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SCOTTISH STATUTORY INSTRUMENTS

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**2021 No. 118**

**The Eyemouth Harbour Revision Order 2021**

**PART 4**

**Harbour Regulation**

**Byelaws**

**22.**—(1) The Trustees may from time to time make byelaws for the efficient management and regulation of the harbour.

(2) Without prejudice to the generality of paragraph (1), byelaws made under this article may provide for—

- (a) regulating the use, operation and superintendence of the harbour and the berths, quays, piers, warehouses, sheds, landing places, equipment, works and conveniences (including moorings) in the harbour,
- (b) regulating the shipping and unshipping, landing, warehousing, stowing, depositing and removing of goods within the harbour,
- (c) preventing damage or injury to any vessel, goods, property or persons within the harbour,
- (d) regulating the conduct of all persons within the harbour not being members of a police force or officers or servants of the Crown whilst in the execution of their duties,
- (e) preventing and removing obstructions or impediments within the harbour,
- (f) prohibiting or regulating the discharge or deposit of ballast, ashes, refuse, rubbish or other material (including any polluting liquid) in or into the harbour (other than from any vessel within the meaning of section 255 of the 1995 Act),
- (g) prohibiting persons from smoking within such parts of the harbour as the Trustees may from time to time designate,
- (h) regulating the activities in the harbour of divers, surfers, water skiers, kite surfers, swimmers and other persons engaged in similar recreational pursuits,
- (i) regulating the use of fires, lights and pyrotechnics within the harbour (other than on any vessel within the meaning of section 255 of the 1995 Act),
- (j) regulating the type of vehicles which may enter or be within the harbour and the movement, parking, use, loading or unloading of vehicles within the harbour, and giving powers to officers or employees of the Trustees in relation to such regulation,
- (k) regulating the holding of regattas and other public events in the harbour,
- (l) regulating fishing within the harbour,
- (m) prohibiting or regulating the sale of articles or the provision of services within the harbour,
- (n) making the carrying out of specified activities, or the conduct of persons in the harbour, subject to the approval (with or without conditions), control or direction of the harbour master, and

(o) the conservation of the fauna and flora in the harbour.

(3) Where byelaws under this section make the carrying out of specified activities, or the conduct of persons in the harbour, subject to the approval (with or without conditions), control or direction of the harbour master as mentioned in paragraph (2)(n), the harbour master may take such action as may be reasonably required in default of compliance with any such approval, condition, control or direction.

(4) Byelaws made under this article may—

- (a) provide for fines on summary conviction not exceeding level 3 on the standard scale for breach of any approval, condition, direction or requirement imposed under the byelaws,
- (b) relate to the whole of the harbour or to any part of it, and
- (c) make different provision for different parts of the harbour or in relation to different classes of vessels or vehicles or different specified activities.

(5) Before making byelaws under this section the Trustees shall consult with such persons as the Trustees consider are representative of users of the harbour.

### **Confirmation of byelaws**

**23.**—(1) Byelaws made by the Trustees under this Order shall not come into operation until they have been confirmed by the Ministers.

(2) Not later than one month before an application for confirmation of byelaws is made by the Trustees to the Ministers, notice of the intention to apply for confirmation and details of the Trustees' website where the byelaws can be viewed or, as the case may be, the place at which and time during which a copy of the byelaws shall be open to inspection shall be published as follows—

- (a) once in the Edinburgh Gazette, and
- (b) once in each of two successive weeks in a newspaper circulating in the area in which the harbour is situated.

(3) Not later than the first date on which the notice under paragraph (2) is published, the Trustees shall send a copy of the notice to the Chief Executive of the Scottish Borders Council and to the Ministers.

(4) For a period of at least one month before application is made for confirmation of byelaws, the Trustees shall either keep a copy of the byelaws on their website or keep a copy of them open to public inspection, without payment, at its principal office at all reasonable hours.

(5) The Trustees shall supply a copy of the byelaws or of part of the byelaws to a person on request.

(6) During the period of one month beginning with the last date of publication of any notice required by paragraph (2), any person may make, in writing to the Ministers, any objection to or representation about the byelaws to which the notice relates.

(7) The Ministers may confirm the byelaws (with or without modifications) or may refuse to confirm them.

(8) Where the Ministers propose to make a modification that appears to them to substantially affect the character of the byelaws, they shall inform the Trustees and require them to take any steps the Ministers consider necessary for informing persons likely to be concerned with the modification.

(9) For the purposes of paragraph (8), the Ministers shall give the Trustees and any person who is to be informed of a proposed modification the opportunity to make representations in writing about that proposed modification during a period determined by the Ministers and the Ministers shall take such representations into account before making a decision under paragraph (7).

(10) The Trustees shall—

- (a) either keep a copy of the confirmed byelaws on their website or keep a copy of them open to public inspection at all reasonable hours, without payment, at the Trustees' principal office (and at the office of the harbour master), and
- (b) provide a copy of the byelaws to a person on request.

