

# **CORK COUNTY COUNCIL**

**Local Government Act, 2001 (No. 37 of 2001)**

**Local Government Act, 2001 (Bye-Laws) Regulations, 2006**

**Maritime Safety Act 2005 (No. 11 of 2005)**

**Harbours Act, 1996 (No 11 of 1996)**

**Litter Pollution Act, 1997**

## ***Bye-laws for the Regulation of the Harbours on the Coastline of County Cork***

The Cork County Council, being the Local Authority for the County of Cork, having under its control the Harbours at the Coastline, in exercise of the powers conferred on it by Part 19 of the Local Government Act 2001 and Part 2 of the Maritime Safety Act 2005, as applied by Section 89 of the Harbours Act, 1996, and by virtue of Sections 13 and the Sixth Schedule of the said Harbours Act, hereby make the following Bye-laws:-

1. These Bye-laws may be cited as the **County of Cork Harbour Bye-Laws, 2009.**

These Bye-Laws shall come into operation on the **1st day of June, 2009.**

### **Definitions:**

2. In these Bye-Laws:-

**“the 1961 Act”** means the Road Traffic Act, 1961 as amended

**“the 1977 Act”** means the Local Government (Water Pollution) Act, 1977, as amended by the Local Government (Water Pollution)(Amendment) Act, 1990

**“the 1989 Act”** means the Safety, Health and Welfare at Work Act, 1989

**“the 1994 Act”** means the Local Government Act, 1994 as amended by the Local Government Act 2001

**“the 1996 Act”** means the Harbours Act, 1996;

**“the 1997 Act”** means the Litter Pollution Act, 1997;

**“the 2001 Act”** means the Local Government Act 2001

**“the 2005 Act”** means the **Maritime Safety Act 2005**

**“the Regulations”** mean the Local Government Act, 1994 (Bye-Laws) Regulations, 1995 & the Local Government Act, 1994 (Bye-laws) Regulation, 1999

**“the Collision Regulations”** mean the International Regulations for Preventing Collisions at Sea 1972, together with any subsequent additions, amendments or deletions

**“the 1993 Regulations”** mean the Safety, Health and Welfare at Work Act (General Application) Regulations, 1993

**“the Council”** means the County Council of the County of Cork being the Local Authority within the meaning of the 1994 Act;

**“a competent person”** is a person who, having regard to the task he or she is required to perform and taking account of the size or hazards (or both of them) of the undertaking or establishment in which he or she undertakes work, possesses sufficient training, experience and knowledge appropriate to the nature of the work to be undertaken;

**“the Harbour”** means all of the area described as being the Coastline & Coastal Waters, which is adjacent to the adjoining Cork mainland and includes the piers, wharfs, slipways and lands under the control of the Council as part of the Harbour situated on the adjoining mainland of County Cork as set out in schedule 2 & 3 and as delineated red on the map thereof annexed hereto and sealed with the Seal of the Council, and excluding the areas and waters under the control of other Harbour Boards and Authorities. Vessels that are moored to the harbour also fall within this area;

**“berthed”** when used in relation to a vessel means secured to a pier, wall, quay, bank, pontoon, stage or dolphin or to any other vessel so secured.

**“Reserved berth (s)”** means berth (s) of the pier or landing facility assigned for the berthing of specified vessels subject to conditions of use.

**“the Harbour Master”** means the person authorised in writing by the Council pursuant to Section 40(10) of the 1994 Act or Section 17(3) of the 2005 Act to enforce these Bye-Laws therein referred to as “authorised person”;

**“Authorised Person/Officer”** means a person for the time being authorised in writing by the Council to act on behalf of the Harbour Master pursuant to the Section 40 (10) of the 1994 Act or Section 17(3) of the 2005 Act.

**“fairway”** means any navigable channel within the Harbour;

**“a vessel”** means a waterborne craft of any type whatsoever whether self-propelled or not and includes air cushion craft;

**“commercial vessel”** means any waterborne craft of any type whatsoever whether self propelled or not engaged in operations that have a commercial gain.

**“moored”** when used in relation to any vessel, means any vessel –

(a) made fast to a mooring chain or mooring buoy either ahead or astern or both at mooring that is assigned by the Harbour Master for that purpose; or

(b) made fast against any other vessel so made fast; or

(c) made fast both ahead and astern by anchor in a position that has been approved by the Harbour Master;

**“mooring”** includes anchoring.

**“fish”** has the same meaning as in the Fisheries (Consolidation) Act, 1959 (No. 14 of 1959);

**“Ferry”** means a Vessel, engaged either exclusively or otherwise for commercial gain in the conveyance of passengers, vehicles or goods by sea, whose owner is both licensed by the Department of Communications, Marine and Natural Resources and holds a valid “Permit” issued by the Council to carry such passengers or goods to or from “the Pier”.

**“Ferry Operator”** means the individual, individuals or company responsible for a Ferry.

**“Owner”-**

(a) when used in relation to a Vessel includes any part owner, broker, agent, mortgagee or charterer in possession of such Vessel or other person or persons entitled for the time being to possession of the vessel;

- (b) when used in relation to goods (as hereinafter defined), includes any consignor, consignee, shipper or agent for the sale, receipt, custody, loading or unloading and clearance of such goods and also includes any other person in charge of the goods and his agent in relation thereto; and
- (c) when used in relation to a vehicle or item of plant includes any part owner, agent or other person having charge of the vehicle for the time being.

**“Exempted Vessel”** means a vessel that is not a ferry and, as such, is not engaged from commercial gain in the conveyance of passengers by sea

**“master”** in relation to a vessel, means the person having command or charge of the vessel for the time being, but does not include a pilot;

**“owner”** in relation to a vessel, means the owner or charterer of such vessel and his agent and every consignee of such vessel, and, in relation to goods (as hereinafter defined), means the owner of the goods and any consignor, consignee, shipper or agent for the sale or custody of such goods;

**“goods”** include fish, fish boxes, livestock, minerals, wares, chattels, ballast, sand, gravel and dredging materials and merchandise of any description;

**“plant”** means every vehicle, engine, truck, signal, lamp, machinery, crane, shearlegs, weighing machine, tap, valve, hydrant, valve pit, hydrant pit, capstan, buoy, dolphin, gear, machine, fire call, ladder, implement, apparatus, fitment and appliance in the Harbour;

**“length”** where used in relation to a vessel herein means the overall length measured from stem to stern.

**“Quay”** means any quay, wharf, jetty, dolphin, landing stage or other structure used for berthing or mooring vessels and includes any pier, roadway or footway immediately adjacent and affording access thereto.

