STATUTORY INSTRUMENTS

2016 No. 654

DEFENCE

The British Underwater Test and Evaluation Centre Byelaws 2016

Made - - - -	*12th June 2016*
Coming into force - -	*29th June 2016*

The Secretary of State makes the following Byelaws in exercise of the powers conferred by section 14(1) of the Military Lands Act 1892(**1**), section 2(2) of the Military Lands Act 1900(**2**) and section 7 of the Land Powers (Defence) Act 1958(**3**).

In accordance with sections 2(2)(c) and 2(2A)(**4**) of the Military Lands Act 1900 the Secretary of State has—

(a) obtained the consent of the Crown Estate Commissioners;

(b) taken all reasonable steps to ascertain whether the Byelaws would injuriously affect any public rights; and

(c) is satisfied, in relation to every public right that the Secretary of State considers would be injuriously affected by the Byelaws—

(i) that a restriction of the right is required for the safety of the public or for the requirements of the military purpose for which the area to which these Byelaws apply is used; and

(ii) that the restriction of the right imposed by these Byelaws is only to such extent as is reasonable in all the circumstances of the case.

In accordance with section 17(1) of the Military Lands Act 1892 the Secretary of State has caused the proposed Byelaws to be made known in the locality, given an opportunity for objections to be made to the same, and received and considered all objections made.

Citation, commencement and revocation

1.—(1) These Byelaws may be cited as the British Underwater Test and Evaluation Centre Byelaws 2016 and come into force on 29th June 2016.

(**1**) 1892 c. 43.
(**2**) 1900 c. 56. Section 2(2) was amended by SR & O 1924/1370, section 1 of the Crown Estate Act 1956 (c. 73) and section 1 of the Crown Estate Act 1961 (c. 55).
(**3**) 1958 c. 30. Section 7 was amended by S.I. 1964/488 and 1971/719.
(**4**) Section 2(2A) was inserted by section 24 of the Armed Forces Act 2011 (c. 18).

(2) The British Underwater Test and Evaluation Centre Byelaws 1984(**5**) are revoked.

Interpretation

2.—(1) In these Byelaws—

"appointed person" means the person appointed by the Secretary of State for Defence to be responsible for the BUTEC Base Area and the BUTEC Sea Ranges;

"controlled land area" means the area of land coloured blue on Inset A shown on Byelaws Map 2 in Schedule 1;

"enforcement officer" means—

(a) a member of a service police force in uniform;

(b) an officer, warrant officer or non–commissioned officer in uniform who is acting under the instructions of the appointed person; and

(c) a person in the public service of the Crown authorised in writing by the appointed person to act as an enforcement officer;

"firearm" has the meaning given in section 57(1) of the Firearms Act 1968(**6**);

"Her Majesty's forces" has the meaning given in section 374 of the Armed Forces Act 2006(**7**);

"inner sea area" means the area of sea and foreshore coloured dark pink on Byelaws Map 2 in Schedule 1;

"invalid carriage" has the meaning given in section 185(1) of the Road Traffic Act 1988(**8**);

"motor vehicle" means a mechanically propelled vehicle intended or adapted for use on roads, other than an invalid carriage;

"offensive weapon" means any article made or adapted for use for causing injury to the person, or intended by the person carrying it for such use by that person or by another;

"outer sea areas" means the areas of sea and foreshore coloured light green on Byelaws Map 2 in Schedule 1;

"protected land area" means an area of land coloured pink on Byelaws Map 1 or 2 in Schedule 1;

"protected sea area" means the area of sea and foreshore coloured orange on Byelaws Map 1 in Schedule 1;

"service police force" has the meaning given in section 375 of the Armed Forces Act 2006;

"the BUTEC Base Area" means all of the area shown on Byelaws Map 1 in Schedule 1 that lies within the red line, the location of the area being shown on Byelaws Location Map 1 in that Schedule; and

"the BUTEC Sea Ranges" means all the area shown on Byelaws Map 2 in Schedule 1 that lies within the red line, the location of the area being shown on Byelaws Location Map 2 in that Schedule.

(2) The boundary of that part of the BUTEC Base Area which is sea, or is foreshore and cannot be conveniently marked by permanent marks, is shown marked with numbered points on Byelaws Map 1, and the co-ordinates of those points are given in table 1 in Schedule 2.

(**5**) S.I. 1984/1851.
(**6**) 1968 c. 27. Various amendments have been made to section 57(1) of the Act, none of which is relevant.
(**7**) 2006 c. 52.
(**8**) 1988 c. 52.

(3) The boundary of that part of the BUTEC Sea Ranges which is sea, or is foreshore and cannot be conveniently marked by permanent marks, is shown marked with numbered points on Byelaws Map 2, and the co-ordinates of those points are given in table 2 in Schedule 2.

(4) The boundary of the inner sea area which is sea or foreshore is shown marked with numbered points on Byelaws Map 2, and the co-ordinates of those points are given in table 3 in Schedule 2.

Prohibition on entry – protected land areas, protected sea area and inner sea area

3.—(1) A person commits an offence if that person—

(a) enters a protected land area, the inner sea area or the protected sea area;

(b) causes anything to enter such an area so as to obstruct the use of that area;

(c) flies or causes anything to fly over such an area at a height of less than 500 feet;

(d) causes any device used for fishing purposes to enter the inner sea area.

(2) A person in charge of a vessel commits an offence if that person fails to take reasonable measures to prevent a person on board that vessel committing an offence under byelaw 3(1)(b) or 3(1)(c) in relation to the inner sea area or the protected sea area or under byelaw 3(1)(d).

