

## **Guidance to Littlehampton Harbour General Directions**

### **A. Introduction**

1. The Littlehampton Harbour Board (LHB), as a statutory authority has the power to make and amend its own set of Byelaws. Current Byelaws in force date from April 1929, January 1937 and October 1950. It has long been recognised that the current Littlehampton Harbour Byelaws are not fit for purpose.
2. Due to the difficulty in amending Byelaws (the requirement for Secretary of State approval) and advice from Department for Transport (DfT) that it no longer has the resource to continue to administer harbour Byelaws, current industry best practice is to exercise powers of General Direction. General Directions (GDs) provide harbour authorities with a more flexible and legally enforceable method of introducing local harbour rules.
3. While some harbour authorities already possessed this power (through their establishing Acts of Parliament) others, such as Littlehampton, did not. In order to obtain these powers the LHB, in October 2011, approved the development of a Harbour Revision Order (HRO). An HRO is a Statutory Instrument amending the ports establishing Act and the Littlehampton Harbour Revision Order of 2015 has now been completed and came into force on 10<sup>th</sup> July 2015.

### **B. Guidance to the Littlehampton Harbour Revision Order, Special and General Directions**

4. This document does not form part of the General Directions but is intended to help stakeholders understand the purpose, scope and enforcement process associated with the HRO and the associated General Directions. It does not in any way supersede or amend the guidance contained in the in Littlehampton Harbour Revision Order 2015 ("the HRO").
5. The Littlehampton Harbour General Directions may be amended from time to time by the LHB in the manner set out in the HRO.
6. General Directions are rules issued by the Littlehampton Harbour Board and they apply to all Harbour users, including those on the water within Littlehampton Harbour Board jurisdiction which is set forth in a schedule defined in section 3 of the HRO and/or on any of the Board's property.
7. A Special Direction made pursuant to the HRO will normally be a verbal instruction to one or more Harbour users requiring immediate action.

8. In the event of any conflict arising between the provisions of the General Directions, any Mooring Licences issued by the Littlehampton Harbour Board and any Special Directions:

Special Directions shall take precedence over all others;

General Directions shall take precedence over any Mooring Licence.

**C. Variations and Exceptions to General Directions**

9. In any circumstance where a Master or other person wishes the Board to consider a request for an exception to a General Direction, a request must be made as far in advance as reasonably practicable to allow the Harbour Master proper consideration of the request. Such request may be made, for example, in respect of planning for the Waterfront Festival to allow activities in the Harbour. Any request for an exception will be considered by the Harbour Master and the decision communicated to the person requesting that exception. No exception to any General Direction shall be deemed to have been made without the express prior consent from the Harbour Master for that particular requested exception. In particular but without limitation no previously granted exception shall be deemed to create a continuing exception, either to the person who requested it or others.

**D. Obstruction of officers**

10. Pursuant to paragraph 14 of the HRO:

a) any person who intentionally obstructs or threatens an officer of the Board acting in pursuance of his functions or in pursuance of any Byelaw, General Direction, Special Direction or requirement made or given by the Board; or

c) without reasonable excuse fails to give such an officer any information (including his name and address) which the officer may require for the purpose of the performance of the officer's functions, or gives such information as he or she knows to be false shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**E. Failure to comply with Directions – Penalties and Defences**

11. Pursuant to paragraph 8 of the HRO:

a) A person who fails to comply with a General Direction or Special Direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

b) Where a person is charged with an offence under the General Directions it shall be a defence for the person to prove that the person took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

**F. Initial Procedure for Giving General Directions and Rescinding Byelaws**

12. The General Directions have been widely consulted on at the Harbour Stakeholder Group and a number of amendments and modifications already incorporated. Having completed this pre-consultation it is intended that the LHB will issue its first set of General Directions under the Board's common seal following its meeting on 7<sup>th</sup> September 2015.

13. In accordance with paragraph 5 of the HRO, notice will be given in writing to the Chamber of Shipping and Royal Yachting Association.

14. Any representations made in the following 6 weeks to 19<sup>th</sup> October 2015 can then be formally considered. It is hoped that any formal objections can be avoided through amendments to the Directions however paragraph 5 of the HRO outlines the process for adjudication in the event that agreement cannot be reached.

15. Once the General Directions are in place the HRO authorises the Board to make a final Byelaw rescinding all extant Byelaws. It is hoped to do this before the main sailing in 2016.