

PORTLAND HARBOUR AUTHORITY

PORTLAND PORT GENERAL BYELAWS 2018

Portland Harbour Authority Limited, being the harbour authority for Portland Port as set out in article 4 of The Portland Harbour Revision Order 1997¹, acting in pursuance of the powers set out in article 15 of The Portland Harbour Revision Order 1997 and the Harbours, Docks and Piers Clauses Act 1847 makes the following byelaws.

PART I: PRELIMINARY

1. Title and commencement

These byelaws may be cited as the Port of Portland General Byelaws 2018 and come into force at the end of the period of 28 days from the date of their confirmation by the Secretary of State.

2. Interpretation

2.1 In these byelaws, unless the context requires otherwise:

“1997 Order” means the Portland Harbour Revision Order 1997;

“annexed plan” means the plan annexed to these Byelaws;

“authorised officer of the Company” means any person lawfully acting on behalf of the Company;

“Balaclava Bay” means the bay formed between Fort Head of the Inner Breakwater and Kings Pier, and which is shown on the annexed plan A, marked in red, (*a detailed copy of this plan is available via the company website (www.portland-port.co.uk) and a hard copy may be obtained from the company’s registered address*);

“the Company” means Portland Harbour Authority Limited (previously called Portland Port Limited);

“constable” means any officer of the harbour authority’s police force duly appointed in accordance with section 79 of the Harbours, Docks and Piers Clauses 1847;

“the controlled area” has the meaning given to it in Paragraph 1 of Schedule 1 to the 1997 Order;

“fenced area” means the area forming part of the harbour premises which is enclosed or surrounded by fences, gates, the harbour, controlled security gates, and other structures marking the boundary and which is shown on the annexed plan B, marked in purple (*a detailed copy of this plan is available via the company website (www.portland-port.co.uk) and a hard copy may be obtained from the company’s registered address*)

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

¹ SI 1997 No. 2949. Article 4 of the 1997 Order specifies ‘the Company’ as the harbour authority, with ‘the ‘Company’ defined in article 2 as “Portland Port Limited (which is registered in England and Wales with number 3002686). In 2003 Portland Port Limited (company number 3002686) changed its registered name to Portland Harbour Authority Limited. The change is reflected in the definition of ‘the Company’ in article 2 of the Portland Harbour Revision Order 2010 (SI 2010 No. 703).

the “harbour byelaws” means these byelaws and the byelaws set out in Schedule 1 to the 1997 Order;

the “harbour” and “harbour premises” have the meaning given to them in article 2 of the 1997 Order;

“harbour master” has the meaning given to it in article 2 of the 1997 Order;

“main fairways” has the meaning given to it in article 2 of the 1997 Order;

“master” has the meaning given to it in article 2 of the 1997 Order;

“owner” when used in relation to goods includes any consignor, consignee, shipper or agent for the sale, receipt, custody, loading or unloading, handling and clearance of those goods and includes any other person in charge of the goods and their agent in relation to them; 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;

“pedal cycle” means a cycle as defined in section 192 of the Road Traffic Act 1988;

“property” means any property whether real or personal;

“public road” means any road which is designated for use as a public highway;

“quay” means any quay, wharf, jetty, dolphin, landing stage or other structure used for berthing or mooring vessels, and includes any pier, bridge, road or footway immediately adjacent and affording access to them;

“Queens Pier” means the pier structure located at Portland Port and which is shown on the annexed plan B, marked in green, (*a detailed copy of this plan is available via the company website (www.portland-port.co.uk) and a hard copy may be obtained from the company's registered address*)

“road” in relation to those in the harbour premises means any road, pier, jetty, wharf, quay, bridge or any land accessible by vehicles;

“vehicle” has the meaning given to it in article 2 of the 1997 Order and includes any of those vehicles referred to in sections 185, 186, 187 and 188 but not any vehicle defined in section 189 of the Road Traffic Act 1988;

- 2.2 The headings in these byelaws are inserted for reference purposes only and will not in any manner affect the construction or meaning of the byelaws or anything contained in them.
- 2.3 References to a byelaw are to the numbered paragraphs of these byelaws.
- 2.4 Nothing in these byelaws will prejudice or derogate from any of the rights, duties or privileges of The Corporation of Trinity House of Deptford Strond.