**“Vehicle”** includes any “mechanically propelled vehicle” as defined in accordance with the terms of the 1961 Act in addition to any towed item such as a boat trailer;

**“Permit”** means the document issued by the Council to the Ferry Operator that prescribes the conditions under which a ferry must operate within the Harbour and the said permit shall be in the form set out in third schedule hereto;

**“Operating Agreement”** means the document issued by the Council to the Ferry Operator with the **“Permit”** that prescribes the conditions under which a ferry must operate within the Harbour and the said operating agreement shall be in the form set out in fourth schedule hereto;

In these bye-laws the masculine and feminine and neuter genders, and words in the singular include the plural.

### **Movement of Vessels in Harbours:**

3. No vessel shall carry passengers for commercial purposes unless it holds either a Passenger Vessel Safety Certificate or a Passenger Boat Licence issued under the Merchant Shipping Act of 1992 as amended in addition to the Permit, issued by the Local Authority, in accordance with which terms and conditions the Permit Holder shall comply. Notice of 14 days must be given to the Council prior to any application for a permit.
4. Without prejudice to the provisions of the Permit or the associated Operating Agreement, the Permit may be revoked or suspended by the Council, or the Council may take such action as is deemed necessary, where it considered necessary in the interests of safety or for the good management or operation of a Harbour or where the Permit Holder or his servants, or agents are in breach of or fail to comply with the terms of the operating agreement or where the Permit Holder or his servants or agents commit an offence under, or a breach of, these bye-laws.
5. The master or owner of a commercial vessel, other than a fishing vessel, shall, when operating within a harbour and functional area or as soon as possible thereafter, report the arrival together with particulars as to tonnage and draft of the vessel to the Harbour Master who shall assign a berth to the vessel if such be available.
6. All vessels entering or leaving or being within a Harbour shall be in all respects under the control of the Harbour Master whose directions shall be obeyed by the Master.
7. A direction or requirement by or on the authority of the Harbour Master to the Master of a vessel shall not extend or diminish any responsibility of the Master of the vessel in relation to the vessel or the cargo thereof.
8. A vessel approaching, entering, leaving or moving within the Harbour shall be navigated in a proper and seaman like manner and at no greater speed than five knots.

9. The Master or owner of a vessel shall not negligently or wilfully permit the vessel to run foul of any of the quays, jetties, ferries, slips, perches, buoys, works, plant, fixtures or other property in the Harbour.
10. No person other than the Harbour Master or authorised officer shall by hailing, calling, or otherwise from piers of any part of the Harbour or from any vessel, attempt to regulate or control or alter the movement of any vessel within a Harbour.
11. The Harbour Master may direct the Master or owner of a vessel to moor, unmoor or move the vessel and failure to do so shall be a contravention of this Bye-Law. If there be no person on board and the owner or Master cannot be found after reasonable enquiry the Harbour Master may cause the vessel to be moored, unmoored, or moved as the Harbour Master may in his absolute discretion consider necessary at the risk of the owner provided always that the costs incurred by the Harbour Master in such case shall be charged and payable by the Master or owner of the vessel.
12. The Master of a vessel irrespective of its size, other than a vessel that is directed by the Harbour Master to anchor or moor therein, shall not use a fairway in a manner so as to obstruct, endanger or otherwise impede other vessels which require that fairway for navigation.
13. A Master or any other person shall not navigate a vessel in a Harbour whilst under the influence of any alcoholic substance, narcotics or illegal substances to such an extent as to be incapable of taking proper control of the vessel.
14. The Master of a vessel which –
  - (a) has been involved in a collision with any other vessel or property, or has been sunk or grounded or become stranded within the harbour; or
  - (b) by reason of accident, fire, defect or otherwise is in such condition as to affect its safe navigation or to give rise to danger to other vessels or property; or
  - (c) in any manner gives rise to any obstruction to a fairway; or
  - (d) has discharged any deleterious matter; or
  - (e) has jettisoned or lost any object that potentially obstructs the fairway; or

- (f) has experienced a “near miss”, which could have resulted in any of the incidents in (a) to (e) above or any other incident with potentially serious consequences

shall immediately report the occurrence to the Harbour Master, and as soon as practicable thereafter, provide him with full details in writing and, where the damage is such to affect or is likely to affect its seaworthiness, the Master shall not move the vessel except to clear the fairway or to moor or anchor in safety, other than with the permission of and in accordance with the direction of the Harbour Master.

15. A master of a commercial vessel, other than a fishing vessel, before removing the vessel from a berth in the Harbour, shall give notice of his intention to do so to the Harbour Master.
16. A person shall not move a vessel from one berth to another except with the prior consent of the Harbour Officer. Provided always that if the person is unable after reasonable enquiry to find a Harbour Officer and the movement of the vessel is in accordance with the practice normally approved by the Harbour Master the vessel may be moved on leaving notice of intention to move the vessel setting out the name of the vessel, the present location of the vessel and the berth to which it is proposed to be moved at the address of the Harbour Master.
17. A person shall not, in a Harbour:-
- (a) Cause a vessel to swing except at such times and in such conditions as the Harbour Master may direct
  - (b) Cause a vessel to begin to swing while any other vessel near enough to foul is moving in the Harbour or
  - (c) Cause a vessel to come loose or move in the Harbour so as to cause damage or collide with any vessel in the act of swinging.

### **Vessel at Rest in a Harbour:**

18. A vessel shall not be anchored or moored within a Harbour elsewhere than at a place designated by the Harbour Master and fishing boats engaged in landing fish and vessels discharging cargo shall at all times be entitled to preference of berths and moorings at the quay or pier, slipway or landing place and the Harbour Master may refuse to permit other craft to berth or moor within the Harbour so that such preference may be given.

