

ORDINANCE

OF THE STATES OF ALDERNEY

ENTITLED

The Braye Harbour (Alderney) Ordinance, 1983 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from the Greffier, The Court of Alderney, Queen Elizabeth II Street, Alderney, GY9 3TB.

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* Alderney Ordinance No. IV of 1983; as amended by the Uniform Scale of Fines (Alderney) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 306); the Braye Harbour (Alderney) (Amendment) Ordinance, 1984 (Alderney Ordinance No. I of 1984); the Braye Harbour (Amendment) (Alderney) Ordinance, 1987 (Alderney Ordinance No. I of 1987); the Braye Harbour (Amendment) (Alderney) Ordinance, 1993 (Alderney Ordinance No. V of 1993); the Braye Harbour (Amendment) (Alderney) Ordinance, 1994 (Alderney Ordinance No. VII of 1994); the Braye Harbour (Amendment) (Alderney) Ordinance, 1995 (Alderney Ordinance No. XIII of 1995); the States Committees (Transfer of Functions) (Alderney) Ordinance, 1997 (Alderney Ordinance No. II of 1997).

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The Braye Harbour (Alderney) Ordinance, 1983

ARRANGEMENT OF SECTIONS

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(Made on the 6th July, 1983.)

The Braye Harbour (Alderney) Ordinance, 1983

THE STATES, in pursuance of their Resolution of the seventh day of November, nineteen hundred and seventy-three, and on the representations of the States Transport and Harbour Committee, hereby order: –

Berthing, mooring or anchoring of vessels in the Harbour.

1. (1) The master of a vessel shall not cause or permit that vessel –
 - (a) to be berthed alongside any quay, jetty, wharf, pier, wall, slipway or step adjacent to the Harbour,
 - (b) to be moored or anchored in the Harbour,

otherwise than in such place and in such manner as the Harbour Officer may, from time to time, direct.

- (2) The Harbour Officer may –
 - (a) in any case where the master of a vessel fails to comply with any direction given under the provisions of the last preceding subsection in respect of that vessel,
 - (b) in any case where there is no person for the time being in command or charge of a vessel berthed, moored or anchored in any place in the Harbour and the Harbour Officer requires that vessel to be removed from that

place or to be berthed, moored or anchored in a different manner,

cause that vessel to be berthed, moored or anchored, as the case may require, in such place and in such manner as he may think fit.

(3) Any vessel berthed, moored or anchored in any place or in any manner in the Harbour on the date of the coming into force of this Ordinance shall be deemed to be so berthed, moored or anchored, as the case may be, in accordance with a direction given under the provisions of subsection (1) of this section.

Weighing of anchor.

2. The Harbour Officer may, at any time in his discretion, direct the master of a vessel which is anchored in the Harbour to cause the anchor of that vessel to be weighed prior to the expiration of such period as the Harbour Master may deem necessary or expedient.

Anchors to be marked.

3. (1) The master of a vessel who causes that vessel to be anchored in the Harbour shall cause a watch buoy to be displayed on the surface in such manner as to indicate the position of the anchor at all times while the vessel is so anchored.

(2) The master of a vessel which is anchored in the Harbour who causes that anchor to be slipped shall as soon as may be thereafter inform the Harbour Officer of the fact and the position of the anchor.

Adjustment of ropes, etc.

4. The master of a vessel which is berthed, moored or anchored in the

Harbour and which is connected with the foreshore of any quay, jetty, wharf, pier, wall, slipway, step post or buoy by means of any rope, chain, cable, wire or hawser shall cause such rope, chain, cable, wire or hawser to be slackened or hauled taut, as the case may require, to enable other vessels to move in the Harbour or as the Harbour Officer may, from time to time, direct.

[Careening, laying up, cleaning, etc. of vessels.

