

SOUTH HAMS DISTRICT COUNCIL

BYE-LAWS

Made by virtue of powers conferred on the Council by virtue and in pursuance of the provisions of the Pier and Harbour Order (Salcombe) Confirmation Act 1954 and of the Harbours Docks and Piers Clauses Act 1847 and of all other powers enabling them in that behalf.

With respect to Salcombe Harbour

Commencement of Byelaws and Extent

1. These Byelaws shall apply to all parts of the Harbour of Salcombe within the jurisdiction of the Council as defined by the Salcombe Harbour Order 1954 and shall come into operation on the expiration of fourteen days after the date of their confirmation by the Secretary of State.

Interpretation of Terms

2. In these Byelaws unless the context otherwise requires the following words or expressions shall have the meanings hereby respectively assigned to them:-
 - (i) "board sailing" means the navigation or operation of a sail board and "wind surfing" has a like meaning
 - (ii) "sail board" means a vessel in the form of a raft with a sail or sails and designed to be navigated or operated by a person or persons standing upright thereon.
 - (iii) "collector of rates and dues" means the person appointed by the Council to collect rates and dues and includes any duly appointed assistant of such collector
 - (iv) "Council" means the South Hams District Council
 - (v) "harbour" means the harbour as defined by the Salcombe Harbour Order 1954
 - (vi) "Harbour Master" means the Harbour Master appointed by the Council or any other officer appointed by the Council under the provisions of the Order for securing the observance of these Byelaws and includes any duly authorised assistant of the Harbour Master and of any such officer
 - (vii) "houseboat" means any vessel used or intended to be used for human habitation but shall not include any ship registered under the Merchant Shipping Act 1894 or any boat or vessel bona fide used for navigation

- (viii) "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
- (ix) "master" when used in connection with a vessel or houseboat means any person whether the owner or not having or taking the command charge or management of the vessel or houseboat for the time being
- (x) "parascending" means any activity wherein a person or persons are towed by or carried on a power driven vessel with the intention that the person or persons so towed or carried shall become airborne by virtue of their being harnessed to a kite parachute balloon glider or similar apparatus.
- (xi) "person" includes corporation whether aggregate or sole
- (xii) "power driven vessel" means any vessel which is propelled wholly or partly by machinery
- (xiii) "seaplane" includes a flying-boat and any other aircraft designed to manoeuvre on the water Seaplanes taking off from or alighting on the water shall be deemed to be on the surface of the water while in contact therewith
- (xiv) "The Bag" means that part of the harbour situate to the north of an imaginary line drawn from Snapes Point to Poole Point and to the south of imaginary straight lines drawn from Heath Point to the Saltstone and thence to Halwell Point
- (xv) "the Order" means the Salcombe Harbour Order 1954
- (xvi) "under way" when used in relation to a vessel or houseboat means when she is not at anchor or moored or made fast to the shore or aground
- (xvii) "vessel" means a ship boat lighter keel barge pontoon raft or craft of any description and includes non-displacement craft and any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily) and includes a hovercraft or any other amphibious vehicle or a hydrofoil or a seaplane but does not include a houseboat except when actually being navigated or towed
- (xviii) "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
- (xix) "Collision Regulations" means regulations for the prevention of collisions made under Section 21 of the Merchant Shipping Act 1979

Mooring, Anchoring and Keeping of Vessels and Houseboats

Mooring and Anchoring

3. Subject to the provisions of the Order the master of a vessel shall moor or berth his vessel at such part of the harbour and shall from time to time remove the same to such situation within the harbour as the Harbour Master may direct.

Keeping of Houseboats

4. The master of a houseboat shall not keep his houseboat in the harbour without the written consent of the Harbour Master and such consent must specify the date upon which it shall cease to have effect

Anchoring

5. The master of a vessel or houseboat shall not except in an emergency anchor in the harbour in such a manner as to obstruct navigation

Charge when Moored or Anchored

6. The master of a sea-going vessel shall if reasonably required by the Harbour Master so to do cause at least one responsible person to be on board at all times while such vessel is in the harbour and for the purposes of this Byelaw sea-going vessels shall include any vessel other than a seaplane which is capable of going outside the harbour and keeping at sea during the average weather conditions.

