



BYE-LAWS

made by the

COUNCIL

of the

BOROUGH OF TORBAY

with respect to

TOR BAY HARBOUR

TOR BAY HARBOUR BYELAWS

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TOR BAY HARBOUR BYELAWS

The Council of the Borough of Torbay under Sections 45 and 48 of the Tor Bay Harbour Act 1970 and all other powers them enabling for the regulation of Tor Bay Harbour and the safety of persons therein hereby make the following Byelaws.

Citation and Application

PART I - PRELIMINARY

Title and Commencement

1. These Byelaws may be cited as the Tor Bay Harbour Byelaws 1994 and shall come into operation on the expiration of twenty eight days for the date of confirmation thereof by the Minister.

Application

2. These Byelaws shall apply to all parts of the Harbour or such part of the Harbour as may be expressly provided.

Interpretation

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

“Beach Inspector” means a person appointed by the Council to superintend one or more of the beaches within the Borough of Torbay;

“Brixham Fish Market” means the enclosed building used for the sale or distribution of fish landed from fishing vessels located on the Fish Quay on the northern arm of the Motor Fishing Vessel Basin;

“5K buoy” means a buoy moored in position and bearing a yellow top mark reading “5K” or “5 knots” in black lettering;

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

“Council” means the Council of the Borough of Torbay;

“Enclosed Harbours” means at Torquay the area of water enclosed by an imaginary line drawn from the western end of Haldon Pier to the south eastern end of Princess Pier; at Paignton the area of water enclosed by an imaginary line drawn from the eastern end of North Quay to the northern end of Eastern Quay; and at Brixham the area of water enclosed by the Breakwater, an imaginary line from the northern end of the Breakwater to Battery Point and the shore, which limits are indicated on the map annexed to these Byelaws;

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

“Harbour” means the limits of the harbour as comprised in the areas in Parts I and II of the Schedule to the Byelaws which limits are indicated on the map annexed to these Byelaws;

“Harbour Estate” means the piers, wharves, quays, jetties, stages, berths, slipways, roads, sheds and other works and conveniences and the lands, buildings and property of every description and of whatever nature which are for the time being vested in or occupied by the Council as Harbour Authority and used for the purpose of the Harbour undertaking;

“Harbour Master” means the Harbour Master appointed by the Council and includes his authorised deputies, assistants and other person authorised by the Council to act in that capacity;

“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;

“inner part of Brixham Enclosed Harbour” means the area of water enclosed by an imaginary line drawn from the eastern end of New Pier to Kings Quay;

“Marinas” means the pontooned docking facility for yachts and other craft situated in the South East corner of Brixham Outer Harbour and bounded by a wavescreen on the North-westerly side and a similar facility provided in the North-west area of the Outer Harbour, Torquay between North Quay and Princess Pier;

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

“owner”, when used in relation to goods, includes any consignor, consignee, shipper or agent for the sale, receipt, custody, loading or unloading and clearance of those goods, and includes any other person in charge of the goods and his agent in relation thereto; and when used in relation to a vessel, includes any part-owner, broker, charterer, agent or mortgagee in possession of the vessel or other person or persons entitled for the time being to possession of the vessel (and when used in relation to a vehicle, includes any part-owner or agent or person having charge of the vehicle for the time being);

“power boat” means a small vessel propelled by machinery and which is ordinarily capable of a speed exceeding 17 knots;

“quays” means any quay, wharf, jetty, dolphin, landing stage or structure used for berthing or mooring vessels, and includes any pier, bridge, roadway or footway immediately adjacent and affording access thereto adjoining the Enclosed Harbours;

“sea plane” includes a flying boat and any other aircraft designed to manoeuvre on the water but does not include a hovercraft;

“small vessel” means any vessel of less than 20 metres in length or a sailing vessel;

“sailing vessel” means a vessel designed to carry sail, whether as the sole or as a primary or supplementary means of propulsion;

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

“vessel” means every description of vessel however propelled or moved including non-displacement craft and everything constructed or used to carry persons or goods by water and:-

- (a) without prejudice to the generality of the foregoing includes a hovercraft on, in or over the water; and

- (b) except for the purpose of levying rates, includes a sea plane on or in the water;

“water ski lane” means an approach channel to the shore buoyed on either side and indicated by notices on the shore to be a water ski lane;

PART II – REGULATION OF VESSELS AND NAVIGATION

Excessive Speed

4. (1) Subject to Byelaw 8 and the Collision Regulations the master of a vessel shall not during the months of May to September inclusive cause or permit such vessel to exceed a speed of 5 knots through the water on the landward side of any line of 5K buoys positioned by the Council within the Harbour and shall not at any time of the year exceed that speed when within an Enclosed Harbour.