5. The master of a vessel shall not –
- (a) in the Harbour,
 - (b) on any adjacent quay or slipway, or
 - (c) in any other adjacent area belonging to or used by or on behalf of the States, including the Glacis,

cause or permit that vessel to be careened or heaved down, laid up or stored out of water, graved, breamed or subjected to any work of cleaning, repair or maintenance otherwise than with the permission of the Harbour Officer and subject to such conditions as the Harbour Officer may from time to time deem necessary or expedient.]

NOTE

Section 5 was substituted by the Braye Harbour (Amendment) (Alderney) Ordinance, 1984, section 1, with effect from 7th March, 1984.

Lighting of vessels.

6. The master of a vessel which is berthed, moored or anchored in the Harbour shall, during darkness, cause to be exhibited on that vessel such lights in

such manner as the Harbour Officer may, from time to time, direct.

Placing of private moorings.

7. (1) A person shall not, without the permission of the Committee, place, lay down or use a private mooring in the Harbour or on the foreshore adjacent to the Harbour or move a private mooring from one place in the Harbour or on the said foreshore to another such place.

(2) Any person desirous of obtaining permission to place, lay down or use a private mooring in the Harbour or on the foreshore adjacent to the Harbour or to move a private mooring from one place in the Harbour or on the said foreshore to another such place shall make application in that behalf to the Committee and such application shall be in such form and accompanied by such information as the Committee may, from time to time, require.

(3) Upon receipt of an application under the provisions of the last preceding subsection, or at any time thereafter, the Committee may require an applicant to supply such further information as the Committee may consider desirable.

(4) Upon receipt of an application under the provisions of subsection (2) of this section, the Committee may either –

- (a) grant the permission applied for,
- (b) refuse such permission, or
- (c) grant such permission subject to –
 - (i) conditions relating to the siting of the mooring,

- (ii) conditions relating to the manner in which the mooring is laid, the dimensions, design or the materials to be used in the construction of the mooring,
- (iii) conditions relating to the use of the mooring,
- (iv) such other conditions of the Committee may think it necessary or expedient to impose.

Removal of private moorings.

8. A person shall not remove a private mooring from the Harbour or from the foreshore adjacent to the Harbour unless he gives at least twenty-four hours prior notice in writing to the Harbour Officer of the date and time of such removal.

Re-allocation of private moorings.

9. The Harbour Officer may, from time to time, direct the owner or the person in charge of a private mooring to remove that mooring from the Harbour or from the foreshore adjacent to the Harbour or to move the mooring from one place in the Harbour or on the said foreshore to another such place.

Inspection of private moorings.

10. (1) The Harbour Officer may, on giving at least seven days prior notice in writing to the master of a vessel moored at a private mooring in the Harbour, require the master to lift the mooring for inspection by the Harbour Officer or by such other persons as the Harbour Officer may authorise in writing in that behalf.

(2) The Harbour Officer and any person authorised in pursuance of the provisions of the last preceding subsection may, at any reasonable time, enter upon any vessel moored at a private mooring in the Harbour for the purposes of inspecting that mooring and shall, if so required, produce evidence of his authority before so entering.

Obstructions.

11. (1) A person shall not cause or permit any rope, chain, cable, wire or hawser to impede or be a danger to navigation in the Harbour.

(2) Any person who knows of the presence of any rope, chain, cable, wire or hawser which is an impediment or danger to navigation in the Harbour shall, as soon as may be after such impediment or danger is known to him, inform the Harbour Officer of the fact and the position of the rope, chain, cable, wire or hawser which is causing the impediment or danger.

Drunkenness and misconduct in the Harbour.

12. A person shall not –

- (a) be drunk,
- (b) use any language which is grossly offensive, indecent, obscene or of a menacing character,

in the Harbour or on or about any quay, jetty, wharf, pier, wall, slipway or step adjacent to the Harbour.

Prohibition of nuisance, etc.

