

SCHEDULE 1

Article 15

REGULATION OF THE HARBOUR AND THE HARBOUR PREMISES

PART I:
PRELIMINARY

Interpretation

1. In this Schedule—

“Beacon E” means the point on the Outer Breakwater at Latitude 50° 34.8' N, Longitude 002° 24.8' W;

“the Collision Regulations” means regulations for the prevention of collisions made under sections 85 and 86 of the Merchant Shipping Act 1995;

“the controlled area” means the area of water within the inner harbour bounded by the following imaginary line—

- (a) drawn 325° (true) for 1,050 metres from the eastern extremity of the Inner Breakwater;
- (b) then drawn 251° (true) for 900 metres;
- (c) then drawn 180° (true) to the north-east corner of the Phoenix Pier;
- (d) then drawn from the south-east corner of the Phoenix Pier 150° (true) for 280 metres to the western dolphin off Castletown Slipway;
- (e) then drawn to the western edge of Castletown Slipway at the level of high water;

“fairway” means either of the main fairways or any other area designated as a fairway by the Company in a general direction;

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

“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;

“power-driven vessel” includes any vessel propelled by machinery;

“property” means any property whether real or personal;

“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;

“seaworthy” in relation to a vessel means that the vessel with its master and crew is capable, having regard to any intended movement of the vessel within or through the harbour, of being navigated or manoeuvred safely;

“under way” in relation to a vessel means a vessel not at anchor, made fast to the shore or aground; and

“whistle” means any vessel’s whistle or siren.

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Application

2. The provisions of this Schedule shall have effect in addition to any general direction or any special direction given by the Company or the harbour master, so far as they are consistent therewith, but they shall be subject to the provisions of Schedule 2 to this Order.

**PART II:
NAVIGATION**

Vessel movements

3. The master of a vessel other than a small vessel shall give prior notice to the harbour master or his agent of the vessel's arrival at, departure from or movement within, the harbour.

Declaration of particulars of vessel

4. The master of a 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, name and address of owner, destination, and particulars of any cargo and passengers.

Vessels to be navigated with care and caution

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

Speed of vessels

6.—(1) Subject to sub-paragraph (2) below, the master of a power-driven vessel other than a power boat shall not, except and in accordance with the prior permission in writing of the harbour master, cause or permit the vessel to proceed at a speed greater than 12 knots through the water when navigating—

- (a) within the inner harbour; and
- (b) in the approaches thereto north of a line drawn 048° (true) from "D" Head.

(2) The master of a power-driven vessel shall not, except and in accordance with the prior permission in writing of the harbour master, cause or permit the vessel to proceed at a speed greater than 6 knots through the water in the following areas—

- (a) in Newton's Cove, west of a line drawn 026° (true) from Torpedo Pier Light to the northern limit of the harbour;
- (b) within 150 metres of the breakwaters, except as required to pass through the main fairways;
- (c) in the inner harbour—
 - (i) west of a line drawn 026° (true) from the light structure (New Channel Beacon) situated at Latitude 50° 34.87' N, Longitude 002° 27.61' W to Torpedo Pier Light;
 - (ii) south of a line drawn 119° (true) from New Channel Beacon to the light on the northern corner of Queen's Pier; and

(iii) south of a line drawn 251° (true) from Beacon E on the Outer Breakwater.

(3) For the purposes of sub-paragraph (1) above “power boat” means a power-driven vessel of less than 10 metres in length.

(4) This paragraph is without prejudice to paragraph 5 above and the Collision Regulations.

Small vessels

7.—(1) The master of a small vessel which is not confined to a fairway shall not make use of the fairway so as to cause obstruction to other vessels which can navigate only within the fairway; and when navigating across a fairway or through an entrance to the inner harbour, he shall do so by the shortest possible route that will avoid such obstruction.

(2) The master of a small vessel shall not hamper the safe passage of any vessel greater than 20 metres in length which is in, entering or leaving a fairway or which is under way within the inner harbour.

Outgoing vessels to have priority

8. Subject to paragraph 7(2) above, outgoing vessels shall have priority of passage in the main fairways over incoming vessels, and no vessel proceeding inward shall enter either of the main fairways until any vessel proceeding outwards through that fairway has passed out.

Vessels not to make fast to aids to navigation

9. The master of a vessel shall not make fast the vessel to or knowingly cause or permit the vessel to lie against any buoy, beacon or mark used for navigational purposes.

Notification of accidents and deficiencies, etc.