19. Save with the permission of the Harbour Master, vessels shall not lie alongside any quay in a Harbour except when loading or discharging cargo or when taking on fuel, water, ice or other necessary supplies, or opposite a berth or berths designated by the Harbour Master all of which operations shall be carried out as expeditiously as possible.
20. Every vessel lying at a quay in a Harbour shall be so berthed as to lie broadside to the quay, except where the Harbour Master permits otherwise.
21. Notwithstanding any other provision hereof, failure on the part of the master, owner, servant, agent or other person to comply with any directions, instructions or permission given orally or in writing by the Harbour Master or Authorised Person to such person shall constitute a contravention of the Bye-Law under which such notice was given as extended by this Bye-Law. A person shall not be bound to comply with such directions instructions or permission of a Harbour Officer unless the Harbour Officer produces, if requested by the person, evidence of appointment as such Harbour Officer and as such an authorised person for the purposes of Part VII of the 1994 Act as amended by Section 35 of the 1997 Act.
22. Masters shall be fully responsible for the safe operation of their vessels.
23. Save with the permission of the Harbour Master, a vessel shall not lie at or abreast of any ferry or slip or steps in a Harbour.
24. Vessels moored or anchored in a Harbour shall exhibit suitable lights whenever required by the Harbour Master to do so.
25. While a vessel is moored at a quay in a Harbour its engine should not be run without notifying the Harbour Master or the vessels (if any) ahead, astern, or moored alongside on either side. A vessel should not rely on its engines to moor continuously alongside a pier or Council structure.
26. Vessels may be made fast in a Harbour only to the bollards, mooring rings or mooring buoys, provided for that purpose.
27. The mooring lines used by vessels in a Harbour shall be of adequate strength.
28. A rope, chain or similar impediment shall not, except temporarily in case of emergency, be laid or run from a vessel in a Harbour across any steps, stairs or ladders leading from a quay to the water so as to obstruct the free passage up and down such steps, stairs or ladders provided that this shall not apply to steps, stairs or ladders which are completely blocked off by vessels moored alongside.

29. No person shall cut adrift or unloose any vessel which may be made fast or moored in any part of a Harbour save the owner or Master for the purpose of lawfully moving the vessel. When any vessel has been lawfully moored in a Harbour, no person other than the owner or master or person authorised by the owner or master or Harbour Officer shall move, remove or alter the position of the vessel or attempt to do so.
30. Upon being so required by the Harbour Master, the Owner of a raft, anchor, buoy or other floating object in the water of a harbour shall ensure it is removed immediately to a suitable location or wherever the Harbour Master may direct, subject to the terms of the Dumping at Sea Act, 1996 and applicable Environmental Legislation.
31. The Master or owner of any vessel in a Harbour shall provide his vessel with sufficient fenders or other suitable appliances for the protection of piers or of his own or another vessel. The Master or owner of a vessel may not use or permit to be used in a Harbour any fender of which the Harbour Master disapproves.
32. The Master or owner of a vessel which has sunk or stranded in a Harbour shall immediately give notice of this occurrence to the Harbour Master and shall carry out his instructions as to the lighting and buoys of the vessel forthwith. Any vessel so sunk or stranded shall be removed by the Master or owner as soon as possible and in any event within fourteen days of the day on which the vessel sank or became stranded or within such greater or lesser period as the Harbour Master may by notice in writing permit or require. If the Master or owner fails to obey such instructions without delay the Harbour Master may arrange for the lighting and buoys of the vessel at the risk of the owner and the cost thereof shall be charged against the Master or owner of the vessel. If the owner or Master of the vessel shall fail to remove the vessel within the time specified herein, the Harbour Master may arrange for removal of the vessel at the risk of the owner and the cost thereof may be charged against the owner of the vessel. The costs incurred as aforesaid may be recovered from the owner by the Council as a simple contract debt. Any such action taken by the Harbour Master shall not affect the consequences of any contravention by the Master or owner of this Bye-Law.
33. The Masters, owners and crews of vessels occupying berths at a quay in a Harbour shall, if so required by the Harbour Master, give free access over the decks of their vessels for persons and goods to and from other vessels berthed alongside them provided always that the persons seeking such facility shall be deemed to have indemnified the Council and the Harbour Master from and against all (if any) claims however arising from such access.
34. The Master of a vessel shall comply with the Statutory Instrument No. 108/1988 – Merchant Shipping (Means of Access) Regulations, 1988, in relation to Safe Access onto vessels.

35. A vessel may only be lifted out of the water and temporarily stored elsewhere in a Harbour area by prior agreement with the Harbour Master and such new location and the proposed storage period must also be agreed beforehand with the Harbour Master.
36. The Harbour Master shall have the power to set aside reserved berths, when deemed necessary, and the use of any such berth will be subject to his consent.
37. A person shall not lay moorings in a Harbour without the written permission of the Harbour Master and shall take up any moorings laid when the same shall cease to be used regularly and when instructed to do so by the Harbour Master.
38. No timber, trees, wood spars, shell fish storage boxes or pots or other articles or things whatsoever (other than vessels) shall be moored to buoys or placed in any part of a Harbour without the permission of the Harbour Master.
39. The Master of a vessel shall, upon casting anchor in a Harbour cause a buoy to be fastened forthwith to the anchor in such a manner that it may be plainly seen where the anchor has been cast.
40. The Master of a vessel may not leave any anchor that may have been dropped or slipped from the vessel in a Harbour without a buoy to mark its position and such anchor shall be removed without delay.
41. The owner of a raft, anchor, buoy or other thing lying in the waterway of a Harbour shall upon being so required by the Harbour Master, cause the same to be removed immediately from where it is to such other place as the Harbour Master may direct.
42. The Harbour Master or Authorised Person may, in respect of any article or thing he deems to be an obstruction in the Harbour, including a vessel laid up as unfit for sea service or otherwise or a wrecked or derelict vessel, by notice in writing require the owner or former owner as the case may be to remove from the Harbour and dispose of the obstruction or vessel to the satisfaction of the Harbour Master within such period as the Notice shall specify. In the event that the owner, or former owner in contravention of this Bye-Law shall fail to comply with such notice, the Harbour Master or the Authorised Person may at the risk of the owner or former owner arrange for the removal of the obstruction or vessel and the disposal of it as the Authorised Person or the Harbour Master considers fit including disposal at sea or on land or by sale of it or any part of it at such price as the Authorised Person or the Harbour Master considers appropriate provided always that before taking such action the Harbour Master shall give notice in writing to the owner or former owner of the intention to exercise this power within the time specified therein. If the owner or former owner shall fail to

remove the obstruction or vessel within the latter period and the Harbour Master or the Authorised Person exercise their power of removal hereunder neither the Authorised Person nor the Harbour Master shall be liable to the owner or former owner for any loss or damage suffered by the owner or former owner howsoever arising from the disposal or method of disposal. In the event of a sale the proceeds of this sale shall be applied to defraying the costs of removal and disposal and any balance remaining shall be paid to the owner or former owner as the case may be. If the proceeds of sale are insufficient to meet the costs of removal and disposal the balance outstanding shall be recovered from the owner or former owner as the case may be as a simple contract debt.