Making Fast

7. The master of a vessel or houseboat shall not make fast to any other vessel or houseboat or her moorings without the previous permission of the master of such other vessel or houseboat or the owner of her moorings unless ordered to do so by the Harbour Master

Not to Lie Alongside Others

8. The master of a vessel or houseboat shall not permit her without the previous consent of the Harbour Master to lie at any mooring of the Council when a vessel or houseboat is already thereat or alongside any other vessel or houseboat

Obstruction of Others

9. The master of a vessel or houseboat shall not permit her to be placed in any position that may interfere with the access by any other vessel or houseboat to any pier jetty wharf landing steps landing place hard or grid without the permission of the Harbour Master.

Unloading and Loading of Passengers

10. Boats unloading or loading passengers shall do so at such places as the Harbour Master may from time to time direct.

Change of Anchorage

11. The master of any vessel or houseboat lying within the harbour shall take up the anchor or anchors of such vessel or houseboat if so required by the Harbour Master.

Indication of Anchors

12. The master of a vessel or houseboat in letting go an anchor on to the fundus in the fairway of the harbour shall have a watch-buoy attached thereto in such manner as clearly to indicate its position if so required by the Harbour Master
13. The master of every vessel or houseboat which has slipped or parted from an anchor shall forthwith give notice thereof and of the position of such anchor to the Harbour Master

Notification of Collisions etc.

14. 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 or
 - (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) 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

Launching of Vessels

15. Unless he has the permission of the Harbour Master no person shall launch a vessel into the harbour except from a suitable launching place. Notices indicating such launching places shall be conspicuously posted by the Harbour Master in proximity to the places to which they relate.

NOTES

These Notes do not form part of the Byelaws.

1. Litter and Pollution - It is an offence under the Environmental Protection Act 1990 to drop litter in the Protected Area and it is an offence under the Water Resources Act 1991 to cause pollution of a river or coastal waters.
2. Crown Rights - Nothing contained in any of these Byelaws shall be deemed to be or shall operate as a grant by or on behalf of the Duchy or Cornwall as owner of the foreshore and sea bed below the level of high water of any estate or interest in or right over such foreshore sea bed or any part thereof nor shall anything contained in or done under the provisions of these Byelaws in any respect prejudice or injuriously affect the rights and interest of the Duchy of Cornwall in such foreshore or sea bed.
3. Standard Scale of Fines - The Criminal Justice Act 1982 (as amended) provides for a standard scale of fines for summary offences. At the time these Byelaws were confirmed the relevant level was:-

Level 2 - £500.00

This sum may be altered by further statutory orders from time to time.

- (iv) Erecting, occupying or using on the foreshore any tent, shed, caravan or other structure for the purpose of camping;
- (h) Interference with duly authorised Officer
Intentionally obstructing any Officer of the Council or any person or the servant of any person employed or authorised by the Council in the execution of any works including research or scientific work connected with the laying out, maintenance or management of the Protected Area.
- 3.(i) The Council may issue permits authorising any person to do any act or class of act within the Protected Area or any part thereof which would otherwise be unlawful under these Byelaws; and
 - (ii) Any such permit shall be issued subject to the following conditions:
 - (a) That it must be carried whenever a visit is made to the Protected Area and produced for inspection when required by a person duly authorised by the Council in that behalf; and
 - (b) That it may be revoked by the Council at any time; and
 - (iii) The Council shall not refuse to issue a permit unless refusal can reasonably be justified in terms of the designation, promotion or objectives of the Local Nature Reserve.
- 4. These Byelaws shall not operate so as to interfere with:
 - (i) The exercise or enjoyment by a person of:
 - (a) A right vested in him as owner, lessee or occupier of land in the Protected Area;
 - (b) Any easement or profit à prendre to which he is entitled; and or
 - (c) Any public right of way;
 - (ii) The exercise of any function of a local authority, statutory undertaker, water undertaking, or the Environment Agency or any successor to its statutory functions; or
 - (iii) The exercise by a member of any Emergency Service of the performance of his duty.
- 5. Nothing in these Byelaws shall affect the operation of any Byelaws made by the Devon Sea Fisheries Committee.
- 6. Any person who offends against any of these Byelaws shall be liable on summary conviction to a fine not exceeding level 2 as laid down in the Criminal Justice Act and in the case of a continuing offence to a further fine for each day during which the offence continues after the said conviction.