10.—(1) 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) is within or about to enter the harbour and 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 give immediate notice of that fact to the harbour master and (as soon as practicable thereafter) provide the harbour master with full details in writing.

(2) Where the condition of a vessel is such that it is not or may not be seaworthy, 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.

(3) The harbour master may mark any vessel the subject of a notice given to him under sub-paragraph (1) above in any manner he considers appropriate.

Vessels to have competent helmsman

11.—(1) Subject to sub-paragraph (2) below, the master of a vessel shall ensure that it is steered at all times by a person competent to do so; and no automatic devices or equipment shall be used for steering purposes unless attended by a competent helmsman.

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(2) The requirement of sub-paragraph (1) above to ensure that a vessel is steered at all times by a person competent to do so shall not apply if a person steering a vessel is undergoing training, so long as—

- (a) that person is being supervised on board the vessel by such a competent person; or
- (b) that person is steering the vessel in such part of the harbour as may be designated by the harbour master as suitable for training purposes.

(3) No person under the age of 16 years shall steer or navigate within the harbour any power-driven vessel of over 10 horsepower unless that person is—

- (a) in possession of an appropriate Royal Yachting Association or equivalent qualification; or
- (b) accompanied by a person aged 18 years or over.

Master to remain on bridge

12. The master of a power-driven vessel under way shall either—

- (a) be on the bridge or at the control position of the vessel; or
- (b) ensure that there is on the bridge or at the control position a member of the crew who is capable of taking charge of the vessel and, when a pilot is on board, is capable of carrying out the pilot's directions for the conduct of the vessel.

Prohibition on navigation

13. Except with the prior permission of the harbour master, no vessel shall enter, or navigate within, the controlled area.

Use of whistles

14. No person shall use a whistle within the harbour except—

- (a) as a signal of distress;
- (b) to prevent collision;
- (c) in the case of fog; or
- (d) with the prior permission of the harbour master, for the purpose of—
 - (i) the management of a race or any similar event;
 - (ii) the training of a person in the use of a small vessel; or
 - (iii) testing the whistle.

Anchorage

15.—(1) No vessel shall anchor—

- (a) within 100 metres of the line of any cable or pipe laid down in the harbour, when such line is indicated by posts or other discernible marks on shore, in a general direction or on the Admiralty Charts; or
- (b) within 150 metres of any breakwater.

(2) Without prejudice to sub-paragraph (1) above, if at any time the anchor of any vessel hooks any moorings, electric cable, moorings of buoys, or any pipe, the master of the vessel shall forthwith give notice thereof to the harbour master and shall, if it is safe and practicable, await his instruction before proceeding to clear the same.

Obstruction of main fairways

16. Except with the permission of the harbour master, no vessel shall lie or be moored, anchored, grounded, deposited or run ashore in the main fairways.

Shipkeepers

17.—(1) No vessel compelled or allowed to anchor in or near the main fairways, any other fairway or approaches to the controlled area, shall be left at any time without a shipkeeper.

(2) For the purposes of sub-paragraph (1) above, a vessel is anchored near the main fairways, any other fairway or approaches to the controlled area if she could, at the extent of her swing, and having regard to prevailing or anticipated weather conditions, and the potential to drag her anchor, infringe on the fairway or approaches to the controlled area, as the case may be.

PART III:

BERTHING AND MOORING

Provision of proper fenders

18. 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 any other property.

Vessels to be properly berthed

19. The master of a vessel shall at all times keep his vessel properly and effectively moored when berthed or lying at any quay.

Vessels adrift

20. The master of a vessel which parts from its moorings shall, as soon as possible, report the same to the harbour master.

Access to and egress from vessels

21. The master and the owner of a vessel (other than a small vessel) while berthed alongside a quay shall provide and maintain a sufficient, safe and proper gangway for the access and egress of all persons having lawful business on the vessel and shall during the hours of darkness provide sufficient lighting to illuminate the whole length of the gangway.

Sufficiency of crew

22.—(1) Except with the permission of the harbour master, the master of a vessel other than a small vessel shall at all times when that 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 the vessel's moorings;

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

(2) If any contract is entered into to secure compliance with sub-paragraph (1) above by persons other than the vessel's crew, the name and address of the person with whom the contract is entered into shall be disclosed to the harbour master.

Vessels to be kept in a movable condition

23.—(1) The master of a vessel, other than a small vessel lying at a recognised mooring or anchorage, 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, subject as aforesaid, shall at all times keep his vessel so loaded and ballasted and in such condition that it is capable of being safely moved.