(2) This Byelaw shall not apply to a person going to the assistance of any person or vessel in difficulties nor to a person taking part in an event organised by or with the consent in writing of the Council nor to any person operating a vessel which is towing a water skier within one of the water ski lanes nor to any person piloting a sea plane the operation of which has been authorised by the Council.

Vessel Movements

5. The master of a sea going vessel shall give prior notice to the Harbour Master of the vessel's arrival at, departure from, or movement within the Harbour.

Declaration of Particulars of Vessel

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

Navigation under Influence of Drink or Drugs Prohibited

7. (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.

**Vessels to
Navigate with
Care**

8. The master shall navigate his 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 unreasonably obstruct the navigation, manoeuvring, loading or discharging of vessels or cause damage to moorings.

**Small Vessels
Not to
Obstruct
Fairway**

9. 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.

**Fitting with
Silencer**

10. The master of a vessel propelled by an engine shall not use the engine unless it is fitted with a silencer which is suitable and sufficient to reduce as far as may be reasonable the noise caused by the escape of exhaust gases from the engine.

**Mooring etc.
and Navigation**

11. The master of a vessel shall not moor, anchor or station her as unreasonably to impede or obstruct the free navigation of other vessels in the Harbour

**Mooring etc.
and Water Ski
Lanes**

12. The master of a vessel shall not moor, anchor or station her in a water ski lane so as unreasonably to obstruct the use of that lane for water skiing.

**Vessels Not to
be Made Fast
to Navigation
Buoys or Marks**

13. The master of a vessel shall not make fast his vessel to or lie against any buoy, beacon or mark used for navigational purposes.

**Competent
Persons to be
In Charge of
Vessels**

14. (1) No person shall have the charge of a vessel entering, leaving or manoeuvring within the Harbour unless either he is himself a competent person or he is under the direct supervision of some competent person or he is acting on the orders of the Harbour Master.

(2) (a) No person under the age of 18 years shall drive a power boat within the Harbour.

(b) All power boats used within the Harbour shall have their names or numbers at all times clearly displayed on each side and to the satisfaction of the Harbour Master.

**Removal of
Vessel after
Landing Fish**

15. The master of any fishing vessel shall after landing his fish immediately remove his vessel from alongside the Brixham Fish Market PROVIDED that such vessel may remain for so long as may be necessary to take on ice.

**Coming
Alongside**

16. The master of a vessel shall not come alongside the Brixham Fish Market except to take on ice or unload fish or otherwise with the consent of the Harbour Master.

**Vessels
Aground or
Other
Obstructions**

17. When the entrance to Torquay or Paignton Enclosed Harbour or the inner part of the Brixham Enclosed Harbour is blocked by vessels aground or by any other obstruction, 3 red balls or, at night, 3 red lights will be exhibited vertically and no master of any vessel shall attempt to enter those parts of the Harbour where such warning is exhibited.

The signals will be displayed as required at the following locations:-

Torquay – Haldon Pier or South Pier
Paignton – North Quay
Brixham – New Pier

The balls will be approximately 0.75 metres in diameter and the lights will have an all-round visibility of 2 nautical miles.

**Emergency
Anchorage and
Obstruction of
Fairway**

18. Except in an emergency, no vessel shall at any time obstruct any fairway in or entrance to any Enclosed Harbour or inner part of Brixham Harbour unless with the consent of the Harbour Master.

Unsafe Vessels

19. (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, as soon as reasonably practicable remove it from the Harbour or to any part of the Harbour specified by the Harbour Master.

**Unauthorised
Regulation e tc.
of Vessels**

20. Except in an emergency no person other than the Harbour Master, pilot or other person engaged in the normal course of navigation shall be hailing, calling, or otherwise, from piers or from any part of the Harbour Estate or from any vessel, attempt to regulate, control, or alter the navigation or management of any vessel within an Enclosed Harbour.

**Articles
Moored to
Buoys etc.**

21. No timber, trees, wood, spars or shell-fish storage boxes or pots or other articles or things whatsoever (other than vessels) shall be moored to the buoys or placed in any part of an Enclosed Harbour without the permission of the Harbour Master.

**Watch on
Board**

22. When directed by the Harbour Master, a watch of at least one person shall constantly be kept on board any vessel day and night when at anchor or lying alongside in an Enclosed Harbour.

**Person on
Board during
Loading etc.**

23. The master of a vessel within an Enclosed Harbour shall during all the time employed in loading, discharging, bunkering, embarking or disembarking the vessel remain or leave some other person on board competent to superintend the same.