Vessels to be Effectually Silenced

- 16. No person shall operate within the harbour a power driven vessel unless the engine is fitted with a silencer suitable for reducing as far as may be reasonable the noise caused by the escape of the exhaust gases from the engine

Unsafe Vessels

- 17. (1) 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
- (2) 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

Vessels to have Names Marked on Them

- 18. 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 Act 1988 and marked accordingly shall ensure that the vessel is marked conspicuously with its name or other means of identification unless exempted by the Harbour Master

Registration of Vessels

- 19. The owner of a vessel who intends that the vessel will normally be kept within the harbour shall:
 - (a) Insure the vessel and keep it insured with a reputable insurer against public liability to the value of not less than three million pounds (£3,000,000);
 - (b) Register the vessel with the Harbour Master forthwith;
 - (c) Display the registration sticker prominently on the vessel;
 - (d) Thereafter register the vessel at intervals of not more than once a year; and
 - (e) Inform the Harbour Master of the place where the vessel is kept.

Change of Ownership of Vessels

20. 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

Accommodation of Others

21. The master of any vessel or houseboat having any rope chain or other connection fastened to the shore or to any post or buoy or mooring in the harbour shall when necessary or directed by the Harbour Master slacken or haul taut the same as the case may require for the accommodation of other vessels or houseboats moving in the harbour.

Mooring or Anchoring

22. The master of any vessel which has an overall length greater than 60 feet or registered gross tonnage greater than 40 tons or any houseboat shall when directed by the Harbour Master moor or anchor his vessel or houseboat fore and aft

Maintenance and Painting of Vessels

23. The master of a vessel or houseboat shall not intentionally list his vessel or houseboat in order to undertake maintenance work nor shall he engage in the scraping, blasting or painting of such vessel or houseboat on the foreshore or mudlands or other part of the harbour without the previous consent of the Harbour Master and then only in accordance with such directions as he may give and subject to such conditions as he may impose.

Lighting of Craft

24. The master of any houseboat in the harbour shall if such houseboat be moored or anchored next to the fairway of the harbour or if ordered to do so by the Harbour Master provide and maintain between sunset and sunrise lights in accordance with the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1989 (Part C Lights and Shapes)

Placing etc. of Moorings

25. No person shall place lay down maintain use and have private moorings on the fundus or foreshore of the harbour without a licence granted by the Council. Any person requiring such a licence shall make written application therefor to the Harbour Master such application to specify such information as the Council shall from time to time require.

Lifting and Removal of Moorings

26. No person shall (unless required by the Harbour Master so to do) lift a private mooring from the fundus or foreshore without giving to the Harbour Master at least 24 hours previous written notice of the date and time when such mooring is to be lifted.

- (ii) *Discharges with the written consent of the Environment Agency;*
- (d) Use of certain equipment
- (i) Using any device designed or adapted for detecting or locating any metal or mineral in the Protected Area;
- (ii) Using any mechanically propelled remote control model within the Protected Area capable of exceeding any speed restriction for the time being in force there;

- (e) Use of firearms etc
- (i) Being in possession of a firearm, with ammunition suitable for use in that firearm, or discharging a firearm or lighting a firework;
- (ii) Projecting any missile manually or by artificial means (including by means of crossbow, speargun or catapult); provided that this shall not preclude the proper use of any lawful distress signal, emergency search-illuminating pyrotechnics or race signalling gun loaded with blank cartridges, the transportation of covered unloaded firearms and separately packaged ammunition between vessel and shore, or wildfowling by members of the Kingsbridge and District Pigeon Shooting Club;

- (f) Use of vehicles
- (i) Driving, riding, propelling or leaving any mechanically propelled vehicle (including hovercraft) elsewhere in the Protected Area than on a highway or on a road, or on a place indicated by a notice as being available for the purpose;
- (ii) Riding or driving a cycle, motor cycle or motor vehicle on the foreshore within the Protected Area or bringing or causing to be brought on to the foreshore within the Protected Area a motor cycle or motor vehicle other than an invalid carriage;

- PROVIDED THAT nothing in sub-paragraphs 2(f) (i) or (ii) shall prohibit the use of fords being part of the public highway or entry to the foreshore by:
 - (a) a motor cycle or motor vehicle belonging to any Emergency Service, or where entry to the foreshore is required for the purpose of any emergency in connection with the saving of life or livestock; or
 - (b) a motor vehicle to the extent that its entry to the foreshore is necessary to gain direct access to any slipway for the launching or recovering of any boat or vessel;