43. If the Harbour Master or Council exercises its powers of disposal under Bye-Law 34 and the Harbour Master deems it inadvisable to offer an article to which the immediately preceding Bye-Law applies, for sale or if it cannot be sold he shall arrange for its destruction and the expense incurred thereby shall be paid by the owner or the former owner as the case may be and recoverable by the Council as a simple contract debt.
44. Without prejudice to the powers of the Chief Medical Officer of a Health Authority established under the Health Act, 1970 (No. 1 of 1970) acting under the provisions of the Infectious Diseases Regulations, 1948 (S.I. No. 99 of 1948), or the Infectious Diseases (Shipping) Regulations, 1948 (S.I. No. 170 of 1948), Infectious Diseases Regulations, 1981 and International Health Regulations (1969), as amended, a master of a vessel shall not permit the vessel to be fumigated in a Harbour for any purpose without the permission in writing of the Harbour Master, and such operations shall be at the risk of the owner of the vessel.
45. The Harbour Officers may at any time board a vessel within a Harbour and inspect it or any part of it, in the execution of their duty.
46. The transfer of fuel or bunkers is to take place in compliance with the Guidelines for the Transfer of fuel or bunkers issued by Cork County Council.
47. The Council or the Harbour Master shall not be liable for loss of or damage to any goods whilst in a Harbour

#### **Loading and Unloading Vessels in a Harbour:**

48. The Master or owner of a commercial vessel, other than a fishing vessel, about to unload at a Harbour shall, as soon as possible, and in any event not more than twenty-four hours after arrival, give particulars to the Harbour Master of the cargo consigned and all other information as to the goods to be unloaded as the Harbour Master may request, and shall produce to the Harbour Master a copy of

any manifest, bill of lading or charter party, and if called for, the register of the vessel.

49. The Master of a vessel loading or discharging goods at a quay in a Harbour shall place the vessel and load or discharge the goods so as not to obstruct other vessels being loaded, discharged, moored or navigated.
50. The Master or owner of a vessel engaged in loading or discharging goods shall cease loading or discharging if so directed by the Harbour Master.
51. The Harbour Master may require the Master of a vessel in a Harbour to load or discharge the cargo within a specified period whenever in his opinion an unreasonable delay occurs in loading or discharging the cargo of the vessel. If the Master of the vessel refuses or fails to comply with such a request the Harbour Master may carry out with the requirement at the owner's risk and do all things necessary for and incidental to that purpose and the expenses so incurred shall be paid by the Master of the vessel.
52. The Master of a vessel loading or discharging goods in a Harbour shall ensure that at all times good and sufficient light is maintained over each hold of the vessel so as to enable the work of loading or discharging to be performed safely.
53. Goods placed on or in or removed from any quay or shed in a Harbour shall be dealt with or handled subject to the direction of a Harbour Officer, and shall be moved to such places and in such manner as he shall direct and shall be placed or stowed in such stacks as he may direct and all persons dealing with or handling goods in a Harbour shall be subject to the instructions of the Harbour Master or other Harbour Officer.
54. When two or more vessels desire to use at the same time any quay, landing place, slipway or any part thereof the Harbour Master shall fix the term and position of each vessel and the Masters thereof shall abide by the Harbour Master's decision.
55. Goods or containers including fish boxes, and fish barrels shall not be permitted to remain in any auction hall or on any quay or wharf in a Harbour for more than six hours in any period of twenty-four hours without the permission of the Harbour Master. Goods or containers, including fish boxes, pots, nets, ropes and fish barrels which, without such permission, remain in any auction hall or on any quay or wharf in a Harbour for a longer period than that aforesaid may be removed by the Harbour Master and stored elsewhere. The owners of such goods or containers shall be liable for the cost of this removal and storage.

56. The Authorised Person or any Harbour Officer shall not be liable for loss of or damage to any goods or containers whilst in a Harbour or Functional Area of Cork County Council.
57. Goods intended for shipment (through the Harbour) shall not be placed on the quays in a Harbour without the prior permission of the Harbour Master.
58. Goods intended for shipment (through the Harbour) shall be placed at such places on the quays in a Harbour as the Harbour Master directs.
59. Goods or containers shall not be stored in a Harbour elsewhere other than on the premises of lessees or tenants of property within the Harbour, or in areas specifically designated for storage purposes, or as otherwise provided for in these Bye-Laws.

### **Vehicle Traffic Movement in a Harbour:**

60. The Harbour Master may control the movement of road traffic in a Harbour.
61. A vehicle engaged in transporting goods or containers to or from a vessel may remain alongside the edge of a quay in a Harbour only for as long as it is necessary to load or unload the vehicle, which operation shall be carried out as expeditiously as possible.
62. Goods or containers shall be transported within a Harbour only in suitable vehicles. Vehicles shall be so handled at all times as to avoid damage to quay or road surfaces in the Harbour or to any Harbour installations or plant.
63. Vehicles and containers shall not be used within a Harbour unless they are suitable for the purpose and shall be maintained at all times in a good state of repair and in a clean and hygienic condition by their owners.
64. The Harbour Master, whose decision shall be final, shall have power to determine, when necessary, if any particular vehicle or container is unsuitable for the purpose of these Bye-Laws.
65. No vehicle shall be parked in any part of a Harbour as defined as aforesaid save in such places as may be designated by the Council for parking during the period of time when parking is permitted by virtue of the designation and the areas may be designated in a suitable manner to bring to the notice of the public the limitations on parking in that particular place or places. Vehicles shall not be parked at any time in places other than those designated by the Council for the periods of time

designated save vehicles engaged in transporting goods, containers, nets or other equipment to the Harbour so long as they are necessarily so engaged.

66. Vehicles other than those used for transporting goods or containers to or from a vessel shall not wait on any quay in a Harbour or place other than a place designated for parking during the times so designated.
67. No person shall engage in water skiing, kiting, jet skiing or parachute towing within a harbour area without the prior consent of the Harbour Master.

