

## **BYELAWS**

### **WHITSTABLE HARBOUR BYELAWS 2008**

Canterbury City Council being the Whitstable Harbour Authority, in exercise of the powers conferred by section 83 of the Harbour Clauses Act 1847 as incorporated into section 32 of the Whitstable Harbour Act 1957, hereby make the following byelaws.

#### **PART I – PRELIMINARY**

##### **1. Title and commencement**

These byelaws may be cited as the Whitstable Harbour Byelaws 2008 and shall come into force on the expiration of 28 days from the date of their confirmation by the Secretary of State.

##### **2. Application**

These byelaws shall apply to all parts of the harbour as defined in byelaw 3.

##### **3. Interpretation**

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

“the Authority” means Canterbury City Council as successor authority to the Whitstable Urban District Council under section 1 of the Local Government Act 1972 being the statutory harbour authority entitled to maintain and carry on the harbour undertaking by virtue of section 6 of the Whitstable Harbour Act 1957 ;

“board sailing” means the navigation or propulsion of a vessel in the form of a raft with a sail and which is designed to be navigated by a person standing upright thereon;

“diving operations” means commercial diving operations;

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

“the Harbour Master” means the person appointed as such pursuant to section 33 of the Whitstable Harbour Act and includes his, assistants and any other person appointed by the Authority to act in that capacity;

“the harbour” means the area within the limits shown by a thick black line on the plan attached to these Byelaws including the entrance or approach of the harbour, the harbour and its premises and for the purpose of this definition premises means the docks, quays, jetties, stages machinery and equipment and all other works, land and buildings for the time being vested in or occupied or administered by the Authority.

“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;

“lying aground” means that the vessel has been placed in this position for the purposes of repair or is aground due to the state of the tide;

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

“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;

“personal watercraft” means a small recreational boat propelled by a directionally controlled water jet or other mechanical means of propulsion and steered either

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

“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;

“small vessel” means any vessel of less than 20 metres in length or a sailing vessel and for the purposes of this definition “sailing vessel” means a vessel designed to carry sail, whether as the sole or as a primary or supplementary means of propulsion;

“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 operating on land; and

“vessel” means a 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 submersed in water (whether permanently or temporarily).

## **PART II NAVIGATION**

### **Vessel Movements**

- 4. The master of a vessel other than a small vessel shall, if required by the Harbour Master, give prior notice to the Harbour Master of the vessel's arrival at, departure from, or movement within the harbour.

### **Vessels to navigate with care**

- 5. The master shall navigate his vessel with all reasonable care and caution and at a speed consistent with safe navigation.

### **Declaration of particulars of vessel**

- 6. The master of a vessel other than a small vessel arriving at the harbour shall, if required by the Harbour Master, furnish to him a declaration in the form to be obtained from him containing a correct statement of the tonnage and draught of the vessel, its last port of call, ownership and destination, and particulars of its cargo.

### **Speed of vessels**

- 7. The master of any vessel entering or being within the harbour shall ensure that such vessel is navigated with all reasonable care and caution and at a speed consistent with safe navigation.

### **Small Vessels and personal watercraft not to obstruct navigable channels or approaches**

8. The master or person in charge of a small vessel or personal watercraft shall not make use of navigable channels or approaches to quays, piers and jetties in such a way as to cause an obstruction or impede the movement of any other vessel in the harbour.

### **Vessels not to be made fast to navigation buoys or marks**

9. The master of a vessel shall not make fast his vessel to or lie against any buoy, beacon or mark used for navigational 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 in the harbour;
  - (b) 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
  - (c) is sunk, grounded or stranded in any manner which gives rise to an obstruction to the entrance or approach of the harbour;

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 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 entrance or approach of the harbour or to moor or anchor in safety.

## **PART III – BERTHING AND MOORING**

### **Provision of proper fenders**

11. The master or 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 other vessels, so as to prevent damage to that quay, those other vessels or any other property.

### **Vessels to be properly berthed**

12. The master of the vessel shall at all times keep his vessel properly and effectively moored when berthed or lying at any quay.
13. No person shall cut adrift or unloose any vessel which may be made fast or berthed in any part of the harbour.

### **Vessels adrift**

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

### **Access to vessels**

15. The Master or the owner of a vessel, other than a small vessel, while berthing alongside a quay shall provide and maintain a sufficient and proper netted gangway for the use of all persons and shall during the hours of darkness provide sufficient lighting to illuminate the whole length of the gangway.

### **Sufficiency of crew**

16. Save in the case of an emergency, the Master of a vessel shall at all times when his vessel is within the harbour ensure that his vessel is capable of being safely moved 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.
17. Except in the case of an emergency the master or owner of a vessel shall not permit his vessel to be left unattended whilst onboard machinery is running

### **Vessels to be kept in a movable condition**

18.
  - (1) The Master of a vessel shall not, except where his vessel is lying aground, take any steps to render his vessel incapable of movement without first notifying the Harbour Master and 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 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 berthed**

19. The master of a vessel which is berthed 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 or to any other vessel or property.