- (g) General provisions
- (i) Lighting on the foreshore of any fire, stove, heater, barbecue or other appliance capable of causing a fire, other than a stove or lantern incorporating means of control and extinguishment;
- (ii) Letting fall or throwing any lighted match or lighted substance in a manner likely to cause a fire;
- (iii) Depositing any litter, paper, glass, tin or earthenware article (whole or broken), waste material or rubbish of any description in a place other than a receptacle provided for the deposit of litter or refuse;

- (i) "Motor cycle" means a mechanically propelled vehicle with less than four wheels and the weight of which unladen does not exceed 410 kilogrammes;
- (j) "Motor vehicle" means a mechanically propelled vehicle, whether or not intended or adapted for use on roads; and
- (k) "Emergency Services" means Police, Maritime and Coastguard Agency, Royal National Lifeboat Institution, H M Customs and Excise, Fire Brigade, Ambulance, or H M Forces acting on behalf of any of the foregoing.

2. Within the Protected Area the following acts are hereby prohibited except insofar as they may be authorised by a permit issued by the Council in accordance with Byelaw 3, or are necessary to the proper execution of his duty by an Officer of the Council or by any person, or servant of any person, employed or authorised by the Council:

- (a) Damage to or disturbance of things in the Protected Area
- (i) Taking, molesting or deliberately disturbing, injuring or killing any living creature, or disturbing or causing damage to any birds nest or eggs;
- (ii) The use of any harpoon, spear or like instrument;
- (iii) Deliberately removing or displacing any tree, shrub or plant or part thereof, including lower plants such as mosses, liver worts, lichens, algae and fungi, rock, natural hard or soft sediment, or any unfashioned mineral thing excluding water;
- (iv) The collection of bait (excluding sand eels) for sale or commercial gain;

PROVIDED THAT

(A) nothing in sub-paragraphs 2(a)(i) shall prohibit the taking of shell fish by hand;
 (B) nothing in sub-paragraphs 2(a) (i) (ii) or (iii) shall prohibit fishing for sea fish by rod or line, the collection of bait reasonably required for personal use in a manner causing minimum possible harm to the environment, or the removal of encrusting organisms from any artificial or fashioned surface; and
 (C) nothing in sub-paragraph 2(a)(i) shall prohibit the collection of shore peeler crabs or velvet swimming peeler crabs (*Carcinus maenas* or *Necora puber*) by hand for bait from areas authorised by the Council;

- (b) Bringing animals and plants into the Protected Area
- (i) Deliberately bringing, or permitting to be brought, into the Protected Area any living creature, or the egg of any living creature, except (in either case) crabs or scallops indigenous to the Reserve, or any plant, or any seed or any other part of any plant, in such circumstances that it is likely that such creature or plant will reproduce or propagate itself, or such egg will hatch or such seed will germinate;
- (ii) Bringing into, or permitting to remain within, the Protected Area any dog or other animal unless it is kept under close control, and in particular is prevented from worrying or disturbing any animal or bird;
- (iii) Bringing or permitting to be brought into the Protected Area any horse, pony or beast of draught or burden except along (and remaining on) designated rights of way;

(c) Areas of water

Committing any act which pollutes or is likely to cause pollution of any water *with the exception of:*

- (i) *The discharge of grey water or sewage from a vessel; or*

Re-location of Moorings

27. 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.

Identification of Mooring Buoys and Like Apparatus

28. No person shall place, lay down, maintain, use and have private moorings which are not identifiable by a distinctive mark, colour or other device previously indicated to and approved by the Harbour Master and registered in his records at the Harbour Office and the Harbour Master may require an amendment or variation of an identification to avoid confusion or for any other good reason.

Inspection of Moorings

29. The master of any vessel or houseboat shall on receipt of seven days written notice lift the moorings of such vessel or houseboat for inspection by the Harbour Master

Good and Orderly Conduct

Taking Vessels Without Consent

30. No person other than the Harbour Master shall take, remove or cast adrift any vessel moored, anchored, made fast or otherwise left in the harbour without having either the consent of the master or owner of such vessel or other lawful authority. Provided that if the Court before whom any proceedings are taken under this Byelaw are satisfied that the accused acted in the reasonable belief that he had lawful authority or in the reasonable belief that the master or owner of the vessel would in the circumstances have given his consent if he had been asked therefore, the accused shall not be liable to be convicted of the offence.