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

Use of engines while vessel moored or berthed

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

Vessels not to make fast to unauthorised objects

25. 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

26. The master of a vessel alongside a quay or alongside any 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.

Lost anchor, cable or propeller

27. 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 the position thereof if this is known.

PART IV: GOODS AND ROAD TRAFFIC

Requirements as to handling and movement of goods in the harbour

28.—(1) The owner of any goods loaded or discharged at the harbour shall ensure that the goods are removed therefrom as soon as practicable and in any case within 48 hours unless the Company otherwise agree.

(2) The owner of any goods shall comply with such directions as the Company may from time to time give for regulating the time, place and manner of discharging, loading or otherwise bringing into or removing those goods from the harbour premises.

Precaution against goods, etc., falling into harbour waters or the Company's premises

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

Obstruction or interference at harbour premises

30. No person shall—

- (a) except with the permission of the Company, deposit or place on any part of the harbour premises 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) without lawful authority, use, work, move or tamper with any plant, machinery, equipment or apparatus at the harbour premises.

Safe driving of vehicles

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

Speed limit for vehicles

32. No person shall allow a vehicle to proceed anywhere in the harbour premises at a speed greater than 10 miles per hour or at such other speed applicable to all or part of the harbour premises as may be specified by the Company in a notice conspicuously posted in or close to the place to which the limit relates.

Supervision of vehicles

33. A person having charge of a vehicle in the harbour premises shall at all times comply with any directions of the Company with respect to the loading, discharging, manoeuvring and removal thereof and shall not, without the permission of the Company—

- (a) leave the vehicle unattended anywhere within the harbour premises; or
- (b) take it into any shed or working area.

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Loads not to leak, spill or drop

34.—(1) The owner, driver or other person having charge of a vehicle in the harbour premises shall not knowingly permit any substance to leak, spill or drop from the vehicle.

(2) This paragraph shall not apply to any spillage from a vehicle in which fish are being transported in bulk where that spillage could not have been reasonably prevented.

Loads to be secured

35. The owner, driver or other person having charge of a vehicle in the harbour premises 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

36. No person shall within the harbour premises charge any vehicle with, or empty it of, fuel except with the permission of the Company or at a place designated by the Company for that purpose.

Driving on weighbridges

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

Accidents to be reported

38. Any person driving or otherwise operating a vehicle involved in an accident in the harbour premises 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 Company and shall give his name and address to the Company.

PART V:

GENERAL

Inspection facilities, etc., to be made available to harbour master

39. 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 the vessel or any part thereof and provide all reasonable facilities for its inspection and examination.

Navigation under influence of drink or drugs prohibited

40. 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.

Vessels not to be fumigated without permission

41. The master or owner of a vessel shall not cause or permit it to be fumigated without the prior permission of the harbour master.

Discharges into harbour prohibited

42.—(1) No person shall discharge any matter or cause or permit any matter to be discharged into the waters or on to the bed of the harbour or place or cause or permit any matter or object to be placed so that it may fall, be blown, drift or flow into the harbour.

(2) The provisions of this paragraph shall not apply to—

- (a) the discharge or escape of any substance the discharge or escape of which is subject to the provisions of the Prevention of Oil Pollution Act 1971⁽¹⁾;
- (b) anything specifically authorised by, or by a consent given under, any other enactment.

Fishing

43.—(1) Any person fishing in the harbour shall comply with directions given to him by the harbour master.

(2) Subject to sub-paragraphs (4) and (5) below, no person shall fish—

- (a) in the main fairways;
- (b) in the controlled area;
- (c) within 150 metres of the harbour premises;
- (d) by trawl, nets or dredges within 100 metres of the line of any cable or pipe laid down in the harbour; and
- (e) with surface nets in the inner harbour, except with the written permission of the harbour master.

(3) No person shall fish in Newton’s Cove—

- (a) by trawl or dredges, west of a line drawn due north from “C” Head to the northern limit of the harbour; or
- (b) by nets west of a line drawn 026° (true) from Torpedo Pier Light to the northern limit of the harbour.