### **General directions to vessels**

**24.**—(1) The Trustees may, after consultation with the UK Chamber of Shipping, the Commissioners of Northern Lighthouses, the Royal Yachting Association Scotland and such other persons as the Trustees consider are representative of users of the harbour and in order to promote or secure conditions conducive to the ease, convenience or safety of navigation or the safety of persons, give directions for any of the following purposes:—

- (a) designating areas, routes or fairways in the harbour which vessels are to use, or refrain from using for movement, mooring or anchorage,
  - (b) securing that vessels move only at certain times or during certain periods,
  - (c) securing that vessels make use of descriptions of aids to navigation specified in the direction,
  - (d) prohibiting entry into or navigation within any of the main fairways during any temporary obstruction thereof,
  - (e) requiring the master of a vessel to give to the harbour master information relating to the vessel reasonably required by the harbour master,
  - (f) prohibiting entry into or movement in the harbour by vessels at times of poor visibility due to the weather or to the presence of dust or smoke provided that no such direction shall prevent the entry into the harbour or the approaches of any vessel seeking refuge from stress of weather,
  - (g) regulating the speed of vessels within the harbour.
- (2) A general direction under this article may apply—
- (a) to all vessels or to a class of vessels designated, or for which the designation is provided for, in the direction,
  - (b) to the whole of the harbour or to a part designated, or for which the designation is provided for, in the direction, or
  - (c) at all times or at times designated, or for which the designation is provided for, in the direction,

and every direction under this article shall specify the extent of its application in relation to the matters referred to in sub-paragraphs (a), (b) and (c).

(3) The Trustees may, after consultation with the UK Chamber of Shipping, the Commissioners of Northern Lighthouses, the Royal Yachting Association Scotland and such other persons as the Trustees consider are representative of users of the harbour, revoke or amend any general direction.

### **Publication of general directions**

**25.**—(1) Notice of the giving of a general direction and of any amendment or revocation of a general direction shall, except in case of emergency, be published by the Trustees as soon as practicable, once in one or more newspapers circulating in the locality in which the harbour is situated.

(2) The Trustees shall also make the notice available for inspection on a web-site maintained by the Trustees together with, if the notice relates to the giving or amendment of a general direction, a copy of the direction or the direction as amended.

(3) If the notice relates to the giving or amendment of a general direction, the notice shall state a place at which copies may be obtained and particulars of the web-site where a copy of the direction or the direction as amended may be viewed.

(4) In an emergency, notice of the giving of a general direction or of any amendment or revocation of a general direction may be given in any manner the Trustees considers appropriate.

### **Special directions to vessels**

**26.**—(1) The harbour master may give a special direction—

- (a) requiring a vessel anywhere within the harbour limits to comply with a requirement made in or under a general direction,
- (b) for regulating the time at which and the manner in which a vessel shall enter into, go out of, or lie in or at the harbour,
- (c) for securing that a vessel moves in the harbour only at certain times or during certain periods,
- (d) prohibiting the mooring of a vessel in any particular part or parts of the harbour,
- (e) regulating or requiring the movement, berthing, mooring or unmooring of a vessel in the harbour, and
- (f) regulating the manner in which a vessel takes in or discharges (from ship to shore or shore to ship) passengers, cargo, fuel, water, ship's stores or ballast in the harbour.

(2) A special direction may be given in any manner considered by the harbour master to be appropriate.

(3) The harbour master may revoke or amend a special direction.

### **Master's responsibility to be unaffected**

**27.** The giving of a general direction or a special direction shall not diminish or in any other way affect the responsibility of the master of the vessel to which the direction is given in relation to his or her vessel, persons on board, its cargo or any other person or property.

### **Failure to comply with directions**

**28.**—(1) A person who fails without reasonable excuse to comply with a special direction is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) A person who fails without reasonable excuse to comply with a general direction, or who breaches an approval, condition or requirement of a general direction, is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **Enforcement of special directions**

**29.**—(1) Without affecting any other remedy available to the Trustees, if a special direction is not complied with within a reasonable time, the harbour master may, where practicable, put persons on board the vessel to carry out the direction or may otherwise cause the vessel to be handled in accordance with the direction.

(2) If there is no one on board the vessel to comply with a special direction, the harbour master may proceed as if the direction had been given and not complied with; but he shall not do so unless, after reasonable inquiry has been made, the master cannot be found.

(3) Reasonable expenses incurred in the exercise of the powers conferred by this article shall be recoverable by the Trustees from the owner of the vessel as if they were a charge of the Trustees in respect of the vessel.

### **Boarding of vessels**

**30.** Any duly authorised officer of the Trustees may enter and inspect a vessel in the harbour, subject to producing his or her authority where requested—

- (a) for the purposes of any enactment relating to the Trustees, byelaw of the Trustees or general direction of the Trustees including its enforcement, or
- (b) to prevent or extinguish fire,

but, except in an emergency, no entry shall be made under this article without prior written notice first having been given to the owner or the person appearing to have charge of the vessel, at least 24 hours in advance; and the notice shall have annexed to it a copy of this article.

### **Vessels adrift**

**31.—(1)** The owner or master of a vessel adrift in the harbour shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) It shall be a defence for the owner or master of a vessel charged with an offence under paragraph (1) to prove that the vessel did not become adrift as the result of any neglect or default on his or her part.