3. Application

- 3.1 Unless otherwise specified, these byelaws apply to all parts of the harbour and the harbour premises as defined by byelaw 2 above.
- 3.2 The provisions of these byelaws will 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 with them, but are subject to the provisions of Schedule 2 to the 1997 Order.

PART II: THE HARBOUR PREMISES

4. Unauthorised entry and trespassing

4.1

- a) Except in an emergency, no person is permitted to enter or leave the harbour premises or the fenced area other than by means of a designated entrance or exit.
- b) In paragraph (a,) "designated entrance or exit" means designated in writing by the Chief Officer of the Port Police.

4.2 No person may enter or remain in any part of the harbour premises or any building on the harbour premises, whether or not that building is vacant, occupied or in any state of disrepair unless that person has lawful business to carry on there or has the written permission of the harbour master or Chief Officer of the Port Police.

5. Requirement to leave if requested to do so

5.1 Any person who is requested to leave the harbour premises by a constable or authorised officer of the Company must leave the harbour premises through a designated exit without delay.

5.2 No person having left the harbour premises at the request of a constable or authorised officer of the Company, may re-enter the harbour premises for a period of 24 hours unless such re-entry is authorised in writing by the constable or authorised officer of the Company issuing the original request to leave (or in their absence another constable or authorised officer of the Company).

6. Requirement to give name and address

Any person reasonably suspected of committing, attempting to commit or having committed an offence or any other breach of the harbour byelaws, upon being questioned by a constable, must give their correct name and address to the constable when requested to do so.

7. Children

All persons aged 16 years or younger must be accompanied by an adult and the accompanying adult must ensure that the person(s) aged 16 years or younger comply with the harbour byelaws at all times.

PART III: VESSELS

8. Disposal of garbage and waste from vessels.

- 8.1 This byelaw applies to vessels within the controlled area or moored at the commercial anchorages provided by the Company.
- 8.2 The master of a vessel must ensure that:
- 8.2.1 any food and galley waste to be disposed of from their vessel is placed in the covered receptacles provided for that purpose on the quay by the Company;
 - 8.2.2 only food and galley waste is placed in those receptacles;
 - 8.2.3 the receptacles are closed after each use; and
 - 8.2.4 the area in the vicinity of the receptacles is left clean and tidy.
- 8.3 The master of a vessel who wishes to dispose of other waste materials including, but not limited to, waste paper, packaging, empty drums, cargo waste, sweepings and machinery waste, must:
- 8.3.1 place an order for the disposal of such waste in accordance with the Company's current published procedure in the Portland Port Tariff², or arrange through the vessel's shipping agent for the collection and disposal of waste by a person authorised to do so under any applicable legislation;
 - 8.3.2 not land or permit to be landed any such waste before the service is provided or the collection takes place;
 - 8.3.3 ensure that any bins or other container supplied by the Company are used only for the disposal of the waste for which they have been ordered and are not contaminated with food or galley waste; and
 - 8.3.4 ensure that, so far as reasonably practicable, all waste is placed in the bins or container provided and that the area in their vicinity is left clean and tidy.
- 8.4 No person, other than a member of the crew of a vessel or person employed, engaged or authorised by the master of a vessel, may dispose of any item of any kind in any receptacle, bin or other container provided for the use of a vessel under byelaws 8.2 and 8.3.
- 8.5 No person may dispose of any waste from any vessel except at the places and in the manner prescribed by this byelaw.

² Available from the company's website, www.portland-port.co.uk (see Part B Landside Services B4)

PART IV: GOODS AND ROAD TRAFFIC REGULATION

9. Drivers to be licensed

A driver of any vehicle within the harbour premises for which a licence would be required if such vehicle were to be driven on a public road, must hold the relevant licence(s) to drive such vehicle on a public road.