**Horns etc. and
Other Noises**

24. The master of a vessel within an Enclosed Harbour shall not permit any bell, siren, horn or whistle to be sounded unnecessarily and shall cause the same to cease sounding immediately on being requested to do so by the Harbour Master. No wireless, amplifier, gramophone or loud hailer shall be operated, from a vessel or otherwise, within an Enclosed Harbour so as to give reasonable cause for annoyance to other users of the Harbour.

**Provision of
Proper
Gangway**

25. The owner or master of every vessel landing or embarking passengers on the piers of an Enclosed Harbour shall, if requested by the Harbour Master, provide and use a proper gangway for that purpose with handrails or ropes on each side affixed to stanchions well secured. Such gangway shall be placed in a safe manner and shall be securely fastened and so maintained at all times.

**Obstruction of
Steps or
Slipways**

26. No person shall allow any vessel to obstruct any steps or slipways or to lie at any steps or slipways without the permission of the Harbour Master.

**Hauling Out
and Launching
of Vessels**

27. No person shall haul out from or launch into an Enclosed Harbour any vessel without the prior consent of the Harbour Master.

**Storing or
Leaving Vessels**

28. No person shall without the prior consent of the Council store or leave any vessel on any part of the Harbour Estate and where such consent is granted the person to whom it is granted shall comply with any directions which might be given to him by the Harbour Master as to the manner in which or the place at which the vessel is to be stored or left or as to ancillary matters.

Removal of Vessels from Harbour Estate

29. If any vessel is left or stored on the Harbour Estate without the prior consent of the Council the owner or person in charge thereof shall, upon being so required by the Harbour Master immediately remove it from the Harbour Estate.

Breaking Up or Burning of Vessels

30. No person shall break up or burn, or attempt to break up or burn, or cause to be broken up or burnt, any vessel or wreck of a vessel in any part of the Harbour, without the permission in writing of the Harbour Master and shall completely remove from the Harbour limits every part of a vessel broken up with such permission.

Notification of Collisions etc.

31. 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 a Harbour area; 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 as soon as practicable thereafter, provide the Harbour Master with full details in writing) and, where the damage to a vessel is such as to affect or be likely to affect its seaworthiness, the master shall not move the vessel except to clear the fairway or to moor or anchor in safety otherwise than with the permission, and in accordance with the directions, of the Harbour Master.

Vessels Adrift

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

Change of Ownership of Vessel

33. 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.

Launching of Vessels

34. (1) No person shall launch a vessel without the consent of the beach inspector from –

Babbacombe Beach, Meadfoot Beach (both ends),
Preston Beach (opposite Seaway Road, Paignton),
Goodrington South Sands, Broadsands (northern end);

(2) This Byelaw shall not apply to any persons to whom beach rights have been granted by the Council provided that such persons in exercising these rights comply with the conditions as to launching attached to their grants.

Vessels to have Names Marked on Them

35. The owner of a vessel which is not registered as a ship under the Merchant Shipping Act 1894 to 1988, and marked accordingly, shall ensure that the vessel is marked conspicuously with its name or other means of identification unless otherwise exempted by the Council.

PART III – BERTHING, MOORING AND ANCHORING

Letting Go Anchor

36. If any vessel shall let go an anchor on entering an Enclosed Harbour it shall be taken up immediately after such vessel is berthed and moored or has taken the ground.

Laying Anchor

37. No vessel shall lay an anchor for mooring, or fasten to any buoys rails or chains, in any part of an Enclosed Harbour without the express permission of the Harbour Master.

Orderly Mooring of Vessels

38. Where to facilitate the orderly mooring of vessels the Council have laid moorings within the Harbour or laid down ground chains and lower pendants (whether in pursuance of Section 6 of the Tor Bay Harbour Act 1970 or otherwise) no person shall (otherwise than in case of emergency) avail himself thereof unless:-

- (i) he has first received the licence of the Council, which licence may be given upon such conditions as the Council consider proper;
- (ii) he uses swivels and rising chains which accord with the Council's specification therefor or which have been specifically approved by the Council, and
- (iii) such swivels and rising chains are fitted by a person authorised by the Council to carry out such work.

Fitting of Swivels or Rising Chains

39. No person shall fit or attempt to fit any swivel or rising chain to a lower pendant provided in the Harbour by the Council (whether in pursuance of Section 6 of the Tor Bay Harbour Act 1970 or otherwise) unless he has first demonstrated to the satisfaction of the Council that he is competent by reason of experience to carry out such work and has obtained from the Council a licence to do such work, which licence may be granted upon such terms as seem proper to the Council.

