

Appendix 1

Extract from the Tor Bay Harbour Review of Existing Legislation – October 2002

2.2 References

Within this report reference will be made to the following legislation supplied by the Marine Services, Strategic Services Directorate:

- Tor Bay Harbour Act 1970 ('70 Act)
- Tor Bay Harbour (Torquay Marina & C.) Act 1983 ('83 Act)
- Tor Bay Harbour Byelaws (the Byelaws)

together with references to applicable national legislation.

4. OVERVIEW OF LEGISLATIVE FRAMEWORK

4.1 Applicable National Marine Legislation

Whilst all U.K. legislation will apply within the jurisdiction of the Harbour Authority the application of the International Collision Regulations (COLREGS), the oil pollution provisions in the Merchant Shipping Act 1995 and the Merchant Shipping (Port State Control Regulations) 1995 are particularly relevant to this review.

4.2 Primary Local Legislation

The Tor Bay Harbour Act 1970 provides the legislative framework for the Harbour Authority. It provides the ability for the Harbour Authority to make regulations and Byelaws and to prosecute offenders. It gives the Harbour Master and his staff the power to give legally enforceable directions and to investigate offences. It prescribes the limits of the harbour and thereby defines the jurisdiction of the Harbour Authority. It incorporates many of the provisions in the Harbours, Docks and Piers Clauses Act 1847.

Whilst this review concentrates on the legislation relating to marine operations the '70 Act provides power for the Harbour Authority to dredge the harbour, operate tugs, charge dues, survey goods and remove derelicts.

The Tor Bay Harbour (Torquay Marina &c) Act 1983 principally provided for the construction of Torquay Marina and limits its exclusive use to pleasure craft⁶ with some exceptions (notably fishing vessels). It also amends the '70 Act and, among other things, raises the maximum fines permitted on the conviction of offenders against the provisions of the Acts, Regulations and Byelaws.

⁶ Tor Bay Harbour (Torquay Marina &c) Act 1983 Sec. 11

4.3 Secondary Legislation and Byelaws

The '70 Act⁷ provides that the Harbour Authority may make regulations for prescribed purposes⁸. Apparently no regulations have been made under this provision.

The Harbour Authority has wide powers to make Byelaws⁹ and the latest Byelaws came into operation in 1994. One hundred and twenty two Byelaws are currently in force covering all activities within the jurisdiction and ranging from prohibiting dogs from the Brixham Fish Market to prohibiting the navigation of any vessel by persons under the influence of drink or drugs.

⁷ Tor Bay Harbour Act 1970 Sec. 49

⁸ Tor Bay Harbour Act 1970 Sec. 49

⁹ Tor Bay Harbour Act 1970 Sec. 45