Intoxicated or Disorderly Persons

31. No person shall be in a state of intoxication through drink or drugs within the harbour or shall use any threatening, abusive, indecent, obscene, profane or offensive language or behave in a riotous, disorderly, indecent or offensive manner to the annoyance or hindrance of any other person or so as to interfere with, obstruct or hinder the use of the harbour or any work being carried on therein.

Damage to Property

32. No person shall within the harbour damage, deface or injure any notice board, building or other property or goods belonging to or in charge of the Council.

Nuisances

33. No person shall within the harbour commit a nuisance of any kind on or against any property of the Council or write or display or cause to be written or displayed in the harbour obscene or offensive words or material on any vessel, houseboat, notice board, building, property or goods.

Use of Certain Equipment

34. No person shall without the consent of the Harbour Master use or permit to be used any apparatus for the transmission, reproduction or amplification of sound, speech or images by electrical or mechanical means so as to create any noise which causes a nuisance or annoyance to other persons in or near the harbour.

Petrol and Oil not to be Pumped into the Harbour

35. Notwithstanding any statutory provision no person on board a vessel or houseboat shall cause petrol or oil or water mixed with these liquids to be pumped or permitted to run into the waters of the harbour.

Dumping in waters of Harbour Prohibited

36. Notwithstanding any statutory provision 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 refuse into the waters of the harbour or onto the shores thereof below the level of high water.

Bright Lights

37. 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.

Fireworks etc.

38. No person shall within the harbour ignite any rocket, firework or other explosive substance and no person shall carry out blasting operations 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.

No Smoking

39. No person shall smoke or carry a lighted pipe, cigar or cigarette within the harbour:-
- where smoking is expressly prohibited by the Council by a notice exhibited in a conspicuous position in such part of the harbour, or
 - if requested by the Harbour Master or any constable or authorised person not to do so in or upon part of the harbour where smoking or carrying a lighted pipe, cigar or cigarette may in their opinion be dangerous, or
 - near to or amongst any dangerous goods in the harbour

Fire extinguishing equipment to be available for use at all times

40. 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.

SOUTH HAMS DISTRICT COUNCIL KINGSBRIDGE AND SALCOMBE ESTUARY SALCOMBE HARBOUR

LOCAL NATURE RESERVE

Byelaws

The South Hams District Council in exercise of the power conferred upon them by Section 20, 21(4) and 106 of the National Parks and Access to the Countryside Act 1949, Section 236 of the Local Government Act 1972 and Section 48A of the Harbours Act 1964 hereby make the following Byelaws for the protection of the local Nature Reserve at the Kingsbridge and Salcombe Estuary in the Parishes of Kingsbridge, East Portlemouth, South Pool, Charleton, West Alvington, Malborough, Frogmore & Sherford and Salcombe in the County of Devon.

- In these Byelaws:
 - "The Reserve" shall mean the pieces or parcels of land containing in the whole 594 hectares or thereabouts and situated in the Parishes of Kingsbridge, East Portlemouth, South Pool, Charleton, West Alvington, Malborough, Frogmore & Sherford and Salcombe in the County of Devon declared to be managed as a local Nature Reserve by the declaration dated the 15th day of November 1993 made by the South Hams District Council in pursuance of Section 21 of the National Parks and Access to the Countryside Act 1949, and the Reserve is for the purpose of identification shown as nearly as may be on the map annexed to these Byelaws and thereon hatched in black;
 - "The Protected Area" shall mean the part of the Reserve to the landward (northern) side of a line drawn from Splat Point straight across to Limebury (or Lambury) Point shown for the purpose of identification only marked "A-B" on the said map, but excluding the part of the Reserve shown coloured black and marked "C" on the said map, also excluding the living space of any vessel;
 - "The Council" shall mean the South Hams District Council;
 - "Firearm" shall have the same meaning as in Section 57 of the Firearms Act 1968;
 - "Person" includes corporation whether aggregate or sole;
 - "Foreshore" means the beach and foreshore from time to time situated above the level of mean low water and below the level of mean high water;
 - "Cycle" means a bicycle, a tricycle, or a cycle having four or more wheels, not being in any case a motor cycle or motor vehicle;
 - "Invalid carriage" means a vehicle, whether mechanically propelled or not, the unladen weight of which does not exceed 150 kilogrammes, the width of which does not exceed 0.85 metres and which has been constructed or adapted for use for the carriage of one person, being a person suffering from some physical defect or disability and is used solely by such a person;

Non-interference with fire equipment

41. No person shall without lawful authority displace or interfere with any safety or fire equipment within the harbour except in the event of an emergency.