10. Unregistered vehicles

Except with the written permission of the Company, no person may use, cause or permit to be so used within the harbour premises, any vehicle not registered for use on a public road pursuant to the Vehicle Excise and Registration Act 1994.

11. Users of vehicles to be insured against third party risks

11.1 No person (other than those specified in section 144 of the Road Traffic Act 1988) may use, cause or permit any other person to use, a motor vehicle (other than an invalid carriage) on any road within the harbour premises unless there is in force in relation to the use of the vehicle by that person within the harbour premises, such a policy of insurance or such a security in respect of third party risks as complies with the requirements of Part VI the Road Traffic Act 1988, as if references in that Act to "road or other public place" were references to a road or other place within the harbour premises.

11.2 A person will not be liable for a breach of this byelaw if they prove:

11.2.1 that the vehicle did not belong to them and was not in their possession under a contract of hiring or of loan;

11.2.2 that they were using the vehicle in the course of their employment; and

11.2.3 that they neither knew nor had reason to believe that there was not in force in relation to the vehicle such a policy of insurance or security as is mentioned in byelaw 11.1 above.

11.3 The terms in this byelaw have the meaning given to them in Part VI of the Road Traffic Act 1988

12. Maintenance of vehicles

The owner and driver of a vehicle must at all times ensure that the vehicle and all of its parts and accessories are in such condition as would be required were that vehicle to be used on a public road.

13. Requirement to have a valid MOT

Except with the written permission of the Company, no person may use, cause or permit to be used any vehicle within the harbour premises if it would be unlawful for them to use the vehicle on a public road due to an invalid, expired or overdue MOT.

14. Improper use of vehicles

14.1 No person may use a vehicle or cause or permit a vehicle to be used within the harbour premises when the purpose for or the circumstances under which it is used are not those for which the vehicle is intended or suitable and such use would or may involve a danger of injury to any person or of damage to property.

14.2 No person may use a vehicle or cause or permit a vehicle to be used within the harbour premises when the weight, position or distribution of its load or the number of passengers carried by it or the manner in which they are carried is such that the use of the vehicle would or may involve a danger of injury to any person or of damage to property.

15. Dangerous driving

No person may drive a vehicle dangerously within the harbour premises and for the purposes of these byelaws the test for whether a person is driving dangerously and the meaning of "dangerous" is the same as in section 2A of the Road Traffic Act 1988.

16. Careless and inconsiderate driving

No person may drive a vehicle without due care and attention or without reasonable consideration for other persons. The terms in this byelaw have the meaning given to them in section 3ZA of the Road Traffic Act 1988.

17. Use of mobile telephones etc

17.1 No person may drive a motor vehicle within the harbour premises if that person is using a hand-held mobile telephone or device which performs an interactive communication function by transmitting and receiving data other than a two-way radio.

17.2 No person may cause or permit any other person to drive a motor vehicle within the harbour premises while that person is using a hand-held mobile telephone or device which performs an interactive communication function by transmitting and receiving data other than a two-way radio.

17.3 A person does not contravene a provision of this byelaw if, at the time of the alleged contravention:

17.3.1 that person is using the telephone or other device to call the police, fire, ambulance or other emergency service on 112 or 999;

17.3.2 is acting in response to a genuine emergency; and

17.3.3 it is unsafe or impracticable for them to cease driving in order to make the call.

17.4 The terms in this byelaw have the meaning given to them in regulation 110 of the Road Vehicles (Construction and Use) Regulations 1986.

18. Driving under the influence of drink, etc.

18.1 No person may drive or attempt to drive or be in charge of any vehicle within the harbour premises when that person is unfit to do so through drink or drugs

and a constable may take such action as is reasonably necessary to prevent such person from driving or taking control of a vehicle.

