

MCA MODEL BYELAWS - SET NUMBER ONE
BYELAWS FOR SEASIDE PLEASURE BOATS (Revised 2010)

NOTES

1. Section 76 of the Public Health Act 1961, as amended by section 17 of the Local Government (Miscellaneous Provisions) Act 1976, enables a Local Authority to make byelaws regulating pleasure boats. The Secretary of State for Transport, acting through the Marine and Coastguard Agency (MCA), is the confirming authority for such byelaws in England.

2. The MCA publishes the model byelaws as model text only. The existence of the model does not mean that the Secretary of State will necessarily approve byelaws using the model text whatever the surrounding circumstances. A Local Authority proposing to make byelaws must decide what is applicable to their area and be ready to justify that, whether the authority uses the model text or something different. However, it is expected that the use of the model text, where appropriate, will often provide a good starting point and aid processing of an application for confirmation.

3. An Authority proposing to make section 76 byelaws must not exceed the powers conferred there. Byelaws for the prevention of danger, obstruction or annoyance to persons in the area, including bathers, or using the seashore may be made for-

- (a) regulating the speed of pleasure boats;
- (b) regulating the use of pleasure boats so as to prevent their navigation in a dangerous manner or without due care and attention or without reasonable consideration for other persons; and
- (c) requiring the use of effectual silencers on pleasure boats propelled by internal combustion engines.

4. Alternative wording contained in these model Byelaws is supplied to provide an Authority with a more flexible approach to drafting their byelaws. The text covers the most obvious situations. But if an Authority proposes something different which is within the scope of the section, it will need to draft different text. Should an Authority want to make different provision for different types of pleasure boat, it will need to distinguish between different types of craft. Within the larger pleasure boat family, any sub category of vessel affected must be clear, which may require a new definition. A new pro forma is provided with these notes which will capture this additional information.

5. Section 17(1) of the 1976 Act provides that the byelaws may apply to the sea within 1000 metres of any place where the low water mark is within or on the boundary of the area of a local authority. However, it is normally expected that section 76 byelaws would not apply beyond 300 metres, which should cover most situation. Any Byelaw proposed to apply beyond 300 metres needs particular justification

6. Byelaws should not be made en bloc but only as genuinely required to address an existing problem. They should be applied only to those parts of the seashore and the adjoining areas of sea or tidal river where they are needed to protect persons in those areas or using the seashore. It is acceptable to define areas where particular Byelaws will apply, or even just particular aspects of particular Byelaws, apply. Such areas need to be clearly defined. Therefore, in addition to having the byelaws apply to more than one geographical area, as described in Part 1 of the Schedule and shown on a map in

Part 2, different numbered byelaws could be applied in different areas. For example, an Authority might so draft byelaws to apply the speed byelaw, the danger byelaw and the noise byelaw to one area, but to apply only the latter two to another area, under the same set of byelaws, provided they can, of course, justify such an approach

7. Where an Authority does so it should expect to be able to justify their drafting where particular provisions are varied between different areas. In such circumstances the submission of supporting explanatory material explaining the need for the byelaws as applied for and any differences in approach as between different areas will be required and the pro forma provided used. Authorities should also consider ease of comprehension, which might favour making separate sets of byelaws rather than a single set with complex drafting.

DESCRIPTION OF AREAS

8. The most appropriate method of defining the extent of a restricted area will depend on the shape of the coastline. The model byelaw is therefore shown in three forms:

- Option 1 is suitable where the coastline is reasonably straight;*
- Option 2 is suitable where the area to be restricted is a bay;*
- Option 3 is shown as a completed byelaw applying to an imaginary area where neither option 1 or 2 is suitable, eg., an irregular shoreline.*

9. Where a landmark on the shore is referred for the purposes of definition, the reference should be exact. For example, where the landmark is more than a few square metres in area, qualify the description of the landmark by using words such as "the northernmost point/extremity of" (the landmark) so as to fix exactly the point from which the boundary line is to be drawn. Reference should be made to physical landmarks rather than local authority boundaries which the public may not be able to recognise(though the continued use of numbered groynes remains acceptable) .

10. A map of the area(s) covered by these byelaws must form part of the application. It should clearly set out the full scope of coverage, identify any unregulated areas to be set aside or boating channels to be introduced, clearly indicate any mix of powers to be applied within the area or areas to which these byelaws will be applied, preferably be in black and white and of a suitable size for inclusion in the byelaws. Landmarks use should be easily identifiable from the map(s).

SEASONAL APPLICATION

11. The model includes an option for the application of byelaws between specified months. Authorities will need to consider whether seasonal application is appropriate for their circumstances and, if so, the extent of the season. For most purposes May to September is generally regarded as appropriate.