13. A person shall not place or attempt to place any fire, match, light, explosive substance, dangerous substance, filth, noxious or deleterious substance or

fluid or commit a nuisance in the Harbour or on or about any quay, jetty, wharf, pier, wall, slipway or step adjacent to the Harbour.

Prohibition of affixing placards, notices, etc.

14. A person shall not, without the permission of the Harbour Officer, display or attempt to display or affix or attempt to affix any placard, advertisement, notice, list, document, board, or thing on or about any quay, jetty, wharf, pier, wall, slipway or step adjacent to the Harbour or on any other property thereon belonging to or used by or on behalf of the States and shall not in any way disfigure any such property.

Noise abatement.

15. The master of a vessel berthed, moored, or anchored in the Harbour shall not cause or permit any person on that vessel to create any noise or operate a loudspeaker in such a manner as to give reasonable cause for annoyance to others.

Silencing of power-driven boats.

16. The master of a power-driven boat shall not use or attempt to use that boat in the Harbour –

- (a) unless the engine thereof is fitted with a silencer, expansion chamber or other contrivance suitable and sufficient for reducing as far as may be reasonably possible the noise caused by exhaust gases, or
- (b) if the engine thereof causes any excess noise either directly or indirectly as a result of any defect (including a defect in design or construction) lack of repair or faulty adjustment in the engine or any part or accessory of the engine, or

- (c) in such manner as to cause any excessive noise which would have been avoided by the exercise of reasonable care.

Examination of power-driven boats.

17. (1) An examiner may, on production of his authority if required, at any time examine any power-driven boat including the engine thereof and any equipment attached thereto for the purpose of ensuring that the provisions of the last preceding section are being complied with and for that purpose may require any power-driven boat to be stopped.

(2) For the purposes of the last preceding subsection the power to examine any power-driven boat shall include a power to embark upon or enter any such boat.

Navigating dangerously or without due care and attention.

18. (1) The master of a vessel shall not, in the Harbour, cause or permit that vessel to proceed ahead or astern recklessly or to manoeuvre recklessly or at a speed or in a manner which is dangerous to other persons in or on the sea.

(2) The master of a vessel shall not, in the Harbour, cause or permit that vessel to proceed ahead or astern or to manoeuvre without due care and attention or without reasonable consideration for other persons in or on the sea.

(3) Any person who contravenes either of the last two preceding subsections shall be guilty of an offence and liable, on conviction –

- (a) in the case of a contravention of subsection (1), to a fine not exceeding [level 4 on the Alderney uniform

scale],

- (b) in the case of a contravention of subsection (2), to a fine not exceeding [level 4 on the Alderney uniform scale].

NOTE

In section 18, the words and figures in square brackets were substituted by the Uniform Scale of Fines (Alderney) Law, 1989, section 2(2), with effect from 1st October, 1989.

Speed limit on vessels.

19. The master of a vessel shall not, except with the permission of the Harbour Officer, cause or permit that vessel to proceed ahead or astern or to manoeuvre in the Harbour at a speed in excess of four knots.

Signals when vessels navigation astern.

20. (1) The master of a vessel fitted with a bow rudder when navigating the vessel stern first in the Harbour shall, for the purposes of indicating that the vessel is being navigated stern first, cause to be displayed during daylight a signal consisting of two balls, each two feet in diameter, carried at the ends of a horizontal jackyard on the mast, or if the vessel has more than one mast, on the main or aftermast, which jackyard shall be placed in a thwartship direction at least six feet higher than the funnel top and shall project at least four feet on either side of the mast so that the distance between the centres of the two balls is at least eight feet.

(2) The master of a vessel shall during such time as the vessel is being navigated as aforesaid follow and obey the Collision Regulations as if such

vessel were being navigated bow foremost and for that purpose the starboard side shall be deemed to be the port side and the port side shall be deemed to be the starboard side.

Observance of Collision Regulations.

21. Subject to the provisions of the last preceding section, the master of a vessel shall during such time as the vessel is being navigated in the Harbour follow and obey the Collision Regulations.