(4) With the written permission of the harbour master a person may lay and lift prawn and lobster pots at the following locations—

- (a) on and within 150 metres of the seaward side of the Inner Breakwater;
- (b) on and within 150 metres of the seaward side of the Outer Breakwater;
- (c) on and within 150 metres of the landward side of the Outer Breakwater between Beacon E and the South Ship Channel but excluding any area for the time being marked by buoys as set aside for a fish farm;
- (d) on and within 150 metres of the North-eastern Breakwater and the Northern Arm; and
- (e) within 150 metres of the harbour premises lying to the south of the Inner Breakwater.

(5) With the written permission of the harbour master a person may lay and lift prawn pots on and within 10 metres of the landward side of the Outer Breakwater between Beacon E and the southern side of the jetty at Fort Head, but excluding any area for the time being marked by buoys as set aside for a fish farm.

(6) 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.

(1) 1971 c. 60.

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(7) All surface set nets and such other apparatus and equipment which could impede surface navigation in the harbour shall be attended at all times.

(8) All markers used to indicate the position of fishing equipment shall be clearly marked with either the owner's name or boat registration number.

No dragging or grappling without permission

44. Without prejudice to paragraph 27 above, no person shall drag, dredge or grapple for any material or article, nor remove the same from the bed of the harbour, without the written consent of the harbour master save for the purpose of immediately recovering any article dropped overboard from a vessel.

Vessels to have names marked on them

45. The owner of a vessel which is not registered as a ship under Part II of 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 Company.

Abandonment of vessels prohibited

46.—(1) No person shall abandon a vessel on the banks or shore of the harbour or on any of the breakwaters.

(2) For the purposes of sub-paragraph (1) above, a person who leaves a vessel on the banks or shore of the harbour or on any of the breakwaters 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.

Water-skiing, aquaplaning and similar activities

47.—(1) No person shall engage or take part in water-skiing, aquaplaning or any similar activity—

- (a) in the main fairways;
- (b) within 150 metres of the breakwaters;
- (c) south of a line drawn between Beacon E and a point on the shore at Latitude 50° 34.22' N, Longitude 002° 27.5' W (the Lattice Tower);
- (d) in the area west of lines drawn 127° (true) and 028° (true) from the light structure (New Channel Beacon) situated at Latitude 50° 34.87' N and Longitude 002° 27.61' W; and
- (e) in Newton's Cove, west of a line starting at a point on the northern side of the Northern Arm 1,120 metres from the eastern extremity of "C" Head and drawn 028° (true) to the northern limit of the harbour.

(2) Without prejudice to sub-paragraph (1) above, no person shall engage or take part within the harbour in water-skiing, aquaplaning or any similar activity except in areas designated by the Company and with the written permission of the harbour master, given either specifically or generally, and subject to such other reasonable terms and conditions as the harbour master may specify.

(3) A master of a vessel, whilst using the 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

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vessel and of giving such assistance as may be reasonably required during the towing and in the recovery of the water-skier or person aquaplaning and shall carry—

- (a) for each person on board or being towed a life jacket or a personal buoyancy aid;
- (b) two hand-held distress signals and a fire extinguisher; and
- (c) for each person water-skiing or aquaplaning, a rescue quoit with line or other sufficient hand-thrown rescue device.

Para-kiting, para-scending and similar activities

48. No person shall engage or take part in para-kiting, para-scending or any similar activity in any part of the harbour except with the written permission of the Company given either specifically or generally and only in such areas as may be designated by the Company and in accordance with such reasonable terms and conditions as the Company may impose.

Diving and underwater swimming

49.—(1) Subject to sub-paragraph (2) below, no person, other than a duly authorised employee, contractor or agent of the Company, shall swim underwater or dive in the areas specified in paragraph 43(2)(a), (b) and (c) above.

(2) With the written permission of the Company a person may dive and swim underwater—

- (a) seawards from the seaward side of the Inner Breakwater (including the South Ship Channel entrance);
- (b) seawards from the seaward side of the Outer Breakwater but remaining clear of the main fairway concerned;
- (c) within 50 metres of the landward side of the Outer Breakwater but remaining clear of the main fairway concerned for the purpose of diving on the wreck adjacent to Beacon E, commonly known as the “Enecuri” or “Spaniard”; and
- (d) on the wrecks along the landward side of the Outer Breakwater between Beacon E and “D” Head.

(3) An application for permission to dive the wrecks mentioned in sub-paragraph (2)(d) above shall be made at least 2 working days before the day on which it is desired to carry out the dive in question and the permission, if given, shall relate to that particular dive alone.