18.2 No person may drive or attempt to drive or be in charge of any vehicle within the harbour premises when:

18.2.1 the proportion of alcohol in their breath, blood or urine exceeds the limit applicable on public roads; or

18.2.2 there is in their body a specified controlled drug and the proportion of the drug in their blood or urine exceeds the specified limit for that drug applicable on public roads.

19. Traffic signals and signs

Within the harbour premises the driver and any other person in charge of a vehicle and the rider of a pedal cycle must comply with the direction or instruction given by any traffic sign or signal, whether given by any fixed or temporary sign, or by any constable.

20. Speed limit for vehicles

Unless any traffic sign or constable requires that a vehicle proceed at a slower speed, no driver of a vehicle may allow the vehicle to proceed at a greater speed than 20 miles per hour anywhere in the harbour premises.

21. Loading, unloading, discharging, manoeuvring and removal of vehicles

A person having charge of a vehicle within the harbour premises must at all times comply with any directions of the Company with respect to the loading and unloading, discharging, manoeuvring and removal of the vehicle.

22. Pedal cycles

No person may ride any pedal cycle on Queens Pier.

23. Vehicles to be parked in a designated area

23.1 Except with the written permission of the Company, no person may park any vehicle anywhere within the harbour premises other than in a designated parking area.

23.2 For the purpose of these byelaws "designated parking area" means an area set aside by the Company within the harbour premises for the purpose of parking vehicles.

24. Requirement to declare contents of vehicle

A person having charge of a vehicle must upon entering and/or leaving the harbour premises, if so requested by a constable or authorised officer of the Company, declare the contents of the vehicle and permit inspection of the same.

25. Requirement to leave quays clean and tidy after loading/discharging cargo

The owner of any goods and the person undertaking the loading of cargo onto, or the discharging of cargo from, a vessel, must ensure that the quays used by them are left in a clean and tidy condition on completion of any discharging or loading operation or otherwise bringing goods onto the harbour premises.

26 Loads to be secured

A person having charge of a vehicle in the harbour premises must ensure that any load carried by the vehicle is adequately supported, secured and sheeted where appropriate and that it complies with all statutory restrictions on the weight of goods to be so carried as are applicable on public roads.

27. Refuelling etc of vehicles

No person may charge any vehicle with, or empty it of, fuel, within the harbour premises except with the written permission of the Company

PART V: MISCELLANEOUS

28. Prohibition on bathing and swimming

No person is permitted to bathe or swim within;

- a) the main fairways; and
- b) the controlled area,

without the written permission of the Company.

29. Obstruction of officers

29.1 No person may:

- 29.1.1 intentionally obstruct a constable or an authorised officer of the Company or an employee of the Company acting in the exercise of their duties, whether pursuant to the harbour byelaws or otherwise;
- 29.1.2 without reasonable excuse fail to comply with a requirement properly made by such an officer or employee;
- 29.1.3 without reasonable excuse, fail to give any information which such an officer or employee may require for the purpose of the performance of their functions; or
- 29.1.4 in giving information reasonably requested by an officer or employee for the purpose of the performance of the officer or employee's functions, provide any information or make any statement which the person knows to be false.

30. Urinating etc.

No person may urinate or defecate within the harbour premises, other than in a lavatory or convenience provided for that purpose.