Prohibition on water skiing, etc.

22. A person shall not, without the permission of the Harbour Officer, engage or attempt to engage in water skiing, aquaplaning or similar sport in the Harbour.

Prohibition on Surfing.

23. A person shall not, without the permission of the Harbour Officer, ride or attempt to ride the surf or wind surf on a surfboard in the Harbour.

[Operation of water taxi services.

23A. (1) No person shall, except under the authority of and in accordance with the conditions of a licence of the Committee, use within the Harbour a vessel –

- (a) for the carrying of passengers for hire or reward, or
- (b) as a hired vessel,

where the purpose of so using the vessel is the carrying of any passenger between another vessel and the shore or between other vessels.

Consolidated text

(2) A person who holds a licence under subsection (1) shall comply with the conditions thereof in all respects.

(3) A licence under subsection (1) –

(a) may be renewed, varied, revoked or suspended by the Committee,

(b) may be granted or renewed subject to the payment of such fee as the Committee may prescribe by order, and

(c) may be limited in time.

(4) It is hereby provided for the removal of doubt that the Committee may determine –

(a) that the number of licences to be granted under subsection (1) shall be limited to such number as the Committee may, in its absolute discretion, consider necessary or expedient, and

(b) where the Committee has granted such a licence or licences, that no further such licences shall be granted.

(5) Without prejudice to the generality of the Committee's powers to impose conditions in respect of a licence under subsection (1), such conditions may make such provision as the Committee may think fit for the regulation of the fares or other consideration which may be charged or levied for the carriage of passengers in, and the charges which may be made for the hire of,

the vessel in question.]

NOTE

Section 23A was inserted by the Braye Harbour (Amendment) (Alderney) Ordinance, 1993, section 1, with effect from 2nd June, 1993.

Swimming and diving restricted.

24. A person shall not, without the permission of the Harbour Officer –

- (a) swim or attempt to swim, or
- (b) dive or attempt to dive,

in the Harbour otherwise than from the foreshore of Braye Bay and within one hundred yards from the line of high water at equinoctial spring tides at the said Bay.

[Prohibition on discharge of petrol and oil into Harbour.]

25. A person shall not pump or discharge, or cause or permit to be pumped or discharged, whether from a vessel or otherwise, any petrol or oil or any mixture containing petrol or oil into the Harbour.]

NOTE

Section 25 was substituted by the Braye Harbour (Amendment) (Alderney) Ordinance, 1995, section 1, with effect from 6th December, 1995.

Dumping of refuse, etc.

26. A person shall not throw, drop or otherwise deposit into the Harbour from any vessel berthed, moored or anchored therein any refuse or anything which

by being abandoned may become refuse or any other thing whatsoever.

Dumping of refuse, etc., on quays, etc.

27. A person shall not place or leave with intent to abandon any refuse or any thing which by being abandoned may become refuse or any other thing whatsoever on any quay, jetty, wharf, pier, wall, slipway or step adjacent to the Harbour unless such refuse or thing is placed in a bin, basket or other receptacle provided by or on behalf of the Committee or is placed or left in such place or in such manner and subject to such conditions as may be approved by the Committee.

Restriction on use of crab, lobster and store pots.

28. A person shall not place, lay down or use in the Harbour a crab or lobster pot, a store pot for shell fish or a raft of any kind unless the position of such pot, store pot or raft is marked by a buoy displayed on the surface and the position is approved by the Harbour Officer.

Explosive material or device.

29. A person shall not, without the permission of the Harbour Officer, explode or attempt to explode any explosive material or device on or from any vessel berthed, moored or anchored in the Harbour or at any place on any quay, jetty, wharf, pier, wall, slipway or step adjacent to the Harbour.

[Control of parking in vicinity of Harbour.

29A. (1) No person shall cause or permit a vehicle to enter or remain in the controlled area except under the authority of and in accordance with the conditions of the permission in that behalf of the Harbour Officer.