- (a) (4) (a) Subject to (b) below, the Company shall only give permission to dive and swim underwater for the purposes of sub-paragraph (2) above to a person who is a member of a club or association which is either a registered branch of the British Sub-Aqua Club, a registered club of the Sub-Aqua Association, a Professional Association of Diving Instructors registered diving school or a member of any other recognised and competent organisation.
- (b) Permission for the purposes of sub-paragraph (2) above may be given by the Company to a club or association mentioned in (a) above for the benefit of those of its members specified in the permission.

(5) Permission given under the said sub-paragraph to dive or swim underwater shall not authorise any person to land or set foot on the Inner Breakwater or the Outer Breakwater.

(6) Any permission granted under the said sub-paragraph may be given subject to such reasonable terms and conditions (including as to the payment of charges) as the Company may consider appropriate, and any person diving or swimming underwater in the harbour shall comply with any such terms and conditions that are imposed, and with any directions given to him by the harbour master.

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Regattas, races and similar events

50.—(1) The person responsible for organising any regatta, race, procession, pageant or any other similar event, or any part of any such event in which a number of vessels is expected to participate or to assemble within the harbour, shall supply to the harbour master such information with regard to the event as the harbour master may reasonably require and shall seek the prior consent of the harbour master to the holding of the event or the part of such event within the harbour, which shall not be unreasonably withheld.

(2) No person shall organise or conduct any of the events referred to in sub-paragraph (1) above except on such courses, at such times and in accordance with such other conditions as the harbour master may reasonably specify for the purposes of this paragraph.

Aids to navigation

51. No person shall erect, exhibit, alter, tamper with or remove any light, fog signal, buoy, beacon, mark, radar reflector or other object within or adjoining the harbour used as an aid to navigation in the harbour without the written permission of the Company.

Assistance to fire and other services

52. The master of a vessel shall give every reasonable facility and assistance to the fire, police, ambulance and other emergency services for dealing with, alleviating or preventing any emergency.

Fire precautions

53. The master of a vessel shall take all reasonable precautions for the prevention of accidental fire or accidents by fire.

Obstruction of officers of the Company

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

Meetings

55.—(1) Except with the consent of the harbour master, no person shall within the harbour premises—

- (a) take part in any general meeting; or
- (b) gather together with other persons, or deliver any address to an audience,

whereby any work or business at the harbour or the control, management or use of the harbour is, or likely to be, obstructed, impeded or hindered.

(2) This paragraph shall not apply to any meeting held for the purposes of, or in connection with requirements under, the Health and Safety at Work etc. Act 1974(2) or any regulations made under that Act.

Unauthorised trading prohibited

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

(2) 1974 c. 37.

Landing on breakwaters

57. No person may at any time land on the breakwaters except with the permission in writing of the harbour master and in accordance with any conditions attached thereto.

Firearms

58.—(1) Except with the prior consent of the harbour master no firearm or air-gun shall be discharged from any vessel within the harbour or from the harbour premises otherwise than by a member of a police force or a member of Her Majesty's naval or military forces properly authorised to do so in the course of his duty.

(2) No ship's gun on board any vessel lying within the harbour shall be loaded, except in so far as may be necessary from time to time for training personnel in the loading and unloading of the gun or for testing its mechanism, nor shall any such gun be discharged except as a signal of distress.

Silencers

59. No person, being the master of a vessel propelled by an internal combustion engine, shall use that vessel in the harbour unless the engine is fitted with a silencer or such other apparatus suitable and sufficient for reducing as far as may be reasonable the noise caused by the escape of the exhaust gases from the engine.

Penalties

60.—(1) Any person who contravenes or otherwise fails to comply with any of the provisions of this Schedule, or any condition, requirement or prohibition imposed by the Company or the harbour master in the exercise of the powers conferred upon them or him by this Schedule, shall be guilty of an offence and liable on summary conviction—

- (a) to a fine not exceeding level 4 on the standard scale in the case of an offence under paragraph 40 above;
- (b) to a fine not exceeding level 3 on the standard scale in any other case.

(2) Where the commission by any person of an offence under this Schedule 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 paragraph, whether or not proceedings for the offence are taken against any other person.

(3) In any proceedings for an offence under this Schedule, 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.

(4) If, in any case, the defence provided by sub-paragraph (3)(a) above 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 Company a notice in writing giving such information identifying, or assisting in the identification of, that person as was then in his possession.