- Use of Large Moorings** 40. No person shall, except in an emergency, use any mooring for a vessel larger than that for which it was provided.
- Right to Use Mooring** 41. No person shall, except in any emergency use any mooring for which a licence affording the privilege of preferential right of use has been granted by the Council to some other person.
- Stowing of Equipment** 42. Vessels lying in an Enclosed Harbour must rig in their bowsprits or jib-booms and have their anchors on board or hung to the bows, that is to say, by the chain at the hawse. All trawl boards, beams and other gear which might cause damage shall be stowed in board before entering or leaving an Enclosed Harbour.
- Proper Mooring** 43. The master of a vessel shall place her in such berth or berths, place of places successively as the Harbour Master may from time to time direct and shall see that the vessel is properly and securely moored, and is kept properly and securely moored at every such berth or place, and shall provide sufficient hands and tackle for the purpose of berthing, mooring and removal, and shall slack off the ropes or fasts of the vessel when so requested by the Harbour Master.
- Unlawfully Cutting Adrift** 44. No person shall unlawfully cut adrift or unloose any vessel which may be made fast or moored in any part of the Harbour nor, when any vessel has been moored with the consent of the Harbour Master, shall any unauthorised person, without his express permission, alter or remove the same or attempt to do so.
- Warning of Vessels** 45. If required by the Harbour Master, the master of any vessel moored in a fairway or entrance to an Enclosed Harbour or inner part of the Brixham Harbour shall exhibit at all times between sunset and sunrise a white light sufficient to warn vessels entering or leaving such Harbour.
- Provision of Proper Fenders** 46. 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 their vessel and when berthing or leaving, or lying at a quay or against other vessels, the master shall cause the vessel to be fendered off from that quay or those other vessels so as to prevent damage to that quay, those other vessels or other property.

Sufficiency of Crew

47. Except with the permission of the Harbour Master, the master of a vessel shall at all times when his vessel is within the Harbour ensure that his vessel is capable of being safely moved and navigated and that there are sufficient crew or other competent persons readily available –

- (a) to attend to his vessel's moorings;
- (b) to comply with any directions given by the Harbour Master for the unmooring, mooring and moving of his vessel; and
- (c) to deal, so far as reasonably practicable, with any emergency that may arise.

Vessels to be Kept in a Moveable Condition

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

Use of Engines while Vessel Moored or Berthed

49. The master of a vessel which is 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 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

50. 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

51. 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**

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

(2) The master of a vessel slipping or parting from an anchor or propeller shall leave a buoy to mark the position thereof.

PART IV – FOR THE PROMOTION OF SAFETY

**Water Ski
Lanes**

53. No water skier shall ski on the landward side of a line of 5K buoys unless he is within a water ski lane.

**Competent
Look-Out**

54. A master, whilst using his vessel for the purpose of towing a water skier or a person aquaplaning, shall have on board at least one other person capable of taking charge of the vessel and of giving such assistance as may be reasonably required during the towing and in the recovery of the water skier, and shall carry:-

- (a) for each person on board, a life-jacket manufactured in accordance with the appropriate British Standards Specification or a personal buoyancy aid of the Ship and Boat Builders' National Federation approved type, two hand-held distress signals and a fire extinguisher;
- (b) for each person water skiing or aquaplaning, a rescue quoit with line or other sufficient hand-thrown rescue device.

**Use of Water
Ski Lane**

55. (1) No person shall use a water ski lane for water skiing between sunset and sunrise.

(2) No person shall engage in any activities (other than water skiing) in a water ski lane.

**Diving from
Vessels**

56. (1) No person shall dive from a vessel within the Harbour unless there is a lookout in the vessel at all times whilst such person is in the water.

(2) Whilst any person is diving from a vessel the lookout remaining shall ensure that there is exhibited on the vessel a rigid replica of the International Code flag "A" not less than one metre in height. Measures shall be taken to ensure all-round visibility.

(3) In this Byelaw “diving” means that form of diving known as sub-aqua diving and “dive” shall be construed accordingly. This Byelaw shall not apply to commercial diving operations which are covered by the Diving Operations at Work Regulations.

Dangerous Bathing

57. No person shall bathe or attempt to bathe in the Harbour during such periods as the Council may cause to be displayed in a conspicuous manner on the seashore, promenade or parade red warning flags or notices that bathing in the sea or attempting to bathe therein is prohibited on account of danger.

Kiting or Parachute Towing

58. No person shall engage in kiting or parachute-towing in the Harbour without the prior written consent of the Council, given either specifically or generally, and in accordance with such reasonable conditions as may be imposed by the Council.

Conduct of Regattas, Maritime Events etc.

59. The organiser of any regatta, boat race or any other occasion when a number of vessels is expected to assemble on the waters of the Harbour shall obtain the permission of the Harbour Master and for the purpose of obtaining permission shall give not less than fourteen days’ notice to the Harbour Master. All races and similar events shall be conducted on courses and at times previously approved by the Harbour Master.