**General:**

68. Containers, cargo pallets, cargo trays or fish boxes shall not be cleaned or repaired in a Harbour except on the premises of the owners of such containers or at places specifically designated for those purposes by the Harbour Master.
69. The owners thereof shall ensure that fishing nets, warps and fishing gear of any kind do not remain on any quay or wharf in a Harbour for more than six hours in any period of twenty four hours. Fishing nets, warps or fishing gear which remain on any quay or wharf in a Harbour for a longer period than that specified in this Bye-Law may be removed by the Harbour Master and stored elsewhere. The owners of such fishing nets or fishing gear shall be liable for the cost of their removal and storage. Any such fishing nets, warps and fishing gear of any kind stretched along or laid over any part of a Harbour are laid entirely at the owner's risk and any such owner shall indemnify the Council from and against any claim arising from a member of the public.
70. The Council or Harbour Master or Authorised Person shall not be liable for any loss of or damage to goods or containers or to vehicles or boats or to fishing nets, warps or gear removed and stored in accordance with Bye-Laws 55,65 and 69 of these Bye-Laws.
71. Fishing nets or gear shall not be repaired or mounted on any quay or wharf in a Harbour except in an area specially designated for the purpose.
72. No person, except the Harbour Master or Authorised Person, shall in any way interfere with goods or containers or vehicles or with any lights or machinery or equipment or plant in a Harbour.
73. Save with the consent of Cork County Council, no substance other than surface water shall be thrown or discharged or suffered to fall into or enter the sea within a Harbour. For the purpose of this bye-Law "substances" includes polluting matter, sewage effluent and trade effluent within the meaning in each case of the Local Government (Water Pollution) Act, 1977 and also includes bilge water.

74. No waste of any kind or deleterious substances other than surface water shall be deposited, dumped or discharged within a harbour.
75. A person shall not play games or carry on any other activity not appropriate to the Harbour. The decision of the Harbour Master of the Harbour as to what is not an appropriate game or activity shall be final.
76. No person shall enter or remain in a Harbour area unless he has lawful business therein, or has received permission from the Harbour Master to do so, and every person entering or who shall have entered a Harbour, shall, whenever requested so to do by the Harbour Master or any duly authorised Harbour Master or Authorised Person, inform him of the business or matter (if any) in respect of which such person claims to be entitled to be in the Harbour.
77. Any person acting in or remaining in a Harbour contrary to these Bye-Laws shall desist from so doing and shall depart from such place upon his being requested to do so by the Harbour Master or by any Authorised Person and if such person unlawfully refuses to comply with such request, then without relieving him of any penalty incurred under this or any other Bye-Law of these Bye-Laws, he may be removed from such place by the Harbour Master or any member of the Garda Síochána called in aid by the Harbour Master.
78. No person may loiter within a Harbour.
79. No person shall commit a nuisance in a Harbour.
80. No person shall obstruct a Harbour Master or Authorised Person in the execution of his duties.
81. All slipways shall be kept clear, other than when launching or recovering Vessels.
82. No person shall collect money, solicit alms, beg, busk, sell or offer for sale any item of food or any article whatsoever within a Harbour.
83. Idle or disorderly persons who fail to comply with a direction of a Harbour Officer to leave a Harbour may be removed from a Harbour by or at the request of the Harbour Master.
84. Ferry Operators are obliged to ensure that persons embarking on or disembarking from vessels, inclusive of those used at low tides for the trans-shipment of passengers to and from ferries, do so in an orderly and safe manner. Specifically all Ferry Operators shall strictly comply with the terms of the Operating Agreement contained in the Fourth Schedule hereto. Furthermore, Ferry Operators must also comply with directions or instructions in this regard from the

- Harbour Master. The Council is empowered to revoke or suspend the permit of any Ferry Operator, or take such action as it deems necessary for failure by the Ferry Operator to comply with the provisions of this bye-law.
85. Small boats, including pleasure boats, shall not moor under jetties or wharves and shall keep clear of the approaches to the piers, steps and slips in Harbours, and owners of such boats shall not anchor or put down moorings except with the permission of and at places designated by the Harbour Master.
  86. A person within a Harbour who is suspected of having broken any of these Bye-Laws shall, upon being requested by a Harbour Officer to do so, give to the Officer his name and address.
  87. Trading of any kind may not be carried on within the Harbour save with the permission of the Harbour Master, in or at a place designated therefor by the Harbour Master and during such times as the Harbour Master may appoint.
  88. No person shall wilfully damage or deface any of the property of the Harbour.
  89. The Harbour Master reserves the right to refuse entry to any vessels that are in breach of the provisions of these bye-laws.
  90. (i) Ferry Operators, engaged in the provision of a regular passenger conveyance service to and from a Harbour, shall provide a schedule of Ferry arrival and departure times of any Ferry to the Harbour Master or Authorised Person for his approval. All proposed alterations to schedules or timetables must be notified to the Harbour Master for his approval, at least 14 days prior to their coming into effect, unless the Harbour Master agrees to any such lesser period.  
  
(ii) To ensure safety on the piers, the schedule of any existing ferry shall be taken into account by the Harbour Master in the approval of a schedule for a new ferry. In general the policy would be to schedule the ferries as evenly as possible in order to increase passenger safety on the pier and to provide the best service to passengers.
  91. The Harbour Master must be consulted during the preparation of all new schedules or timetables in respect of any ferry, and must be notified of all new or amended schedules or timetables, for his approval, at least 14 days prior to their coming into effect unless he agrees to any such lesser period.
  92. (i) The Harbour Master shall have the power, in his absolute discretion as he deems it necessary to issue an instruction to a Ferry Operator to alter a schedule or timetable. The operator may make representations in respect of any such

instruction and the Harbour Master shall take reasonable account of such representation before confirming the instruction.

(ii) In the case of a ferry trip, for which the schedule is less than 150 minutes per round trip;

(ii) If not more than two ferries are operating on the same route, no ferry shall be scheduled to leave a particular pier on route to a particular destination during the forty five minutes before a scheduled ferry departure to that same destination.

(iii) If not more than three ferries are operating on the same route, no ferry shall be permitted to leave a particular pier on route to a particular destination during the thirty minutes before a scheduled ferry departure to that same destination.