SPEED LIMITS

12. A speed limit of 6 - 8 knots (ie nautical miles per hour) through the water is likely to be appropriate in most circumstances. A higher limit may be necessary where there are strong tidal streams to impede the progress of pleasure boats navigating against them. Local authorities should not propose a speed limit lower than 6 - 8 knots unless there

are special circumstances. It is usually sufficient to apply the speed limit for a distance of not more than 300 metres seaward from the mean low-water mark of ordinary spring tides. If it is necessary that other byelaws should apply for a greater distance seaward than 300 metres, the application of byelaw 3 can be limited to a smaller, defined area.

13. Local authorities should not, generally, seek to apply a speed limit to all the sea adjacent to the shore within their district. Either part of the sea adjacent to a stretch of shoreline, or one or more channels from the shore should be left free of a speed limit to enable water skiers and other such water users to be towed or launched from and to the shore. Alternatively, where only part of the sea adjacent to the shore is to be subject to a speed limit there may be no need for the provision of access channels through the area to be restricted by the speed limit, if there is a suitable area for water skiers and others nearby.

14 The new model provides text for regulating speed in two different ways. The first would prohibit any pleasure boat from exceeding a speed specified in nautical miles per hour through the water (in whatever manner that speed is achieved), while the second would prohibit a pleasure boat from being driven by an engine of any kind faster than the specified speed through the water. The latter would leave vessels relying on wind power at the time, for example, unrestricted. There might be reasons for a Authority to adopt the latter approach or make some other adaptation along those lines, identifying clearly the types of craft to be affected. That might require a new definition. To aid consideration of an application, the MCA expects any such different treatment to be explained in the pro-forma accompanying the application.

15. Local authorities will wish to consider whether it is appropriate to provide for jet ski users or water skiers by, for example, leaving an area of the sea adjacent to the shore free of the speed limit.

16. In all cases, the question of the need for, and the position and size of, any such areas of sea and channels free of the speed limit should be discussed with any jet ski owners or clubs and water ski or speed boat clubs or yacht clubs operating in the district before the byelaws are drawn up.

17. The model text provides certain exceptions in 3(2). Events, such as regattas, organised by the local authority making the byelaws, or by any person with the written permission of the Authority could be exempted because a speed limit would probably make it impractical for an event to take place in the restricted area.

18. The model text also has exceptions which would exclude boats providing safety facilities which have been designated for that purpose by the organiser of such an event, and boats actually acting in rescue operations or other emergencies. It should be noted that people operating vessels which are not pleasure boats, such as vessels operated by the emergency services, would not be affected by the byelaws, so they would not need such exceptions.

19. An Authority considering the differentiated application of speed limits, unrestricted areas for jet skiers or others or exceptions for pleasure boats in particular circumstances would, of course, need to consider whether such provision is justifiable in the context of

the need to prevent danger, obstruction or annoyance to which the byelaws are a response.

CONSULTATION

20. An Authority should consult widely about the implications of the byelaws, including with the various users of the areas of sea or tidal river where the byelaws are to apply (e.g. jet ski owners/clubs etc, water ski, speed boat, diving, sailing and other water sports clubs) to ensure that relevant opinions are heard and taken into account. Harbour and navigation authorities etc should also be consulted, particularly where they have an interest in securing a contiguous application of their byelaws.

21. It is desirable for the byelaws of neighboring authorities to be as uniform as possible, particularly in distances seaward and speed limits. This is especially important where they share a natural geographical unit such as a bay or a tidal river. Adjoining local authorities should therefore be consulted to maximise the degree of consistency between byelaws and to avoid overlapping areas.

SIGNS

22. For reasons of certainty and to assist members of the public with identification, the local authority should ensure that areas of the sea or points on the shore which are mentioned in the byelaws are clearly marked or signed and the seasonal scope set out .

APPLICATIONS

23. To avoid delays in processing applications, Local Authorities are urged to provide a background explanation of the reasons for the Byelaws. If there is relevant information additional to that requested by the proforma, Authorities are asked to set it out in an accompanying letter; in particular copies of relevant Council Committee records seeking the introduction of these measures.

FURTHER INFORMATION CONTACT POINTS

24. Applications for confirmation of made Byelaws and any queries should be addressed to:

*Maritime and Coastguard Agency
Survey Policy Branch
Byelaws Section
Bay 2/22
Directorate of Maritime Services
Spring Place
105 Commercial Road
Southampton
SO15 1EG
Telephone: 023 80 329 133*