Vessels not to be made fast to navigation buoys or marks

42. (1) No person shall make a vessel fast to any navigational buoy, light, beacon or mark within the harbour nor to the seaward (Eastern) side of the Whitestrand pontoon.

(2) The master of any vessel running into, fouling or damaging any of the navigational aids referred to in paragraph (1) shall as soon as reasonably practicable report the same to the Harbour Master.

Navigation and Speed

Vessels to Navigate with Care

43. The master of every vessel (including a vessel under way on the occasion of any boat or other race, regatta, procession or launch) shall navigate that vessel with such care and caution and at such speeds and in such manner as -

(a) not to endanger the life of, or cause injury or discomfort to, any person ;

(b) not to damage any other vessel, houseboat or other property;

(c) not to interfere with the navigation, manoeuvring, loading or discharging of any vessel or houseboat;

(d) not to interfere with any mooring or other property, any buoy, any land, building, works plant, landing steps, landing stage, pier, jetty or railings, or the banks of the harbour;

(e) not to deliberately or recklessly disturb, damage or destroy the wildlife habitats of the harbour;

Navigation under Influence of Drinks or Drugs Prohibited

44. (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.

Speed

45. (1) Except with the prior written permission of the Harbour Master, and Subject to paragraph (2), Bye-law 43 and the Collision Regulations the master of a power-driven vessel shall not permit or cause that vessel to be navigated or driven -
- (a) any where in the harbour at a speed exceeding eight knots through the water;
 - (b) at a speed exceeding six knots through the water:
 - (i) within the area lying north of a line drawn between Salcombe and Smalls Cove (50°14'N) and south of a line drawn between Heath Point and Halwell Point (50°15'.1N) including all of the waters of Batson and Southpool Creeks; or
 - (ii) within Kingsbridge Basin north of 50°16'.5N
- (2) This Bye-law does not apply to any vessel which is-
- (a) by prior written agreement with the Harbour Authority designated as a rescue vessel, is clearly marked with the word "Rescue" and is acting for the purpose of rescue; or
 - (b) being used for the purpose of an emergency; or
 - (c) being operated for the purposes of the Royal National Lifeboat Institution.

Landings

46. No person shall tie any vessel or houseboat to any landing steps, landing stage, pier, jetty, railings or other property at which a notice prohibiting such action is displayed.

Persons under 16 Years of Age

47. 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 eight 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.

- (b) Under Section 666 of the Merchant Shipping Act 1894 it is an offence to wilfully or negligently injure any lighthouse or the lights exhibited therein or any buoy or beacon, remove, alter or destroy any light ship, buoy or beacon or ride by and make fast to or run foul of any light, ship or buoy.
- (c) Parts (ii) and (iii) of the Aviation and Maritime Security Act 1990 make provision in respect of the other offences against the safety of ships and fixed platforms and for the protection of ships and harbour areas against acts of violence and create offences for breach of the provision of that Act.

7. Crown Rights

Nothing contained in any of these Byelaws shall be deemed to be or shall operate as a grant by or on behalf of the Duchy of Cornwall as owners of the foreshore and seabed below the level of high water of any estate or interest in or right over such foreshore, seabed or any part thereof nor shall anything contained in or done under any of the provisions of these Byelaws in any respect prejudice or injuriously affect the rights and interests of the Duchy of Cornwall in such foreshore or seabed.

8. Private Foreshore Owners

The provisions contained in Byelaws numbered 15, 23, 25, 36, 50, 52 and 53 shall not prejudice or affect the rights and interests of private foreshore owners.

Similarly the provisions contained in Byelaw number 15 shall not prejudice or affect the rights and interests of owners of land abutting the foreshore of the harbour.

9. Standard Scale of Fines

The Criminal Justice Act 1982 (as amended) provided for a standard scale of fines for summary offences. At the time these Byelaws were confirmed the relevant levels as amended by the Criminal Penalties (Increase) Order 1984 were:-

Level 2 - £500

Level 3 - £1,000

These sums may be altered by further Statutory Orders from time to time in the light of changes in the value of money.

NOTES

(These notes do not form part of the Byelaws)

1. Damage to Property

In addition to any ability 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 or being reckless as to whether any such property would be destroyed or damaged.

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 seaward of those limits.