93. For non scheduled trips the Owner of a vessel shall obtain the prior approval of the Harbour Master, which approval shall not be unreasonably withheld, but he may assign a time for arrival and departure of any such trips in his absolute discretion.
94. Whenever a Master of a vessel or the owner, having charge or control of a vessel or craft at or within a Harbour is not at hand on board, any notice required or authorised by these Bye-Laws to be served on or given to him, may be served or given by affixing it to a mast or some other conspicuous part of such vessel or craft, and if any person is on board, calling his attention thereto. Alternatively such notice may be served on or given by sending it by prepaid registered post in an envelope addressed to the Master or owner at his last known address and in that event the notice shall be deemed to have been delivered in the normal course of post. In the case of a notice being served pursuant to Bye-Law 86 hereof such Notice may be served by giving it to the person to whom it is addressed or in case the Notice refers to a vehicle by leaving it at the vehicle or in the case of Notice relating to a vessel by affixing it to the vessel as aforesaid.
95. The Harbour Master may detain a vessel in the Harbour until he is satisfied that all monies due in respect of the vessel and the cargo have been paid or sufficient security has been given for the purpose.

### **Harbour Charges:**

96. The Council hereby imposes Harbour Charges in respect of the entry into Harbours, use of the quay, anchorage or mooring within a Harbour, shipment, transshipment or unshipment (i.e. landing) or storage of goods in or at a Harbour or the provision of services or facilities within a Harbour as set out in the First

Schedule hereto in respect of the vessel specified in the said Schedule at the rate or rates as set out in the said Schedule.

97. The Master or owner of any vessel entering the Harbour for the purpose of landing goods shall as soon as possible give notice to the Harbour Master of his intention to land goods and shall furnish to the Harbour Master such information as may be required by him to identify and quantify the goods being landed for the purpose of calculation of the Harbour Charges payable in respect of such landing of goods.
98. The Master or owner of any vessel shall comply with any directions, instructions or procedures specified by the Harbour Master from time to time for the purpose of quantifying the charges payable in respect of any services provided in the Harbour, the subject matter of such charges.
99. Charges payable as aforesaid shall be payable upon issue by the Harbour Master of an invoice in respect thereof.

### **Offences:**

100. The Master or Owner of any Vessel or any other person who contravenes or fails to comply with any of the above Bye-Laws shall be guilty of an offence and on conviction shall be liable to the penalties laid down in these Bye-Laws.
101. The Harbour Master or Authorised Person reserve the right to refuse entry to any Vessel, which is in breach of the provisions of these Bye-Laws.
102. Notwithstanding anything contained in these Bye-Laws, every person in a Harbour area shall comply with any directions he or she receives from the Harbour Master or Authorised Person arising out of the operation of the Safety, Health and Welfare at Work Act 2006 and any regulations or safety statement made or prepared thereunder.
103. Pursuant to Section 40(1) of the 1994 Act, as amended, a person who contravenes Bye-Laws 5,10,15,16,18,19,20,23,26,27,61,75,78,79,80 shall be liable on summary conviction to a fine not exceeding €634.87. A person who contravenes any other Bye-Law herein shall be liable on summary conviction to a fine not exceeding the amount specified in the said Section 40 (1) of the 1994 Act as amended (currently €1,269.74).
104. The following provisions are made pursuant to Section 41(1) of the 1994 Act, as amended:-

- (a) Any person committing an offence by contravention of any of the Bye-Laws hereinafter specified shall be liable to prosecution for the contravention within the meaning of the aforesaid sub-section.
  - (b) A person found contravening any of these Bye-Laws may be served with a Notice by the Harbour Master specifying a fixed payment of €63.49 in respect of such contravention as an alternative to prosecution and the said Notice shall be in the form set out in the Second Schedule hereto in accordance with Article 8 of the Regulations (Local Government Act, 1994) (Bye-Laws) Regulations, 1995 & 1999 and such payment shall be the maximum amount prescribed for the time being under the said Section 41(1) as amended and the period within which it must be paid to avoid prosecution shall be a period of twenty one days beginning on the date of service of the Notice as aforesaid.
- 105 All fines and fixed payments under these Bye-Laws shall be the maximum amount prescribed for the time being under the 1994 Act and will increase to the maximum amount prescribed under the 2001 Act and any Regulation made pursuant to that Act when the relevant Sections of that Act come into operation, unless otherwise stated.
106. Any offence under, or breach of, these Bye-Laws shall be notified by the Harbour Master or Officer to the Council.

## FIRST SCHEDULE

### SCHEDULE OF BERTHING FEES (Euro)

*Note: Gross Registered Tonnage (GRT) and Gross Tonnage (GT) are regarded as equivalent for the purpose of levying rates of charges.*

Fishing Vessels	Annual	Daily
Less than 10 GRT	€265	€20
Over 10 but less than 20	€265 plus €5 per ton of GRT over 10 (e.g. 15 GRT is €265 + €26 = €291)	€40
Over 20 but less than 30	€445 plus €5 per ton of GRT over 20	€50
Over 30 but less than 50	€620 plus €5 per ton of GRT over 30	€60
Over 50 but less than 75	€800 plus €6.50 per ton of GRT over 50	€70
Over 75 but less than 100	€970 plus €6.50 per ton of GRT over 75	€90
Over 100 GRT	€1330 plus €6.50 per ton of GRT over 100 tonnes	€100

Passenger Vessels	Annual	Half Yearly
Per Passenger		

PROPOSAL: €15 per twelve month period per passenger. Number of passengers is as per the Passenger Licence of the vessel. For Licensed Passenger Boats whose official timetable is for part of the year adjustment is made on the charge per month(s) of operation per passenger accordingly.

**FIRST SCHEDULE - HARBOUR CHARGES (Continued)**

*All charges to be levied on master or owner of vessel*

<i>Uses, services and Facilities</i>	<i>Vessel</i>	<i>Charges payable</i>
<i>1. Landing charges for fish</i>	<i>All Vessels</i>	<i>16.25 cent per box(1 box equates to the 50 kg box,)  €3.25 per bin ( 1 bin equates to the 1 Tonne bins)</i>
<i>2. Use of Electricity</i>	<i>All Vessels</i>	<i>Paid by use as determined by Harbour Master or authorised Officer</i>
<i>3. Use of Water to fill tank</i>  <i>Use of water for Washing</i>	<i>All Vessels</i>  <i>All Vessels</i>	<i>Paid by use as determined by Harbour Master or authorised Person (as agreed between Harbour Master or Authorised Person and with Water Services Department of Cork County Council)</i>