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SCHEDULE 2

Article 56

PROTECTIVE PROVISIONS

PART I:

DEFENCE EVALUATION AND RESEARCH AGENCY

(SEA SYSTEMS SECTOR)

Interpretation

1. In this Part of this Schedule—

- (a) “the Acoustic Range Building” means the building located on the seaward side of the Northern Arm at Latitude 50° 35.97' N, Longitude 002° 26.6' W (150 metres north-west of the Vernon Building);
- (b) “the Distant Range Building” is the building on and co-located with the Torpedo Firing Point on the North-eastern Breakwater at Latitude 50° 35.39' N, Longitude 002° 25.36' W;
- (c) “the Short Range Building” is the building situated on Torpedo Pier on the Northern Arm;
- (d) “the Vernon Building” (formerly the Admiralty Magnetic and Calibration Station) means that building located on the Northern Arm at Latitude 50° 35.93' N, Longitude 002° 26.48' W;
- (e) “the Vernon Building Jetty” means the jetty on the seaward side of the Northern Arm adjacent to the Vernon Building; and
- (f) “the Vernon Landing Stage” means the landing Stage on the landward side of the Northern Arm adjacent to the Vernon Building.

Fishing, anchoring and mooring

2.—(1) Subject to sub-paragraph (2) below, no person shall fish, anchor or moor within—

- (a) 350 metres of the landward side of the Northern Arm between the Vernon Landing Stage and Torpedo Pier;
- (b) 250 metres of that side of the Northern Arm between Torpedo Pier and the level of high water at the Northern Arm’s landward end;
- (c) 150 metres to seaward of the Vernon Building Jetty;
- (d) the acoustic range area, being a rectangular area extending 25 metres each side of the Acoustic Range Building and extending 150 metres to seaward of the Northern Arm; and
- (e) 150 metres of the Distant Range Building.

(2) With the written permission of the Company (which shall not be given without the written consent of the Secretary of State for Defence) a person may lay and lift prawn pots at the following locations—

- (a) on and within 10 metres of the landward side of the Northern Arm in the area specified in sub-paragraph (1)(a) above unless Flag Alfa is flying from the Short Range Building;
- (b) within 10 metres of the seaward side of the Northern Arm in the areas specified in sub-paragraphs (1)(c) and (1)(d) above unless Flag Alfa is flying from the Vernon Building or the Acoustic Range Building; and

- (c) within 10 metres of the seaward side of the North-eastern Breakwater in the area specified in sub-paragraph (1)(e) above unless Flag Alfa or the International Code Group November Alfa is flying from the Distant Range Building.

Diving and underwater swimming

- 3.—(1) Subject to sub-paragraph (2) below, no person shall swim underwater or dive within—
- (a) 150 metres of the North-eastern Breakwater;
 - (b) 150 metres of the seaward side of the Northern Arm;
 - (c) 150 metres of the landward side of the Northern Arm between “C” Head and the Vernon Landing Stage; and
 - (d) the areas specified in sub-paragraphs 1(a) and 1(b) of paragraph 2 above.
- (2) With the permission of the Company (which shall not be given without the written consent of the Secretary of State for Defence) a person may dive and swim underwater—
- (a) from either side of the North-eastern Breakwater but remaining clear of the main fairways and not within 150 metres of the Distant Range Building; and
 - (b) from either side of the Northern Arm from “C” Head to a point 150 metres south-east of the Vernon Building, but remaining clear of the main fairway concerned.
- (a) (3) (a) Subject to sub-paragraph (b) below, the Company shall only give permission to dive and swim underwater for the purposes of sub-paragraph (2) above to a person who is a member of a club or association which is either a registered branch of the British Sub-Aqua Club, a registered club of the Sub-Aqua Association or a Professional Association of Diving Instructors registered diving school.
- (b) Permission for the purposes of this paragraph may be given by the Company to a club or association mentioned in (a) above for the benefit of those of its members specified in the permission.
- (4) Any permission given under this paragraph to dive or swim underwater shall not authorise any person to land or set foot on the North-eastern Breakwater or the Northern Arm.

PART II:

DEFENCE EVALUATION AND RESEARCH AGENCY

(TEST AND EVALUATION RANGES SECTOR)

Interpretation

4. In this Part of this Schedule—
- (a) “the Grove Point Building” means the building co-located with the Coastguard Building located at Latitude 50° 32.9' N, Longitude 002° 25.1' W; and
 - (b) “the Vernon Building” has the same meaning as in Part I of this Schedule.

