUCT etc.**

### **82) Dogs and Animals**

- (1) Every person in charge or otherwise responsible for the control of a dog when on harbour premises or on a vessel in the harbour if so directed by the Harbour Master shall keep it on a lead or otherwise secure it.
- (2) No person shall have any ferocious or vicious animal or bird or poisonous or dangerous reptile on board any vessel, or upon the harbour premises, unless properly secured to the satisfaction of the Harbour Master.

### **83) Discharging Fire Arms etc.**

No person shall within the harbour or on the harbour premises discharge any gun, pistol, or other arms loaded with the ball, shot, slug or other destructive material.

### **84) Fireworks**

- (1) No person shall within the harbour or on the harbour premises ignite any firework or other explosive substance, provided that this byelaw shall not preclude the proper use of any lawful distress signals or race starting guns loaded with blank cartridges, or pyrotechnic displays, authorised by the Harbour Master.
- (2) No person shall within the harbour set off distress flares or pyrotechnics except in emergency situations or with permission of the Harbour Master.

### **85) Fire Precautions**

- (1) The master of a vessel in the harbour shall take all reasonable precautions for the prevention of accidents by fire.
- (2) No person shall bring on board a vessel or shall use on a vessel in the harbour any flammable materials, fuel oils or gases or warning flares or similar safety equipment unless the same are securely contained in a safe and proper manner and are intended to be used on or within the vessel for propulsion, maintenance or safety purposes, or in connection with domestic cooking, lighting or heating.
- (3) No person shall burn or heat any flammable materials or have or permit any fire or light on any vessel in the harbour:-
  - (a) in such a manner as to cause danger of fire; or
  - (b) without due precautions to prevent danger of fire on or to such vessel or elsewhere.
- (4) No person shall light a fire or permit a fire to be lighted on any part of the harbour premises except with the permission of the Harbour Master.
- (5) No tanks, containers or other facilities used for stowage or transport of flammable materials shall be repaired within the harbour or on the harbour premises with hot rivets, welding or burning equipment until the operators of such equipment have ensured that such facilities have been rendered safe for the making of repairs and that all necessary precautions to prevent fire or explosion from the use of such equipment have been taken.

- (6) No person shall without lawful authority displace or tamper with any safety or fire equipment within the harbour or on the harbour premises except in the event of an emergency.

**86) Fire Extinguishing Equipment to be available for use at all times**

The master of every vessel within the harbour, with the exception of rowing boats and other similar light non-powered vessels, shall have adequate fire extinguishing equipment available for immediate use in any part of the vessel at all times, and the nature and amount of such equipment shall take into account any abnormal fire risk associated with any such vessel.

**87) Smoking**

No person shall smoke or carry a lighted pipe, cigar or cigarette on the harbour premises:-

- (a) where smoking is expressly prohibited by the Commissioners by a notice exhibited in a conspicuous position;
- (b) if requested by the Harbour Master not to do so in any part of the harbour premises where smoking or carrying a lighted pipe, cigar or cigarette may in his opinion be dangerous.

**88) Dumping in Waters of the Port Prohibited**

- (1) Except with the permission of the Harbour Master and, if necessary, a licence issued by the Ministry of Agriculture, Fisheries and Food under the Environment Protection Act 1985 no person shall deposit, throw, unload, put or suffer to fall any spoil, gravel, ballast, or substance which has been used as ballast, or any stones, earth, mud, ashes or household garden waste or refuse into the waters of the harbour or onto the shores thereof below the level of high water which it is the responsibility of that person to obtain.
- (2) No person shall dispose of garbage from a vessel in the harbour except into reception facilities provided by the Commissioners or by terminal operators

**89) Petrol and Oil not to be Discharged into the Harbour**

No person on board a vessel shall cause petrol, fuel oil or lubricating oils or water mixed with these liquids to be pumped or permitted to run into the waters of the harbour.

**90) Lifesaving Equipment**

No person shall use any equipment provided by the Commissioners for the purpose of lifesaving except for that purpose.

## **PART X - GOODS AND VEHICLES AND USE OF HARBOUR PREMISES**

### **91) Depositing goods etc.**

No person shall, except with the permission of the Harbour Master, deposit or place on any part of the harbour premises any goods or impediment so as to obstruct any road, building, mooring place, plant, machinery, fire hydrant or other apparatus, or the access thereto, and any such goods or impediment may be removed by the Harbour Master.

No person shall without lawful authority use, work or move any plant, machine, equipment, fire hydrant or other apparatus on the harbour premises.

### **92) Fishing Gear**

No person shall so place fishing gear as to obstruct any quay or the working space behind any quay without the proper permission of the Harbour Master.

### **93) Parking of Vehicles**

(1) No person shall park or leave a vehicle in any place where it is likely to obstruct or interfere with the use of the harbour premises or in any part of the harbour premises where the parking of vehicles is prohibited and notice of such prohibition has been erected by the Harbour Master.

(2) Any notice erected under paragraph (1) of this byelaw shall be conspicuously posted in or in proximity to the place to which it relates.

(3) If the Harbour Master so directs, the owner of a vehicle parked and left in contravention of paragraph (1) of this byelaw shall remove the same to a place where it does not contravene the byelaw, and if the owner fails to comply with the Harbour Master's direction or cannot reasonably be found the Harbour Master may remove the vehicle.

### **94) Speed Limit for Vehicles**

No person shall drive or allow a vehicle to proceed anywhere on the harbour premises at a speed greater than 10 miles per hour.

### **95) Safe Driving of Vehicles**

No person shall drive or otherwise operate a vehicle on the harbour premises without due care and attention or without reasonable consideration for other persons using the harbour premises, or without being in possession of an appropriate driving licence or authorisation and covered by third party Insurance.