Use of Welding and Burning Equipment

60. (a) No person without reasonable excuse may burn or heat any flammable matter or have to permit any fire or naked light on the quays, except with the written permission of the Council;
- (c) Where any operation including the use of hot rivets, welding or burning equipment or any other potential source of ignition is undertaken on the quays the operators shall take such precautions including the removal of flammable materials as may reasonably be necessary to prevent fire and avoid injury;
- (d) No tanks, containers or other facilities used for storage or transportation of flammable materials shall be repaired on the quays with hot rivets welding or burning equipment until the operators of such equipment have ensured that such facilities have been rendered safe for making the repairs;

- (e) The operators of each unit of hot rivets, welding or burning equipment in use on the quays shall ensure that suitable fire-extinguishing equipment, ready for instant use in case of fire, shall be placed near each such unit;
- (f) The operators of any hot rivets, welding or burning equipment on the quays shall ensure that every compressor or generator used in connection therewith shall be placed securely;
- (g) Operators of hot rivets, welding or burning equipment shall at all times take all necessary precautions to prevent fire or explosion from the use of such equipment.

No Smoking or Fires

61. No person shall smoke or carry a lighted pipe, cigar or cigarette on the quays:-

- (a) where smoking is expressly prohibited by the Council by a notice exhibited in a conspicuous position in such part of the quays; or
- (b) if requested by the Harbour Master or a constable or authorised person not to do so in or upon any part of the quays where smoking or carrying a lighted pipe, cigar or cigarette may in their opinion be dangerous; or
- (c) near to or amongst any dangerous goods on the quays.

Fire Extinguishing Equipment to be Available for Use at All Times

62. The master of every vessel within the limits of the quays 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.

Fires on Vessels to be in Suitable Containers and Under Watch

63. The master of every vessel within the limits of the quays shall ensure that no fire shall be allowed thereon except in suitable containers and under watch provided that it shall be sufficient defence to a contravention of this Byelaw if the master had used all due diligence in the observance of this Byelaw.

Signalling and Reporting of Fires

64. In the event of a fire occurring on the quays at which a vessel is berthed, or on board any vessel within the limits of the quays, the master of such vessel shall:-

- (a) sound six or more short blasts followed by one prolonged blast on the whistle or siren or such vessel or such other sound signal as is prescribed by the Council;
- (b) repeat the signals at intervals or follow such other procedure as is prescribed by the council from time to time; and
- (c) use the signal, in addition to, but not in substitution for, other means of reporting the fire, and for no other purpose.

Access for the Fire Brigade

65. No person shall intentionally obstruct the access to the Marinas so as to prevent or inhibit access by the Fire Brigade.

Assistance to Fire and other Services

66. 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

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

PART V – FOR THE REGULATION OF THE HARBOUR ESTATE AND ENCLOSED HARBOURS

Directions of Harbour Master as to Loading etc.

68. (1) The owner of any goods shall comply with such directions as the Harbour Master may from time to time give for regulating the time, place and manner of discharging, loading or otherwise bringing into or removing those goods from the Harbour Estate.

(2) 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 the prevention of any cargo, dunnage, ballast or other materials from falling or escaping into the waters of the Harbour or onto the premises of the Council.

Obstruction of the Harbour Estate

69. No person shall –
- (a) except with the permission of the Harbour Master, deposit or place on any part of the Harbour Estate 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 Estate.

Safe Driving of Vehicles

70. No person shall drive or otherwise operate a vehicle in the Harbour Estate without due care and attention or without reasonable consideration for other persons using the Harbour Estate.

Speed Limit for Vehicles

71. No person shall allow a vehicle to proceed anywhere in the Harbour Estate at a speed greater than 5 miles per hour in the case of road vehicles.

Supervision of Vehicles

72. A person having charge of a vehicle in the Harbour Estate shall at all times comply with any directions of the Harbour Master with respect to the loading, discharging, manoeuvring and removal thereof, and shall not, without the permission of the Harbour Master:-

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

Loads not to Leak, Spill or Drop

73. (1) The owner, driver or other person having charge of a vehicle in the Harbour Estate shall not permit any substance to leak, spill, or drop from the vehicle.

(2) This Byelaw shall not apply to any spillage of clean water or to any spillage from a vehicle in which fish are being transported in bulk where the spillage could not have been reasonably prevented.

Loads to be Secured

74. The owner, driver or other person having charge of a vehicle in the Harbour Estate shall ensure that any load carried thereon or therein is properly secured, 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**

75. No person shall, within the Harbour Estate, charge or recharge any vehicle with, or empty it of, fuel except with the permission of the Harbour Master.