<i>4. Use of harbour by car or cruise vessel (inc. all water charges)</i>	Permitted complement of 1 to 12 passengers.	<i>€5 per entry or €400 per calendar year</i>
	Permitted complement of 13 to 99 passengers	<i>€10 per entry or €2000 per calendar year</i>
	Permitted complement of 100 passengers or more.	<i>€1.20 per passenger per entry or departure</i>
	Permitted complement of less than 10 vehicles	<i>€10 per entry or €2000 per calendar year</i>
	Permitted complement of less than 20 vehicles.	<i>€20 per entry or €4000 per calendar year</i>
	<i>Permitted complement of 21 vehicles or more.</i>	<i>€300 per entry or €6000 per calendar year</i>
<i>5. Use of slipway</i>	<i>(a) Use of slipway for launch and recovery of leisure craft (except boats serving swinging moorings)</i>	<i>€2 per day or €25 per annum</i>
	<i>(b) Use of slipway for inspecting/ wash-down of fishing vessel or pleasure craft</i>	<i>€30 per day</i>
	<i>(c) Use of slipway for inspection/ wash down of passenger vessel capable of carrying more than 12 passengers</i>	<i>€50 per day</i>

<p>6. Use of harbour by vessel not registered or not licensed or disregistered, hulks or derelicts</p>	<p>(a) up to 20 m in length</p> <p>(II) for second four weeks</p> <p>(III) for third four weeks</p> <p>(IV) thereafter</p> <p>(b) over 20 m in length</p> <p>(II) for second four weeks</p> <p>(III) for third four weeks</p> <p>(IV) thereafter</p>	<p>€150 per week</p> <p>€300 per week</p> <p>€500 per week</p> <p>€200 per week</p> <p>€400 per week</p> <p>€1000 per week</p>
<p>7. Boats anchored within harbour</p>		<p>€100 per annum payable on 1<sup>st</sup> entry.</p>
<p>8. Disposal of ship generated waste (mandatory on all vessels operating from the harbour)</p>	<p>All vessels</p>	<p>Paid by amount of disposal as determined by Harbour Master or Authorised Person (as agreed between Harbour Master or Authorised Person and Waste Management Services of Cork County Council)</p>

## **LEISURE CRAFT - MARINA CHARGES**

### **MOORING CHARGES.**

A fee per year (To be agreed by Harbour Master and/or Authorised Person of Cork County Council).

### **MISCELLANEOUS:**

Commercial Vessels                      Fee to be the same as the 'First Schedule: Schedule of Berthing Fees' for fishing vessels

## SECOND SCHEDULE

PIERS ON WHICH THE BYE LAWS FOR THE COASTLINE OF COUNTY CORK ARE TO BE IMPOSED AND PIERS ON WHICH ALL CHARGES ARE TO BE IMPOSED.

<b><u>South Cork:</u></b>	Ballycotton
<b><u>West Cork:</u></b>	Courthmacsherry
	Union Hall/Glandore
	Schull
	Crookhaven

PIERS ON WHICH THE BYE LAWS FOR THE COASTLINE OF COUNTY CORK ARE TO BE IMPOSED AND PIERS ON WHICH FEES RELATING TO PASSENGER LICENCED VESSELS ARE TO BE IMPOSED

Bantry (Old Pier)  
Colla  
Cunnamore  
Glengarriff  
Blue Rock  
Lough Beal (Pontoon)  
Rerrin (Bear Is)  
McHardy Pier (Rerrin, Bear Is.),  
Lawerence Cove (Rerrin, Bear Is.),  
Oilean na gCaorach (Bear Is.)  
The Bank, Creamery Pier (Whiddy Is.)  
Middle Land Pier (Long Is.)  
East Pier (Heir Is.)  
Abbey Pier (Sherkin Is.)

### THIRD SCHEDULE

PIERS ON WHICH THE BYE LAWS FOR THE COASTLINE OF COUNTY CORK ARE TO BE IMPOSED, AND WHICH MAPS OUTLINING HARBOUR JURISDICTIONS ARE IN PLACE.

#### WEST

Ring	Trafrask
Castlehaven	Bank Harbour
(Castletownsend/Reen)	Loughanebeg
Turkhead	Garinish
Roaring Water Bay	Travarra
(Laveranthally)	Pallas (Ardgroom)
Goleen	Traagawla (Bear Island)
Durrus	Ballynakilla (Bear Island)
Ahakista	South Harbour (Cape Clear Island)
Gerahies	Coosadouglaish (Cape Clear Island)
Abbey Slip	The Dock (Sherkin Island)
Adrigole (Drumlave)	

#### SOUTH

Knockadoon	Sandy Cove Slip
Guileen Slipway	Castlepark Slip
Coolmain Slip,	Oysterhaven Slip
Dooneen Pier	The Cush Slip
Summercove Pier	Burren

The piers at Monkstown Sand Quay, Passage West Quay, Passage West Ferry Slip, Glenbrook Cross River Ferry, Glenbrook Slipway, Crosshaven Slip (The Point), and Crosshaven Pier, Carrigaloe Ferry Slip, Aghada Pier, East Ferry Pier and Rathcoursey Pier are within Cork Harbour and are under the jurisdiction of Cork Harbour Commissioners.

## **FOURTH SCHEDULE**

### **CORK COUNTY COUNCIL**

**PERMIT FOR USE OF FACILITIES BELONGING TO CORK COUNTY COUNCIL**  
issued under County of Cork Harbour Bye-Laws, 2009.

1. (Full Name) \_\_\_\_\_ of (Address) \_\_\_\_\_  
\_\_\_\_\_ is hereby authorised by this permit to use the property of the Council at \_\_\_\_\_ (Name of Harbour) for the purpose of embarkation or disembarkation of passengers from \_\_\_\_\_ (Vessel Name).
2. This authorisation is subject to the conditions laid down in the Operating Agreement dated the \_\_\_\_ day of \_\_\_\_\_, 200\_\_ attached to this permit, and to the provisions of any Bye-Laws and Regulations under the Local Government Act, 1994 as amended and the Harbours Act, 1996.
3. This permit may be revoked at any time, where it is considered necessary in the interests of safety or for the good management or operation of the harbour.
4. Without prejudice to the generality of the foregoing, this permit may be revoked where the permit holder or his servants or agents are in breach of or fail to comply with terms of the operating agreement.
5. This permit shall be valid for the duration of the passenger ship certificate and/or the exemption granted in respect of the vessel under the Merchant Shipping Act, 1894 to 1998.