PART V: PENALTIES

31. Penalties for offences under these byelaws

- 31.1. Any person who contravenes or otherwise fails to comply with any of these byelaws will be guilty of an offence and be liable on summary conviction:
- 31.1.1 to a fine not exceeding level 1 on the standard scale in the case of an offence under paragraphs 7, 10, 21, 22, 23, 24, 30
 - 31.1.2 to a fine not exceeding level 2 on the standard scale in the case of an offence under paragraphs 5, 25
 - 31.1.3 to a fine not exceeding level 4 on the standard scale in the case of an offence under paragraphs 11, 14, 15, 16, 17, 18
 - 31.1.4 to a fine not exceeding level 3 on the standard scale in any other case
- 31.2. Where the commission by any person of an offence under these byelaws is due to the act or default of some other person, that other person will be guilty of an offence and that other person may be charged with and convicted of the offence by virtue of these byelaws whether or not proceedings for the offence are taken against any other person.
- 31.3. In any proceedings for an offence under these byelaws, it will be a defence for the person charged to prove:
- 31.3.1 That the person took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence;
 - 31.3.2 That the person had a reasonable excuse for their act or failure to act; or
 - 31.3.3 That the offence was not caused or facilitated by any act or neglect on that person's part or on the part of any person engaged or employed by them and that all reasonable steps were taken to prevent the commission of the offence.
- 31.4. If in any case the defence provided by byelaw 31.3.1 involves the allegation that the commission of the offence was due to the act or default of another person, the person charged will not, without leave of the court, be entitled to rely on that defence unless, within a period ending 7 clear days before the hearing, the person 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 their possession.

32. General provisions as to penalties

- 32.1 The imposition and payment of any penalty under the harbour byelaws will not affect the liability of any person or body corporate for any loss or injury or damage to any person or property arising from any contravention or failure to comply with any of these byelaws or any condition, requirement or prohibition imposed by the Company in exercise of the powers conferred by the harbour byelaws or otherwise.

- 32.2 Where an offence under the harbour byelaws which is committed by a body corporate is proved to be committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, that person, as well as the body corporate will be guilty of that offence and will be liable to be proceeded against accordingly.
- 32.3 For the purpose of byelaw 32.2, "director", in relation to any body corporate whose affairs are managed by its members, means any member of the body.

PART VI: REVOCATIONS AND AMENDMENTS

33. Revocations of certain provisions of Schedule 1 to the 1997 Order

The following paragraphs of Schedule 1 to the 1997 Order are revoked in their entirety and cease to apply when these byelaws come into force:

- 33.1 Paragraph 31 "Safe driving of vehicles"
- 33.2 Paragraph 32 "Speed limit for vehicles"
- 33.3 Paragraph 33 "Supervision of vehicles"
- 33.4 Paragraph 35 "Loads to be secured"
- 33.5 Paragraph 36 "Refuelling etc. of vehicles"
- 33.6 Paragraph 54 "Obstruction of officers of the Company"

34. Amendments to definitions in Schedule 1 to the 1997 Order

The definition of "owner" in paragraph 1 of Schedule 1 to the 1997 Order is replaced with the definition of "owner" contained in the Interpretation provision of these byelaws.

35. Amendments to provisions in Schedule 1 to the 1997 Order regarding fishing

For paragraph 43(2) of Schedule 1 to the 1997 Order, substitute -

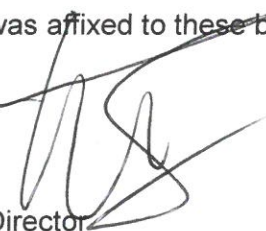
"(2) Subject to sub-paragraphs (4) and (5) below, no person may fish:

- a. in the main fairways;
- b. in the controlled area;
- c. within 150 metres of the harbour premises;
- d. from any berth, including any vessel at a such a berth, within the controlled area; or
- e. from the foreshore at Balaclava Bay;

- f. by trawl, nets or dredges within 100 metres of the line of any cable or pipe laid down in the harbour;
 - g. with surface nets in the inner harbour,
- except with the written permission of the harbour master.”