**Accidents to
be Reported**

76. Any person driving or otherwise operating a vehicle involved in an accident in the Harbour Estate whereby any injury is caused to any person, or any damage is caused to any property, shall stop the vehicle and report the accident to the Harbour Master, and shall give his name, address and insurance details to the Harbour Master provided that such reporting shall be without prejudice to any reporting obligations under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1985.

**Parking of
Vehicles**

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

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

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

**Use of Council
Equipment in
the Harbour**

78. No person shall use any quay, stage, slip, crane, machine, weight or measure erected or provided by or belonging to the Council in the Harbour except by permission of the Harbour Master and in accordance with the terms and conditions and during the time allowed in that behalf by such permission. Nor shall the master of a vessel in the Harbour cause or allow her to stop at any quay, stage, slip, crane or berth or cause or allow any such machine, weight or measure to be used after the time appointed or allowed in that behalf by the Harbour Master.

**Spreading
Nets etc.**

79. No person shall:-

- (i) without the consent of the Harbour Master spread any trawl, seine or net of any description or deposit any fishing gear, anchors, spars, chain, rope, line, sails or boats on the piers, quays, sheds or slipways or any part of the Harbour Estate;

- (ii) within an Enclosed Harbour or on any part of the Harbour Estate set boulders, spinners, or ground lines, trammel, set net, seine, trawl or snares of any description for the capture of fish or, without the consent of the Harbour Master, fish with rod or line or otherwise on any of the piers, wharves or slipways.

**Boiling etc.
Combustible
Materials**

80. No person shall within the Harbour Estate, boil, heat or set on fire pitch, tar, resin, turpentine or other combustible articles, matter or things unless some responsible person shall be in attendance and appropriate fire fighting equipment is readily available in case of an emergency.

**Removing,
Lifebuoys etc**

81. No person shall unlawfully remove from its station any lifebuoy, lifeline or any apparatus placed on the Harbour Estate for the saving of life or tamper with any light, fire hydrant, tap, buoy or navigational aid or use any naked light within any building or store.

Bathing

82. No person shall bathe in any Enclosed Harbour.

**Removing
Rocks etc.**

83. No person shall without the consent of the Harbour Master take, remove or dig or cause to be taken, removed or dug any rock, gravel, stone, shingle, sand, earth or other substance from any part of the Harbour which is vested in the Council.

**Touting for
Passengers**

84. No person shall within the Harbour Estate or on board any vessel within the Harbour tout or advertise for passengers except in the kiosks or at the Booking Board Sites allocated for the booking of passengers.

**Embarking etc.
from Craft**

85. No person shall embark or disembark from any vessel used for public or private hire from any part of the Harbour Estate not assigned for the purpose.

Exhibitions etc.

86. No person shall within the Harbour Estate or on any vessel within the Harbour without written consent of the Council give or take part in any exhibitions, performances, displays, demonstrations or meeting for any purpose whatsoever.

**Exercising
Craft etc.**

87. No person shall within an Enclosed Harbour whether or not on any vessel, except with the written consent of the Council or in the course of the proper business of the Harbour exercise any craft or skill for hire or reward or in the hope of any gratuity or offer or sell, peddle, or hawk any goods or things.

Touting for Custom etc.	88. No person shall within an Enclosed Harbour whether or not on a vessel tout or ply for or solicit custom or employment of any description.
Facilities for Betting etc.	89. No person shall within the Harbour Estate or within an Enclosed Harbour whether or not on board any vessel for reward, encourage or make facilities available for betting, gambling and games of chance.
Loitering	90. No person shall loiter without having business directly connected with the trade of the Harbour or any vessel moored therein after being required so to leave by the Harbour Master.
Discharging Offensive Matter	91. No person shall within the Harbour Estate or an Enclosed Harbour discharge, leave or deposit or throw or allow to fall earth, stones, ships gear, ballast, rubbish, fish, offal or other offensive matter or other material or thing.
Deposit of Goods etc. to Occupy Smaller Space	92. All goods, wares, merchandise, tubs, crates, boxes, pails or things of whatever description deposited or placed upon any part of the Harbour Estate shall be so deposited as to occupy the smallest reasonable amount of space and so as not to affect the business of the Harbour. And all such shall be removed as soon as possible and in any event within 48 hours or earlier on the direction of the Harbour Master.
Free Passage to Sheds etc.	93. Any person in charge of any animal or vehicle on authorised business on the Harbour Estate or approaching or departing therefrom shall leave a free passage to and from the Brixham Fish Market, and to and from all sheds, offices and storehouses, cranes and berths and shall not drive into the Fish Market or the Harbour bed and shall not park near any vessel so as to endanger any person or thing or obstruct the selling or landing or loading of fish or other goods and shall unload or load immediately on arriving at the Fish Market, sheds, quay, piers and wharves and shall leave with the wagon, cart, van or other vehicle under his charge immediately on the same being unloaded or loaded.
Digging in Sea Bed	94. No person shall without the prior consent of the Council dig in any part of the bed of an Enclosed Harbour whether for lugworms or otherwise.
No Trading etc. Without Consent	95. No person shall engage, by way or trade, in buying or selling any goods or property in the Harbour Estate without the written consent of the Council.