### **Vessels not to make fast to unauthorised objects**

20. 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**

21. The master of a vessel berthed alongside a quay or secured alongside any vessel already berthed within the Harbour shall, if required to do so 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.

### **Lost anchor, cable or propeller**

22. The master of a vessel which has slipped or parted from or lost any anchor, chain, cable or propeller 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 or propeller and, if the Harbour Master so directs, shall cause it to be recovered as soon as reasonably practicable;
  - (b) in the case of an anchor or propeller leave a buoy to mark its position if that is known.

### **Bunkering of Vessels**

23. Masters, owners or the person having control of vessels shall notify the Harbour Master if they propose to take bunkers from road fuel tankers or barge fuel carriers and of the estimated time of refuelling and the amount of fuel to be taken onboard.
24. No master or owner of a vessel shall permit grit blasting or spray painting on board that vessel unless contained in an area designated for that purpose by the harbour master or with consent from the harbour master.
25. The owner of any goods shall comply with such directions as the harbour master may from time to time give for regulating the time, place and manner of discharging loading or otherwise bringing into or remove those goods from any premises within the docks.
26. The master or the owner of any vessel into or from which cargo is being loaded or discharged, or any other person handling cargo, discharging ballast or other materials in the harbour shall not cause or permit any such materials to fall or escape into the waters of the harbour.

## **PART IV – GOODS AND ROAD AND RAIL TRAFFIC**

### **Obstruction or interference at the harbour**

27. No person shall, except with the permission of the Harbour Master :–
- (a) Deposit or place on any part of the harbour any goods or park any vehicle so as to obstruct any road, building, mooring place, plant, machinery or apparatus or the access thereto; or
  - (b) Use, work, move or tamper with any plant, machinery equipment or apparatus at the Harbour.

### **Control of animals**

- 28.
- (a) No person shall ride an animal without the permission of the Harbour Master
  - (b) Any person who brings a dog onto the harbour must keep it on a lead or safely tethered and under control at all times.

### **Speed limit for vehicles**

29. No person shall allow a vehicle to proceed anywhere in the harbour at a speed greater than 10 miles per hour.

### **Supervision of vehicles**

30. A person having charge of a vehicle in the harbour 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 the permission of the Harbour Master –
- (a) leave the vehicle unattended anywhere; or
  - (b) take it into any shed or working area.

### **Loads not to leak, spill or drop**

31. The owner, driver or other person having charge of a vehicle in the harbour shall not permit any polluting substance or any substance which is likely to present a hazard to other users of the docks to leak, spill or drop from the vehicle.

### **Loads to be secured**

32. The owner, driver or other person having charge of a vehicle in the harbour 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 etc of vehicles**

33. No person shall charge or recharge any vehicle 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.

### **Driving on weighbridges**

34. No person shall drive or otherwise operate a vehicle across any weighbridge within the harbour except for the purpose of weighing the vehicle.

### **Accidents to be reported**

35. Any person driving or otherwise operating a vehicle involved in an accident in the harbour 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. .

## **PART V – GENERAL**

### **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. (1) No person shall navigate or attempt to navigate a vessel when unfit to do so by reason of alcohol or drugs.
- (2) No master or owner of a vessel shall knowingly cause or permit any person to navigate or attempt to navigate the vessel in contravention of this byelaw

### **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 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 of the Harbour Master nor except in accordance with such conditions as the Harbour Master may impose
- (2) If the Harbour Master so directs a mooring, buoy or similar tackle shall as soon as reasonably practicable, and in any event as soon as possible, be removed by its owner or any other person claiming possession of it. 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 or water prohibited**

40. (1) No person shall deposit or throw into the waters of the harbour any rubbish or other material whatsoever or place it in a position from which it could fall, blow or drift into the waters of the harbour.
- (2) No person shall deposit any trade or other refuse or any disused boat gear or materials or cause or permit the same to be deposited, in any place within the harbour, other than in a place the Harbour Master may approve.
- (3) The Harbour Master may remove any refuse, materials, disused boat gear, or things deposited or left without permission, and any person contravening this bye-law shall, in addition to the penalty incurred for such breach, repay to the Authority the cost of the removal of any such items or materials
- (4) No person shall, pour, pump, or wilfully or carelessly allow to escape into the harbour any dangerous or offensive liquid or matter.