(2) The Harbour Officer may, if he considers that any vehicle within the controlled area is causing an obstruction, is impeding the efficient operation of the Harbour or is within the controlled area in contravention of

subsection (1)

- (a) direct any person, within such time as may be specified by the Harbour Officer, to move the vehicle to such place as may be so specified or to take such other action in relation to the vehicle as the Harbour Officer thinks fit,
 - (b) move the vehicle or cause it to be moved to any place or take such other action in relation to it as he thinks fit.
- (3) A person who -
- (a) contravenes any provision of subsection (1),
 - (b) without reasonable excuse, proof whereof shall lie on him
 - (i) fails to comply in all respects with a direction of the Harbour Officer under subsection (2)(a),
 - (ii) obstructs or hinders the Harbour Officer in the exercise or purported exercise of the powers conferred by subsection (2) (b),

is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the Alderney uniform scale; and in proceedings for an offence pursuant to paragraph (a) it shall be incumbent on the defendant to show that at the time of the alleged offence he was acting under the authority of and in accordance with the

conditions of the permission of the Harbour Officer.

(4) The Harbour Officer may recover any costs reasonably incurred in the exercise or purported exercise of his powers under subsection (2)(b) in relation to a vehicle as a civil debt from the registered keeper or (if none) the owner of the vehicle.

(5) Neither the Harbour Master nor the States nor any officer, member or servant thereof shall incur any liability for any loss, damage or injury caused by, resulting from or incurred in consequence of the exercise or purported exercise of the powers conferred by subsection (2).

(6) In this section -

"controlled area" means the Harbour, any quay, jetty, wharf, pier or slipway adjacent thereto and any other area adjacent thereto belonging to or used or occupied by or on behalf of the States, including the Glacis,

"permission" means oral or written permission,

"vehicle" includes any vehicle or trailer of any description whatsoever and anything on or in it but does not include any vehicle or trailer owned by the States.]

NOTE

Section 29A was inserted by the Braye Harbour (Amendment) (Alderney) Ordinance, 1994, section 1, with effect from 1st June, 1994.

Obstruction of Harbour Officer, etc.

30. A person shall not obstruct or molest or incite any other person to obstruct or molest the Harbour Officer or an examiner in the exercise of his powers under the provisions of this Ordinance.

Recovery of expenses.

31. Any expenses incurred by the Committee, the Harbour Officer or an examiner in the exercise of their powers under the provisions of this Ordinance or arising out of the exercise of any of those powers in relation to a vessel or a boat, as the case may be, may be recovered as a civil debt due to the States.

Exemptions.

32. Nothing in this Ordinance contained shall apply to, or in relation to or to the master of, any vessel or boat belonging to Her Majesty, any vessel or boat belonging to the armed forces of any foreign Government, or any vessel or boat belonging to or under the control of any Department of Her Majesty's Government or any harbour or navigational authority or body being vessels or boats used exclusively for the purposes of such Department, authority or body.

General penalty.

33. Except where otherwise specifically provided in this Ordinance, any person who contravenes or fails to comply with any of the provisions of this Ordinance or any direction of the Committee or of the Harbour Officer or who fails to comply with any condition attached to any permission granted in pursuance of the provisions of section seven of this Ordinance shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 4 on the Alderney uniform scale].

NOTE

In section 33, the words and figure in square brackets were substituted by

the Uniform Scale of Fines (Alderney) Law, 1989, section 2(2), with effect from 1st October, 1989.

Interpretation.