Throwing Stones 96. No person shall within the Harbour Estate throw from the hand or catapult or any engine any stone or other missile or have or discharge any firearm except with the consent of the Harbour Master.

Affixing Notices etc. 97. No person shall within the Harbour Estate without the consent of the Harbour Master, affix or cause to be affixed any bill, notice or paper.

PART VI – GENERAL

Use of Buoyant Mooring Ropes 98. No person shall within any enclosed Harbour use buoyant pick-up ropes on moorings.

Consent for Mooring etc. 99. Except within an Enclosed Harbour, no person shall lay down any mooring, buoy, or similar tackle without a licence or prior consent in writing of the Council/Harbour Master, nor except in accordance with such conditions as the Council/Harbour Master may impose.

Removal of Moorings etc. 100. A mooring, buoy or similar tackle shall as soon as reasonably practicable be removed by its owner or any other person claiming possession of it if the Harbour Master so directs.

No Dragging or Grappling without Permission 101. No person shall drag or grapple for any material or article, nor remove the same from the bed of any water area of the Harbour, without the written consent of the Harbour Master.

Dumping in Harbour Waters Prohibited 102. No person shall deposit or throw into the waters of the Harbour any rubbish or other material whatsoever, or place it in such a position that it can fall, blow or drift in the Harbour.

Obstruction of Officers of the Council 103. No person shall intentionally obstruct any officer or employee of the Council in the execution of his duties.

**PART VII – FOR THE PAYMENT OF DUES, SELLING OF FISH
AND REGULATION OF THE BRIXHAM FISH MARKET**

**Account in
Writing to
Harbour
Master**

104. The master or owner of every vessel or the purchaser or other receiver shall, within 24 hours, give to the Harbour Master a true account in writing in such form as may be required by the Council of the kinds and quantities of such fish or other goods or ballast as may be landed, transhipped or loaded within the Harbour not being fish sold within the Harbour.

**Rates to be
Paid to
Harbour
Master**

105. All rates on vessels authorised to be taken shall be paid by the master or owner of the vessel and all other rates authorised to be taken shall be paid to the Harbour Master at the Harbour Master's office, by the owner, salesman or person in charge of the fish or goods in respect of which they are payable or by the master or owner of the vessel from or in which the same are loaded or unloaded.

**Proper
Conduct of
Sales**

106. The sale of all kinds of fish discharged from any vessel in the Harbour or landed within the Harbour or brought on any part of the Harbour Estate for sale, whether sold privately or by public auction, shall in every case be conducted properly by the salesmen and all their transactions shall be correctly entered in their sale books and they shall pay rates and dues to the Harbour Master on the total quantity of fish as shown on such books, which said books shall be open to the inspection of the Council and the Harbour Master at all reasonable times.

**No Sales etc.
on any Part of
Harbour Estate**

107. No salesman, merchant, hawker or buyer, unless he be licensed by the Council shall be permitted to sell or purchase fish or any other goods on the piers, wharves, beaches or on any part of the Harbour Estate, and if the Council shall be of the opinion that any such salesman, merchant, hawker or buyer is conducting his sales or purchases contrary to their instructions or these Byelaws regulating such matters, then such salesman, merchant, hawker or buyer shall, on receiving notice immediately desist from selling or buying whichever the case may be.

**Licensing of
Porters and
Carriers**

108. The Council may license such persons as they may approve to act as Porters and Carriers and incorporate conditions in the licences granted. No person shall act as a Porter or Carrier without such a licence or in breach of any conditions contained therein.