Fishing, anchoring and mooring

- 5.—(1) Subject to sub-paragraph (5) below, no person shall fish, anchor or moor—
- (a) within that part of an imaginary rectangle constructed 150 metres from the centre of the outer buoys marking the fixed degaussing range situated at or near a point at Latitude 50°

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36.3' N, Longitude 002° 26.12' W as lies inside the harbour, and within a similar rectangle from the centre of the outer buoys marking the mobile degaussing range that may from time to time be situated at or near a point at Latitude 50° 36.28' N, Longitude 002° 24.8' W;

- (b) within the area used as a noise range bounded by the points at—
 - (i) Latitude 50° 34' N, Longitude 002° 24.4' W;
 - (ii) Latitude 50° 34' N, Longitude 002° 24.0' W;
 - (iii) Latitude 50° 33.6' N, Longitude 002° 24.0' W; and
 - (iv) Latitude 50° 33.6' N, Longitude 002° 24.4' W;
- (c) within 100 metres of any cables serving the ranges specified in this sub-paragraph; and
- (d) in any part of the harbour when it would obstruct vessels exhibiting International Code “PP” at the yardarm when making degaussing or noise range runs over the ranges and areas specified in this sub-paragraph.

(2) No person shall fish by nets, anchor or moor in Newton’s Cove west of a line drawn due north from “C” Head to the northern limit of the harbour when the fixed degaussing range specified in sub-paragraph (1)(a) above is in use, as indicated by an orange flag flying from the Vernon Building.

(3) Subject to sub-paragraph (5) below, no person shall fish by trawl, nets or dredges, anchor or moor within the area of water bounded by the following imaginary lines—

- (a) a line drawn from a point at Latitude 50° 36.42' N, Longitude 002° 25.2' W, to a point at Latitude 50° 36.42' N, Longitude 002° 24.5' W (“point A”);
- (b) a line drawn from point A to a point at Latitude 50° 36.00' N, Longitude 002° 24.5' W (“point B”); and
- (c) a line drawn from point B to a point at Latitude 50° 36.00' N, Longitude 002° 25.2' W,

when the mobile degaussing range specified in sub-paragraph (1)(a) above is being established or is in use, as indicated by an orange flag flying from the Vernon Building.

(4) No person shall fish, anchor or moor in the area of water bounded by the seaward side of the Outer Breakwater and the Inner Breakwater, the level of high water on the eastern side of the Isle of Portland, and the following imaginary lines—

- (a) a line drawn from Fort Head to a point at Latitude 50° 35.08' N, Longitude 002° 23.84' W (the eastern limit of the harbour);
- (b) a line drawn from that point to a point at Latitude 50° 32.6' N, Longitude 002° 23.84' W; and
- (c) a line drawn from that point to a point on the shore (Durdle Pier) at Latitude 50° 32.62' N, Longitude 002° 24.97' W,

when the noise range specified in sub-paragraph (1)(b) above is in use, which shall be indicated by an orange flag flying from the Grove Point Building.

(5) Sub-paragraph (3) above, and the provisions of sub-paragraph (1)(a) above relating to the mobile degaussing range, shall only apply after 24 hours' notice of the establishment of that range has been given by the Company in a general direction.

Diving and underwater swimming

6.—(1) Subject to sub-paragraph (2) below, no person shall swim underwater or dive in the ranges and areas specified in paragraph 5(1) above or within 100 metres of any buoys or cables associated with those ranges and areas.

(2) Sub-paragraph (1) above shall only apply in relation to the mobile degaussing range after notice of the establishment thereof has been given by the Company in accordance with paragraph 5(5) above.

PART III:

ROYAL NAVAL AIR STATION

Interpretation

7. In this Part of this Schedule—

“exempt person” means—

- (a) any person in the service of—
 - (i) Her Majesty’s naval, military or air forces;
 - (ii) a Government Department;
 - (iii) a police force or other emergency service; or
 - (iv) the Commissioners of Customs and Excise,whilst in the execution of his duty; or
- (b) a contractor or his employee duly authorised by the Ministry of Defence;

“exempt vessel” means any vessel belonging to or used by an exempt person;

“the prohibited area” means the area of water within 100 metres of the level of high water between a point north of the Lattice Tower at Latitude 50° 34.22' N, Longitude 002° 27.5' W and a point at Latitude 54° 34.09' N, Longitude 002° 26.8' W (the eastern boundary of the flight path for the Royal Naval Air Station, Portland); and

“the restricted area” means the area of water within the following imaginary lines—