The Common Seal of PORTLAND HARBOUR AUTHORITY LIMITED

was affixed to these byelaws in the presence of



Director



Director/Secretary



On the 12th day of JULY 2018

The Secretary of State hereby confirms the foregoing byelaws

SIGNED by the authority of the Secretary of State



Rod Paterson

Deputy Director, Maritime Infrastructure, People, Services and Safety

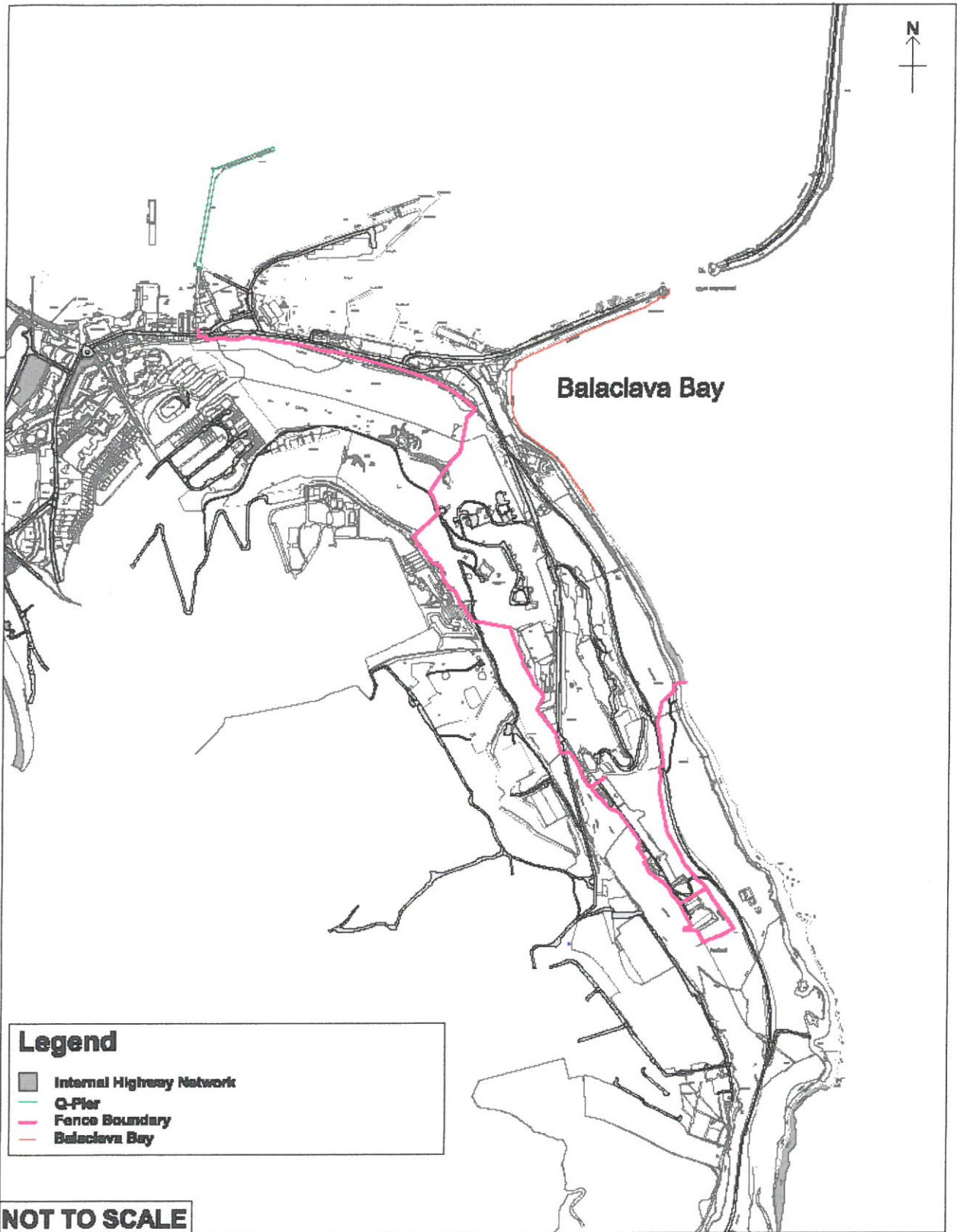
Department for Transport

On the 17th day of JULY 2018

Annexe A- plan of Balaclava Bay



Annexe B – plan of fenced area etc.



Legend

- Internal Highway Network
- Q-Pier
- Fence Boundary
- Balaclava Bay

NOT TO SCALE

Figure No:	Figure 1
Title:	Byelaws Annex
Project:	Byelaws