3. Coast Protection

Under Sections 18 to 34 of the Coast Protection Act 1949 it is an offence subject to certain exceptions to remove sand, shingle, gravel, earth and other material from the seashore, or without the written consent of the Secretary of State for Transport to deposit objects or materials on the seashore below the level of mean low water springs if the operation causes or is likely to cause obstruction or danger to navigation as far as the tide shall take flow.

4. Prevention of Collisions

Regulation made under the Merchant Shipping Act 1979 impose obligations to be complied with for the prevention of collisions.

5. Litter and Pollution

It is an offence under the Environmental Protection Act 1990 to drop litter on the harbour estate or the 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 or liquid.

6. Damage to or interference with aids to navigation

(a) Under Section 47 of the Malicious Damage Act 1861 it is an offence to unlawfully mask, alter or remove any light or signal or unlawfully exhibit any false light or signal with intent to bring any ship, vessel or boat into danger or to unlawfully and maliciously do anything tending to the immediate loss or destruction of any ship, vessel or boat and under Section 48 of that Act it is an offence to unlawfully and maliciously cut away, cast, adrift, remove, alter, deface, destroy or to unlawfully act with that intent or in any other manner unlawfully and maliciously injure or conceal any boat, buoy, rope, perch or mark used or intended for the guidance for seamen or for the purpose of navigation.

Water Sports etc.

Water-skiing, Aquaplaning, Parascending, Personalised Watercraft, Power Boards, Water Bikes and Aqua Scooters etc.

48. No person or persons shall within the harbour engage or take part in or operate or cause to be operated, a power driven vessel, a personalised watercraft, powerboard, water-bike or aqua-scooter, or any similar type of vessel, for the purpose of water-skiing or aquaplaning or parascending or any similar waterborne or airborne activity.

Sub-Aqua Activities

49. No person shall engage in sub-aqua diving or sub-aqua swimming or the like within the harbour except:-

- (i) with the written permission of the Harbour Master, and
- (ii) in accordance with written directions (if any) given by the Harbour Master regarding:-
 - (a) the time when such activities can be carried out, and
 - (b) the part of the harbour where such activities can be carried out.

Miscellaneous and General

Restrictions on Placards etc.

50. Except with the permission of the Harbour Master no person shall publicly exhibit any bill placard or notice or distribute any leaflet, pamphlet or circular nor attach any such document to or write upon any part of the harbour.

Abandonment etc. of Vessels Prohibited

51. (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.
- (2) For the purposes 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.

Meetings

52. No person shall within the harbour hold any public meeting, political or otherwise or gather together or deliver an address to an audience or gather together any persons without the written consent of the Harbour Master.

Unauthorised Trading Prohibited

53. No person shall within the harbour engage by way of trade in buying or selling any goods or property without the written consent of the Harbour Master.

Inspection facilities to be available to Harbour Master

54. The master of any vessel or houseboat in the harbour shall when so required by the Harbour Master afford every reasonable facility to enable the Harbour Master to ascertain whether these Byelaws are duly observed.

Store Pots and Rafts

55. No person shall keep in the harbour a store pot for shell fish or a raft of any kind unless such store pot or raft is clearly marked by a standard rising two feet above the surface of the water with a flag attached to the head of the standard.

Crab and Lobster Pots

56. No person shall keep in the harbour a crab or lobster pot unless such pot is clearly marked by a marker buoy to which is affixed a standard rising at least two feet above the surface of the water with a flag attached to the head of the standard PROVIDED that no such crab or lobster pot is placed in a navigable fairway.

Penalties, Defences and Revocation of Byelaws

Penalties

57. 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 an offence and be liable on conviction before a Court of summary jurisdiction to a fine as follows:-

(a) for the contravention of Byelaws:

18 - vessels to have names marked on them

19 - registration of vessels

20 - change of ownership of vessels

53 - unauthorised trade prohibited

to a fine not exceeding level 2 on the [Standard Scale](#)

(b) for the contravention of any other Byelaw to a fine not exceeding level 3 on the [Standard Scale](#)

Defences

58. (1) 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 are taken against any other person.
- (2) 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
- (3) If in any case the defence provided by paragraph (2)(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.

Revocation of Byelaws

59. The following Byelaws are hereby revoked:

The Salcombe Harbour Byelaws confirmed on the 5th November 1956, 8th June 1959, 25th August 1960, 15th June 1964 and 9th January 1978.

As At 22nd December 2008.

Original Available for inspection on request.