- (a) a line drawn from a point on the shore at Latitude 50° 34.20' N, Longitude 002° 27.15' W to a point at Latitude 50° 34.70' N, Longitude 002° 26.78' W (“point A”);
- (b) a line drawn from point A to a point at Latitude 50° 34.57' N, Longitude 002° 26.495' W (“point B”);
- (c) a line drawn from point B to a point at Latitude 50° 34.82' N, Longitude 002° 26.32' W (“point C”);
- (d) a line drawn from point C along the arc of a sector of a circle of radius 1,500 metres (the centre thereof being a point on the shore) to a point at Latitude 50° 34.63' N, Longitude 002° 25.92' W (“point D”); and
- (e) a line drawn from point D to a point at Latitude 50° 34.09' N, Longitude 002° 26.80' W, excluding any area of water within any part of the prohibited area.

Prohibited area

8. No vessel other than an exempt vessel shall, except with the prior permission of the Company (which shall not be given without the written consent of the Secretary of State for Defence), enter, navigate, anchor or moor within the prohibited area, and no person other than an exempt person shall swim, dive or fish within that area or otherwise enter it except with the like permission.

9. Except with the direction of the Secretary of State for Defence the provisions of articles 8, 9, 10, 11, 15, 16, 18, 31 and 50 of this Order shall not apply in relation to the prohibited area, or to any exempt person or exempt vessel within that area.

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Restricted area

10. No vessel other than an exempt vessel shall, except with the prior permission of the Company (which shall not be given without the written consent of the Secretary of State for Defence), anchor or moor within the restricted area.

11. Except with the direction of the Secretary of State for Defence the provisions of article 10 of this Order shall not apply to the restricted area.

PART IV:

GENERAL PROVISIONS

Marking prohibited, restricted and constrained areas

12. The Secretary of State for Defence may with the approval of the Trinity House erect or place, maintain, renew, alter, discontinue or remove such lights, buoys, beacons or other marks (and any structure required to house the same) and take such other steps as may be necessary for the purpose of indicating to vessels or persons using the harbour the extent of the various areas referred to in this Schedule where activities of those vessels or persons are prohibited, restricted or constrained.

Enforcement

13.—(1) The Secretary of State for Defence may provide and use in the harbour such vessels as are necessary and appropriate to secure compliance by persons using the harbour with the provisions of this Schedule, but all such vessels and the masters thereof shall be subject to any general or special direction given by the Company or the harbour master.

(2) The Secretary of State for Defence shall have power to institute criminal proceedings against any person alleged to have contravened any provision of this Schedule.

Consents and directions

14. Consents and directions given by the Secretary of State for Defence under this Schedule may be subject to such terms and conditions as he considers necessary and appropriate.

Penalties

15.—(1) Any person who contravenes or otherwise fails to comply with any of the provisions of this Schedule, or any condition, requirement or prohibition imposed by the Secretary of State for Defence in the exercise of the powers conferred upon him by this Schedule, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Where the commission by any person of an offence under this Schedule 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 paragraph, whether or not proceedings for the offence are taken against any other person.

(3) In any proceedings for an offence under this Schedule, 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.

(4) If, in any case, the defence provided by sub-paragraph (3)(a) above 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 Secretary of State for Defence a notice in writing giving such information identifying, or assisting in the identification of, that person as was then in his possession.

Cessation

16.—(1) Part I of this Schedule shall cease to apply upon the cessation of use of the North-eastern Breakwater and the Northern Arm for defence research purposes by the Defence Evaluation and Research Agency or its successors and the occurrence of either of the events specified in sub-paragraph (4) below.

(2) Part II of this Schedule shall cease to apply upon the cessation of use of the areas and ranges specified in paragraph 5(1) above for defence research purposes by the said Agency or its successors.

(3) Part III of this Schedule shall cease to apply upon closure of the Royal Naval Air Station, Portland and, thereafter, the occurrence of either of the events specified in sub-paragraph (4) below.

(4) The events mentioned in sub-paragraphs (1) and (3) above are, in relation to Part I or Part III of this Schedule, as the case may be—

(a) the coming into force of byelaws made by the Company under article 15 of this Order declared to be in substitution for some or all of the provisions of that Part; or

(b) the first publication in accordance with sub-paragraph (5) below of a declaration by the Company that they do not intend to make any byelaws in substitution therefor.

(5) A declaration made in the terms referred to in sub-paragraph(4)(b) above shall be published by the Company in the London Gazette and in a newspaper circulating in the locality of the harbour.