34. (1) In this Ordinance, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

"**boat**" means a vessel other than a vessel which is a passenger steamer within the meaning of that expression in the Law entitled "Loi relative à la Marine Marchande dans le Bailliage de l'Île de Guernesey" registered on the sixth day of June, nineteen hundred and sixteen, or a load line ship within the meaning of that expression in the Merchant Shipping (Safety and Load Line Conventions) Act, 1932, as extended to the Bailiwick of Guernsey by the Merchant Shipping Load Line Convention (Guernsey) Order, 1933,

"**the Collision Regulations**" mean the regulations from time to time in force for preventing collisions at sea made by Her Majesty in Council in pursuance of the provisions of section four hundred and eighteen of the Merchant Shipping Act, 1894,

"**the Committee**" means the States [General Services Committee] or such other Committee as may for the time being be appointed by Resolution of the States for the purposes of this Ordinance,

"**darkness**" means the time between one hour after sunset on any day and one hour before sunrise on the day next following,

"**daylight**" means the time between one hour before sunrise and one

hour after sunset on any day in the case of vessels carrying navigation lights conforming to the Collision Regulations, and the time between sunrise and sunset in the case of any other vessels,

"examiner" means a person appointed by the Committee to examine power-driven boats,

"enactment" includes any enactment of the Parliament of the United Kingdom,

"foreshore" means any place lying between the lines of high water and low water at equinoctial spring tides,

["the Harbour" means the area bounded by –

- (i) the Alderney Breakwater, including the submerged portion thereof,
- (ii) a line drawn from the north-eastern end of the submerged portion of the Alderney Breakwater to the Outer Grois Rock,
- (iii) a line drawn due south of the Outer Grois Rock as far as the high water line of ordinary spring tides on the northern coast of Alderney, and
- (iv) the high water line of ordinary spring tides on the northern coast of Alderney,]

"Harbour Officer" means a person appointed by the Committee to

perform the duties and exercise the powers imposed or conferred upon the Harbour Officer under any of the provisions of this Ordinance and includes any person acting in that behalf under the authority of the Harbour Officer,

"master" means the person having for the time being the command or charge of a vessel or a boat,

"loudspeaker" includes a megaphone, a wireless set and any other device for amplifying sound,

"owner" includes a charterer and an agent,

"power-driven boat" means any boat propelled by machinery and includes every boat under power, whether under sail or not, and includes any prime mover used for towing persons on the sea,

"private mooring" means a mooring other than a mooring owned or provided by or on behalf of the States,

"surfboard" means a board used for the purpose of riding the surf or for the purpose of wind surfing whether or not fitted with a sail, engine or other means of propulsion,

"vessel" means anything made for the conveyance by water of human beings or of property.

(2) Except in so far as the context otherwise requires, any reference in this Ordinance to any other enactment shall be construed as a reference to that enactment as repealed and re-enacted, amended, extended or applied by or under any other enactment including this Ordinance.

(3) The Interpretation (Guernsey) Law, 1948, shall apply to the interpretation of this Ordinance as it applies to the interpretation of an enactment in force in the Island of Guernsey.

NOTES

In section 34,

the words in square brackets in the definition of the expression "the Committee" in subsection (1) were substituted by the States Committees (Transfer of Functions) (Alderney) Ordinance, 1997, section 2, Schedule 2, Part II, paragraph 20, with effect from 2nd April, 1997;

the definition of the expression "the harbour" in subsection (1) was substituted by the Braye Harbour (Amendment) (Alderney) Ordinance, 1987, section 1, with effect from 6th July, 1983.

The functions of the Transport and Harbour Committee under this Ordinance were transferred to the General Services Committee by the States Committees (Transfer of Functions) (Alderney) Ordinance, 1997, section 2, Schedule 2, Part II, paragraph 20, with effect from 2nd April, 1997, subject to the savings and transitional provisions in section 3 of the 1997 Ordinance.

Repeal.

35. The Braye Harbour (Alderney) Ordinance, 1960, is hereby repealed.

Citation.

36. This Ordinance may be cited as the Braye Harbour (Alderney) Ordinance, 1983.

Commencement.

37. This Ordinance shall come into force on the 6th day of July, nineteen hundred and eighty-three.