### **Drift or trawling nets not to obstruct vessels**

41. 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**

42. Without prejudice to byelaw 20, no person shall drag or grapple for any material or article nor remove the same from the bed of any water area of the harbour without the consent of the Harbour Master

### **Vessels to have names marked on them**

43. The owner of a vessel, other than small vessel, which is not registered as a ship under the Merchant Shipping Act 1995 and marked accordingly shall ensure that the vessel is marked conspicuously with its name or other means of identification and harbour of origin (if any) unless exempted from this requirement by the Authority.

### **Abandonment of vessels prohibited**

44. (1) No person shall abandon a vessel in the harbour.
- (2) For the purposes of paragraph (1) of this byelaw, a person who leaves a vessel in the harbour in such circumstances or for such period that he may reasonably be assumed to have abandoned it shall be deemed to have abandoned it there unless the contrary intention is shown.

### **Swimming or bathing**

45. No person shall swim within the harbour.

### **Waterskiing, Aquaplaning and Board Sailing**

46. (1) No person shall engage or take part in water skiing aquaplaning or board sailing in the harbour except with the written permission of the Harbour Master given either specifically or generally and only in such areas as may be designated by the Harbour Master and in accordance with such reasonable conditions as the Harbour Master may impose.
- (2) A master whilst using his vessel for the purpose of towing a water skier or a person aquaplaning shall have on board at least one other person capable of taking charge of the vessel and of giving such assistance as may be reasonably required during the towing and in the recovery of the water skier and shall carry –
- (a) for each person on board or being towed a life jacket manufactured in accordance with the appropriate British Standards Specification or a personal buoyancy aid of the Ship and Boat Builders' National Federation approved type, two hand held distress signals and a fire extinguisher and
- (b) for each person water skiing or aquaplaning, a rescue quoit with line or other sufficient hand thrown rescue device.
- (3) No person shall engage in kiting or parachute towing in the harbour without the prior written consent of the Harbour Master given either specifically or generally and in accordance with such reasonable conditions as may be imposed by the Harbour Master.

### **Diving Operations**

47. No diving operation shall be carried out except with the consent of the Harbour Master.

### **Fire extinguishing equipment**

48. The master of every vessel 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.

### **Fire precautions on vessels**

49. (1) The master of every vessel shall ensure that no fire shall be allowed thereon except in suitable containers and under watch.
- (2) No person shall bring on board a vessel or shall use on a vessel any combustible or flammable materials, fuels, oils or gases or warning flares or similar safety equipment unless the same are securely contained in a safe and proper manner.



- (3) The master of a vessel shall take all reasonable precautions for the prevention of accidents by fire.

### **Use of welding and burning equipment**

50. Where any operation including the use of hot rivets, welding or burning equipment or any other potential source of ignition is undertaken in any part of the harbour, the operators shall take such precautions including the removal of flammable materials as may reasonably be necessary to prevent fire and to avoid injury.

### **Obstruction**

51. No person shall place machinery, materials or rubbish on the docks in such a manner which may cause an obstruction to the lawful activities of other users or the safe passage of emergency services unless otherwise directed by the harbour master.

### **Oil and oil containers**

52. No master or owner of a vessel shall leave or cause to be left any drums or containers of oil products, waste oil or mixtures containing oil, on the docks except with the permission of the harbour master.

### **Obstructions of officers of the Authority**

53. (1) No person shall intentionally obstruct any officer or employee of the Authority in the execution of his duties.
- (2) The Harbour Master may stop any activity or operation which he reasonably considers a danger either to health and/or the environment.

### **Meetings**

54. (1) Except with the permission of the Harbour Master, no person shall
- (a) organise any general meeting; or
  - (b) deliver any address to an audience or gather together any persons whereby any work or business at the harbour or the control, management or use of the harbour is, or is likely to be, obstructed, impeded or hindered.
- (2) This byelaw shall not apply to any meeting held for the purpose of, or in connection with requirements under the Health and Safety at Work etc Act 1974 or any regulations made under that Act.

### **Unauthorised trading prohibited**

55. No person shall engage by way of trade, in buying or selling any goods or property in the harbour without the written consent of the Authority.

### **Only authorised persons to enter the Harbour**

56. (1) No person may enter or remain within any part of the harbour which may, because of the activities taking place there, be enclosed by chains or by a barrier.
- (2) The Harbour Master may ask any such person to leave the harbour and the person's failure to do so will be a breach of these byelaws.

## **Penalties**

57. (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 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, 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 any 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.

## **PART VI**

### **Repeal and Revocation**

58. As from the coming into force of these byelaws, the Whitstable Harbour Byelaws made by the Southern Railway Company which came into force on the 12 December 1928 shall be revoked.

THE COMMON SEAL OF )  
CANTERBURY CITY COUNCIL )  
Was hereunto affixed in the presence of: )

Deputy Head of Legal Services

The Secretary of State hereby confirms the foregoing Byelaws.

Signed on behalf of the Secretary of State for Transport

This day of 2008

Richard Bennett  
Head of Ports Division  
Department for Transport