Signed on behalf of the Council for the County of Cork.

\_\_\_\_\_

\_\_\_\_\_

Date

## **FIFTH SCHEDULE**

### **OPERATING AGREEMENT**

**MEMORANDUM OF AGREEMENT** made on the \_\_\_ day of \_\_\_\_\_ Two Thousand and \_\_\_\_\_ **BETWEEN THE COUNTY COUNCIL FOR THE COUNTY OF CORK** (hereinafter called “the Council”) of the One Part AND \_\_\_\_\_ being the Master / Operator of \_\_\_\_\_ (Vessel Name and Number) (hereinafter called “the Permit Holder”) of the Other Part.

**WHEREAS** the County of Cork Harbour Bye-Laws, 2009 came into operation on the \_\_\_ day of \_\_\_\_\_ Two Thousand and Five **AND WHEREAS** the Council agrees to allow the use of its property at \_\_\_\_\_ (Name of Harbour) by the Permit Holder for the purpose of the embarkation or disembarkation of passengers from \_\_\_\_\_ (Vessel Name).

#### **NOW IT IS HEREBY AGREED AS FOLLOWS:**

1. The Permit Holder shall produce to the Harbour Master or Authorised Person at \_\_\_\_\_ (Name of Harbour) or to the relevant Local offices of Cork County Council a copy of the vessel’s current validated passenger ship certificate and/or exemption granted in respect of the vessel, under the Merchant Shipping Acts 1894 to 1998, as evidence of the vessel’s status as a certified passenger ship.
2. The Permit Holder shall be in possession of all its Statutory Requirements relating to the safe operation of the Vessel and its crew.
4. The Permit Holder shall provide to the Harbour Master or Authorised Person, if requested, a daily or weekly schedule of arrival and departure times for his approval. The Harbour Master or Authorised Person may require the Permit Holder to make such changes as he considers necessary to the schedule.
6. The Permit Holder shall be aware that the Harbour Master or Authorised Person may have the vessel moved when required or be moved off the berth at short notice to meet harbour requirements. If another Vessel needs to berth and if, for any reason, the Vessel berthed is unable to leave or be moved from the berth, as required, it shall be the duty of the Permit Holder to make arrangements for the immediate coming alongside the Vessel of the other Vessel, which might have otherwise secured to the berth. The Permit Holder shall ensure the safe embarkation and disembarkation of the other Vessel’s passengers across the decks of his/her Vessel

7. The sale of tickets by Ferry Operators or by agents acting on their behalf shall be conducted only at a location and in a manner to be agreed between each such Ferry Operator and the Harbour Master or Authorised Person, whose decision shall be final in this matter.
8. The Permit Holder shall display all Ferry sailing times in a manner and at a location to be agreed with the Harbour Master or Authorised Person. Ferry Operators shall strictly adhere to such sailing times other than with the agreement of the Harbour Master or Authorised Person, who will have due regard to inclement weather conditions in determining any alterations to the said sailing times.
9. The Permit Holder shall ensure, in all instances where Passengers are being conveyed in Ferries operating from a Harbour, that a sufficient number of crew is provided to operate such Ferries. At all times such crew numbers shall be in accordance with the aforementioned Passenger Boat Licence issued under the Merchant Shipping Act of 1992 as amended.
10. The Permit Holder shall ensure that the number of passengers conveyed to or from the Harbour is fully in accordance with the terms of the Passenger Boat Licence issued under the Merchant Shipping Act of 1992 as amended.
11. As employers, Ferry Operators are legally obliged to prepare a Safety Statement in accordance with the terms of the 1989 Act. In addition, they will also be required to prepare a Traffic Management Plan in respect of all aspects of their operations with particular reference to the management and control of passengers. Such Safety Plans must include:
  - (a) the identification of the various hazards involved with their operations;
  - (b) the preparation of an associated Risk Assessment; and
  - (c) the putting in place of appropriate Control measures to address the various risks identified in the said Risk Assessment.
12. Ferry Operators are at all times obliged to ensure the orderly queuing of passengers, both those arriving from the Islands and in particular those on the Pier waiting to depart for the Islands. Specifically, Ferry Operators will be required to demonstrate to the Council that such matters are fully addressed by means of the aforementioned Safety Plans. They will also be required to contain and monitor such passengers at a designated Waiting Area of the Pier at all times and particularly during periods of low tide when the adjacent concrete Slipway is exposed. Such a Waiting Area and the management of passengers thereon must be agreed between the Council and the Ferry Operators before a permit to operate from a Harbour will be granted.
13. Due to the nature of the operations involved, Permits to operate Ferries at any Harbour will not be issued by the Council unless satisfactory evidence is provided

that passengers and in particular children are at all times monitored and controlled by the Ferry Operators on the aforementioned designated Waiting Area of the Pier. Furthermore, Ferry Operators must comply with any directions or instructions in this regard from the Harbour Master or Authorised Person.

14. Ferry Operators, in their Traffic Management Plans, must address the issue of the Trans-shipment of passengers at low tides by means of small boats to and from Ferries and satisfy the Council in that regard before a Permit will be issued.
15. Permit Holders shall indemnify and keep indemnified the Council, its servants and agents against all actions, claims, proceedings, expenses and any demands whatsoever in respect of injury to persons or damage to property arising in any way out of the grant of the permit and shall effect such insurances as may be necessary for the better securing of these indemnities and when required, by the Council, shall produce such policies of insurance and the receipt for the current periods premium.
16. Nothing in this agreement shall prejudice or affect any right of the Harbour Master or Authorised Person to prosecute the Permit Holder for any breach of various Acts or Bye-Laws applicable to any Harbour within Cork County Council's jurisdiction or to recover in a court of competent jurisdiction any dues or fees outstanding.
17. Without prejudice to the generality of the foregoing, the Permit Holder shall at all times comply with the provisions of the County of Cork Harbour Bye-Laws, 2009. Any offence under, or breach of, these Bye-Laws may result in the permit being revoked or suspended. Prior to revoking or suspending the permit, the Council will notify the Permit Holder in writing that it is considering taking this action and the Permit Holder shall be allowed 7 days from the date of such notification to make written representations to the Council regarding this action. The Council shall consider these written representations from the Permit Holder and then may:
  1. Revoke the permit, or
  2. Suspend the permit, or
  3. Take such action as it deems necessary.