Unfit Receptacles	109. No person shall pack or deposit fish or other goods intended for human consumption in any barrel, kit, crate or box which in the opinion of any duly authorised officer of the Council is unfit for the reception thereof.
Fish not to Remain Longer than Necessary	110. All fish or other goods landed and all materials and goods delivered for loading shall not be allowed to remain longer than shall be necessary for such purpose and shall be removed as soon as reasonably practicable if an order to that effect is given by the Harbour Master.
Refuse to be Removed	111. Every person requiring to gut, pack or process fish shall do so at the place allocated to him for that purpose and all fish, offal and refuse and decayed or unsold fish shall be removed from the Harbour limits as directed by the Harbour Master and shall not be thrown or allowed to fall into the Harbour.
Opening Times	112. Brixham Fish Market shall be open at all reasonable times as the Council may from time to time approve and sales of fish shall take place at all reasonable times as the Council may from time to time approve.
Fish to be Sold in Kits or Boxes	113. All fish sold (other than by retail) at Brixham on the Harbour Estate shall be sold in kits or boxes in the Fish Market and shall be removed immediately after sale. Such sales shall be conducted in an orderly manner according to such system or rotation as may from time to time be approved by the Harbour Master.
Unauthorised Person to Leave	114. Any person not having business in the Brixham Fish Market or obstructing or interrupting the business thereof shall leave if so required by the Harbour Master.
No Dogs Permitted	115. No person shall permit any dog or other animal to be in the Brixham Fish Market during the hours during which the same is open.
No Packing etc. of Fish Except in Authorised Places	116. No person shall pack any fish or place any fish, fish box, barrel, trunk, basket, tub or other article on or in any part of the Brixham Fish Market except in the place or places assigned by the Harbour Master to or rented by such person for that purpose and no person shall stand any fish packets, full or empty, in the Fish Market or encroach upon the same or leave or abandon any such package or any other trading utensil therein after the Fish Market is closed.

**No Paraffin
etc. to be
Brought into
Market**

117. No paraffin, benzoline, fuel, oil, petroleum, carbide of calcium, lubricating oil or other offensive substance liable to contaminate fish intended for consumption shall be brought into or conveyed through the Brixham Fish Market.

**Weight of Fish
to be Reported**

118. No person shall sell, by private contract or Dutch auction, any fish on which Harbour dues are payable until such fish and the weight thereof have been reported to the Harbour Master.

**No Dressing
or Curing of
Fish on
Harbour Estate**

119. No person shall, except with the written consent of the Council, dress or cure or cause to be dressed or cured fish of any kind upon any part of the Harbour Estate.

PART VIII – FURTHER PROVISIONS

**Giving
Information to
Authorised
Officers**

120. Any person found committing an offence against these Bye-laws shall, upon being so required by an authorised officer of the Council give to such officer his name and address and shall produce, if so required such means of identification as he may have.

**Penalties for
Breach**

121. (1) Any person who contravenes or otherwise fails to comply with any of these Bye-laws, or any condition, requirement or prohibition imposed by the Harbour Master in the exercise of the powers conferred upon him by these Bye-laws, 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 Bye-laws 14 (2)(b), 34, 35, 49, 51, 77, 85, 86, 88, 94 and 95 not exceeding level 2 on the Standard Scale;

(b) for the contravention of any other Bye-law, not exceeding level 3 on the Standard Scale

(2) Where the commission by any person of an offence under these Bye-laws 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 Bye-law, whether or not proceedings for the offence are taken against any other person;

(3) In any proceedings for an offence under these Bye-laws, 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 paragraph (3)(a) of this Bye-law 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

122. The Tor Bay Harbour Bye-laws 1975 made on the thirteenth day of April 1975 are hereby revoked.

SCHEDULE

LIMITS OF THE HARBOUR

PART 1

The area below the level of high water enclosed by an imaginary line drawn from the point at which the northern boundary of the borough meets the coast to a point one-half of a nautical mile true east, thence to a point one-half of one nautical mile true east of Hope's Nose, thence to a point one nautical mile true east of Berry Head and thence direct to Sharkham Point but excluding the area referred to in Part II of this Schedule.

PART II

The area below the level of high water enclosed by –

- (a) an imaginary line drawn from Shoalstone Point in the parish of Brixham extending in a west-north westerly direction for a distance of 6,500 feet or thereabouts until it intersects the imaginary line next described;
- (b) an imaginary line drawn from the centre of Old Quarry at O.S. Ref. SX 91445723 in a north-easterly direction for a distance of 3,000 feet of thereabouts until it intersects the imaginary line first described; and
- (c) the land line of the coast from the centre of Old Quarry aforesaid to the said Shoalstone Point.

THE COMMON SEAL OF THE)
COUNCIL OF THE BOROUGH OF)
TORBAY was hereunto affixed)
on the twelfth day of May 1994 in the)
presence of:-

D.P. HUDSON

Town Clerk and
Chief Executive Officer

Pursuant to Section 238 of the Local Government Act, 1972

I HEREBY CERTIFY THAT

- (a) the foregoing Byelaws were made by Torbay Borough Council;
- (b) this is a true copy;
- (c) the Byelaws were confirmed by the Secretary of State for Transport on the 14th October, 1994 by the Minister of Agriculture, Fisheries and Food on the 12th October, 1994 and shall come into operation on the 12th November, 1994.

D.P. HUDSON

Town Clerk and
Chief Executive Officer.

