



## HARBOUR (PLEASURE CRAFT INSURANCE) BYE- LAWS 2017

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Statutory Document No. 2017/0019



*Harbours Act 2010*

## **HARBOUR (PLEASURE CRAFT INSURANCE) BYE-LAWS 2017**

*Approved by Tynwald:*

*Coming into Operation:*

*1 March 2017*

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The Department of Infrastructure makes the following Bye-laws under sections 4 and 82, and paragraphs 1 and 3 of Schedule 1 to the Harbours Act 2010.

### **1 Title**

These Bye-laws are the Harbour (Pleasure Craft Insurance) Bye-laws 2017.

### **2 Commencement**

If approved by Tynwald, these Bye-laws come into operation on 1 March 2017<sup>1</sup>.

### **3 Interpretation**

In these Bye-laws —

“**the Act**” means the Harbours Act 2010;

“**authorised officer**” means an officer of the Department authorised to enforce the provisions of these Bye-laws; and

“**impounded area**” means any part of a harbour in which water is impounded by means of a flapgate or lockgate allowing vessels to remain afloat at all states of the tide.

### **4 Exemption**

These Bye-laws shall not apply to a vessel where an obligation for insurance is required by the Merchant Shipping Act 1995 (an Act of Parliament), as it has effect in the Island.

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<sup>1</sup> Tynwald approval is required by section 4(3) of the Act 2010.

## **5 Insurance Requirements**

- (1) An owner of a pleasure craft who proposes to keep that craft within an impounded area of the harbour must have in force in relation to that craft a contract of insurance which covers a minimum of £2 million in third party cover, with effect from 1 March 2017.
- (2) An owner of a pleasure craft registered in the Isle of Man who proposes to keep that craft within any area of a harbour other than an area mentioned in paragraph (1) must have in force in relation to that craft a contract of insurance which covers a minimum of £2 million in third party cover, with effect from 1 April 2017.
- (3) An owner of a pleasure craft registered in the Isle of Man, who does not keep his or his pleasure craft within a harbour, but uses a slipway to enter or use a harbour must have in force in relation to that craft a contract of insurance which covers a minimum of £2 million in third party cover, with effect from 1 April 2017.
- (4) An owner of a pleasure craft registered in another jurisdiction and who wishes to enter a harbour in the Isle of Man with his or her pleasure craft must have in force in relation to that craft a contract of insurance which covers a minimum of £2 million in third party cover, with effect from 1 April 2017.

## **6 Offences as to insurance requirements**

- (1) An owner of a pleasure craft who without reasonable cause contravenes any provision of Bye-law 5 is guilty of an offence.
- (2) It shall be a defence for the owner of a pleasure craft charged within an offence under paragraph (1) to prove that he or she had taken all reasonable precautions and exercised due diligence to avoid the commission of any such offence.

## **7 Inspection of the certificate of insurance**

- (1) An authorised officer may require an owner to produce a certificate of insurance.
- (2) An owner must in person produce the certificate of insurance to an authorised officer at any place specified by the authorised officer within 7 days of that requirement being made.
- (3) A person who fails to produce a certificate of insurance in accordance with a requirement under paragraph (1) is guilty of an offence.

## **8 Failure to comply with Bye-laws**

- (1) An authorised officer may detain a pleasure craft or remove it from the harbour where the owner of that craft –

- (a) produces a certificate of insurance which does not satisfy the requirements of Bye-law 5; or
  - (b) fails to produce a certificate of insurance in accordance with Bye-law 7.
- (2) Where an authorised officer proposes to exercise the power under paragraph (1) the authorised officer must serve a notice on the owner specifying the date on which the pleasure craft will be detained, or as the case may be, removed from the harbour.
- (3) A notice under paragraph (2) must contain the following information —
  - (a) the name of the pleasure craft;
  - (b) the registration number of the pleasure craft;
  - (c) the action proposed to be taken by the authorised officer;
  - (d) information about the right of appeal under Bye-law 9 against the notice and the time within which and the manner in which the appeal may be made;
  - (e) the date of the notice;
  - (f) in the case of a notice served in accordance with paragraph (4) the date of service of the notice;
  - (g) in the case of a notice relating to removal of the pleasure craft from the harbour, the place of storage for the craft.
- (4) In addition to any other method of service, the fixing of a notice in a conspicuous position on the craft in question constitutes good service for the purposes of these Bye-laws.
- (5) A notice under this Bye-law does not have effect —
  - (a) where an appeal is made under Bye-law 9(1), until the appeal is determined or withdrawn; or
  - (b) if no such appeal is made, until the time within which an appeal may be made has expired.
- (6) Any person who, without reasonable excuse, effaces, alters, makes illegible, covers or conceals, in any manner whatsoever, a notice served in accordance with paragraph (4) is guilty of an offence.

## 9 Appeals

- (1) A person on whom a notice is served under Bye-law 8 may appeal against the notice to a court of summary jurisdiction.
- (2) An appeal under paragraph (1) may be brought at any time before the expiration of the period of 28 days beginning with the date of service of a notice under Bye-law 8(2) or (4).
- (3) A person wishing to appeal against such decision as is mentioned in paragraph (1) shall give notice in writing to the Department specifying

the decision against which he or she wishes to appeal and the grounds upon which such appeal is made.

- (4) On appeal under this Bye-law, a court of summary jurisdiction may take such decision as it thinks fit.

## **10 Release from detention**

Subject to any order by a court of summary jurisdiction under Bye-law 9, where a pleasure craft has been detained or removed, in accordance with Bye-law 8(1) an authorised officer may not release the craft unless the owner of the craft produces to the officer a certificate of insurance satisfying the requirements of Bye-law 5.

## **11 Unauthorised interference with detained pleasure craft**

Subject to any order by a court of summary jurisdiction under Bye-law 9 and the provisions of Bye-law 10, where a pleasure craft is subject to detention or has been removed from the harbour in accordance with these Bye-laws a person who interferes with the craft is guilty of an offence.

**MADE 23 JANUARY 2017**

**R K HARMER**

*Minister for Infrastructure*

*EXPLANATORY NOTE*

*(This note is not part of the Byelaws)*

These Bye-laws require owners of pleasure craft to have appropriate insurance for their vessels with effect from the 1 March 2017 or 1 April 2017.

Failure to have the appropriate insurance may result in the pleasure craft being detained by the Department. It is an offence to contravene the requirement in relation to insurance set out in the bye-laws and a person guilty of an offence under the bye-laws will be liable on summary conviction to a fine not exceeding £5,000.