### **96) Exception for Emergency Services**

The foregoing byelaws 91, 93, 94 and 95 shall not apply to the providers of emergency services when attending the harbour premises for the purpose of dealing with an emergency.

## **PART XI - MISCELLANEOUS AND GENERAL**

### **97) Loudhailers and Amplifiers**

No person shall use loudhailers or amplifiers within the harbour so as to give reasonable grounds for annoyance to any other person.

### **98) Loading, discharging or transfer of fuel oils, lubricating oils or other pollutant liquids.**

(1) No person shall proceed with the loading, discharging or transfer of fuel oils, lubricating oil or other pollutant liquid in excess of 1000 litres by pipe either on to a vessel or on to harbour premises unless the proposed operation has been previously notified to the Harbour Master.

(2) All requirements or instructions relating to the said operation given by the Harbour Master must be complied with.

(3) Records of all such transactions shall be kept as directed by the Harbour Master and produced as requested.

### **99) Store Pots and Rafts**

No person shall keep in the harbour a store pot for shellfish or a raft of any kind unless such store pot or raft is clearly marked by a buoy marked with the number displayed in the licence granted by the Commissioners stating its position.

### **100) Crab and Lobster Pots**

No person shall keep in the harbour a crab or lobster pot without permission of the Harbour Master.

### **101) Digging Ballast etc.**

No person shall without the permission in writing of the Harbour Master first obtained, dig or take from any part of the harbour or from any land belonging to the Commissioners, any ballast, soil, sand or other material whatsoever.

### **102) Digging of Bait**

No person shall without permission in writing of the Harbour Master, in any part of the harbour dig for lugworm, ragworm, or any form of fishing bait within 20 feet (6 metres) of any mooring, pile, beacon, mark, hard, causeway, jetty, quay, wharf or similar structure or on the foreshore between signs indicating areas of no digging.

### **103) Obstruction of Officers and Employees of the Commissioners**

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

## PART XII

### PENALTIES, DEFENCES, CROWN RIGHTS AND REVOCATION OF BYELAWS

#### 104) Penalties

- (1) Any person who contravenes or otherwise fails to comply with any of these byelaws or any condition, requirement or prohibition imposed by the Harbour Master in the exercise of the power conferred on him by these byelaws shall be guilty of any offence and be liable on conviction before a court of summary jurisdiction to a fine as follows:-
  - (a) for the contravention of byelaws 55,56, 57, 63, 68, 82 and 93, not exceeding Level 2 on the Standard Scale;
  - (b) for the contravention of any other byelaw, not exceeding Level 3 on the Standard Scale.
- (2) Where the commission by any person of an offence under these byelaws is due to the act or default of some 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 are taken against any other person.

#### 105) Defences

- (1) 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 a reasonable excuse for his act or failure to act.
- (2) If in any case the defence provided by paragraph (1) (a) 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 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.

#### 106) Savings for the Crown, the Duchy of Cornwall and the Lords of the Admiralty

Nothing in these byelaws, and nothing done under any of the provisions thereof, shall in any respect prejudice or injuriously affect the rights and interests of the Crown, the Duchy of Cornwall, or the Lords of the Admiralty.

#### 107) Revocation of Byelaws

The Fowey Harbour (General) Byelaws 1975 confirmed on 2nd September 1977 are hereby revoked.

MADE this eighth day of July, One thousand nine hundred and ninety-six.



THE COMMON SEAL of the Fowey Harbour Commissioners was hereto affixed in the presence of:

P. P. VOELCKER Chairman

M. J. SUTHERLAND Clerk

The Secretary of State for Transport hereby confirms the foregoing byelaws

Signed on behalf of the Secretary of State for Transport this  
First day of August, One Thousand nine hundred and ninety-six.

R. E. CLARKE An Under Secretary in the  
Department of Transport

# NOTES

(These notes do not form part of the byelaws)

## 1. **Damage to Property**

In addition to any liability under these byelaws it is an offence under the Criminal Damage Act, 1971 for any person without lawful excuse to destroy or damage any property belonging to another intending to destroy or damage any such property or being reckless as to whether any such property would be destroyed or damaged. It is also an offence under S.219 of the Merchant Shipping Act 1995 to cause damage intentionally or recklessly to any lighthouse, lightship, buoy or beacon.

## 2. **Oil in Navigable Waters**

Under the Prevention of Oil Pollution Act, 1971 and the Merchant Shipping (Prevention of Oil Pollution) Regulations, 1983 it is an offence to discharge any oil, or mixture containing oil, or to allow it to escape into certain areas including the whole of the limits of jurisdiction of the Commissioners and areas seawards of those limits.

## 3. **Litter and Pollution**

It is an offence under the Environmental Protection Act 1990 to drop litter on the harbour premises or harbour surroundings, and it is an offence under the Control of Pollution Act, 1974 to cause pollution of a river or coastal water by poisonous, noxious or offensive matter of liquid. Attention is also drawn to the Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1988 as amended by the Merchant Shipping (Prevention of Pollution by Garbage) (Amendment) Regulations 199 which regulate the disposal of garbage from vessels at sea.

## 4. **Pilotage**

The Fowey Harbour Commissioners are a Competent Harbour Authority for the purposes of the Pilotage Act, 1987. Information about pilotage can be obtained from the Harbour Office.

## 5. **Nautical Miles**

The international nautical mile is 1.18 metres less than the imperial nautical mile of 6080 feet which equals 1853.18 metres.

## 6. **Standard Scale of Fines**

The Criminal Justice Act, 1982 provided for a standard scale of fines for summary offences. At the time these byelaws were made Level 2, as amended by the Criminal Justice Act, 1991, was £500 and Level 3 was £1000. These sums may be altered by further Act of Parliament or Statutory Order from time to time in the light of changes in the value of money.