(3) It is a defence for a person charged with an offence under byelaw 3(1)(a) in relation to the inner sea area or the protected sea area that the person—

(a) entered the area whilst on board a vessel; and

(b) was not in charge of the vessel whilst it was in that area.

(4) It is a defence for a person in charge of a vessel who is charged with an offence under byelaw 3(1)(a) in relation to the inner sea area or the protected sea area that the person entered the area—

(a) for the purpose of giving assistance to a vessel or person in distress; or

(b) due to the exigencies of navigation.

Use of the outer sea areas

4.—(1) A person commits an offence if that person while within the outer sea areas—

(a) interferes with or retains possession of any military equipment or materials that he or she finds in the areas;

(b) fires any explosive or acoustic charge;

(c) interferes with anything fixed to the sea-bed;

(d) fishes, otherwise than by line, creel or diving;

(e) farms fish;

(f) dumps waste or rubbish;

(g) dredges;

(h) uses or navigates any submersible craft beneath the surface of the areas.

(2) The person in charge of a vessel commits an offence if that person fails to take reasonable measures to prevent a person on board the vessel committing an offence under byelaw 4(1).

(3) When an area of foreshore within the outer sea areas is uncovered by the tide, the provisions of byelaw 5(4) apply to that area of foreshore as if it were part of the controlled land area.

Entry to and use of the controlled land area

5.—(1) Subject to byelaws 5(2) and 5(4), a person may enter and use the controlled land area.

(2) A person commits an offence if that person—

(a) enters the controlled land area or remains in it,

(b) causes anything to enter or remain in that area so as to obstruct the use of that area, or

(c) flies or causes anything to fly over that area at a height of less than 500 feet,

when it is being used for a military purpose.

(3) It is a defence for a person charged with an offence under byelaw 5(2)(a) that the person did not know and could not reasonably have known that the area was being used for a military purpose.

(4) A person commits an offence if within the controlled land area that person—

(a) enters a part of the controlled land area entry to which is marked as prohibited or restricted;

(b) obstructs a person mentioned in byelaw 6(1) who is acting for a military purpose;

(c) interferes with or obstructs the use of any property which is under the control of a person mentioned in byelaw 6(1) who is acting for a military purpose;

(d) moves or interferes with any military equipment or materials;

(e) fails to comply with a direction given by a person mentioned in byelaw 6(1) who is acting for a military purpose, without reasonable excuse;

(f) damages any wall, fence or structure;

(g) moves, damages or defaces a sign or notice;

(h) acts in a way likely to cause alarm or distress to another person, without reasonable excuse;

(i) acts in a way likely to cause annoyance, nuisance or injury to another person, without reasonable excuse;

(j) comply with any direction as to the use of a motor vehicle or pedal cycle given by a person mentioned in byelaw 6(1) who is acting for a military purpose;

(k) rides a pedal cycle or drives a motor vehicle without due care and attention;

(l) fails to use appropriate lights when driving during the hours of darkness;

(m) parks or leaves a vehicle otherwise that in a place designated for parking;

(n) fails to comply with a sign or notice that imposes a prohibition or restriction.

(5) For the purposes of this byelaw—

"appropriate lights" means lamps required to be fitted and used when that vehicle is used on a public highway during the hours of darkness in accordance with the Road Vehicles Lighting Regulations 1989(**9**);

"hours of darkness" means the time between half an hour after sunset and half an hour before sunrise.

Exemptions

6.—(1) In relation to a person authorised by or on behalf of the Secretary of State for Defence to use the BUTEC Base Area or BUTEC Sea Ranges for a military purpose and, where that person is a member of one of Her Majesty's forces, to persons under his or her command, in so far as the byelaws would otherwise apply to any part of the BUTEC Base Area or BUTEC Sea Ranges—

(a) byelaws 3(1), 3(2) and 5(2) do not apply,

(b) byelaws 4(1), 4(2), 4(3) and 5(4), apply, except to the extent that they are acting for the authorised military purpose.

(2) Byelaws 3(1), 3(2), 4(1), 4(2), 4(3), 5(2) and 5(4) do not apply to —

(**9**) S.I. 1989/1796. Relevant amending instruments are S.I. 1994/2280, 1996/3016, 2005/2559, 2009/3220.

(a) a person to the extent that he or she is acting under and in accordance with permission given in writing by the appointed person;

(b) a constable acting in the execution of his or her duties;

(c) a person acting for fire and rescue or ambulance purposes who is responding to an emergency within the controlled land area or a protected land area.

(3) Byelaws 3(1), 3(2), 4(1) and 4(2) do not apply to a person in charge of a vessel being used—

(a) to place, maintain or remove aids to navigation;

(b) for the purposes of the Commissioners of Northern Lighthouses.

(4) In relation to a person in charge of a vessel who has been given oral permission to navigate through the inner sea area by the watch-keeper for the area, byelaw 3(1) does not apply—

(a) to the extent that he or she is acting under and in accordance with that permission; and

(b) where the vessel is a fishing vessel, that any gear used for the purpose of trawling is stowed before entering the area and not used whilst navigating through.

Direction to leave

7.—(1) In order to prevent an offence being committed under byelaw 3(1)(a), 3(1)(b) or 3(1)(d) in relation to the inner sea area or under byelaw 4(1), a constable, enforcement officer or authorised person may direct a person in charge of a vessel—

(a) not to remain in the outer sea areas or such part of those areas as may be specified in the direction, and

(b) to remove from those areas or that part anything over which that person has control,

except in so far as it is necessary to exercise the public right of navigation.

(2) In order to prevent an offence being committed under byelaw 5(2) or 5(4), a constable, enforcement officer or authorised person may direct a person—

(a) to leave the controlled land area; and

(b) to remove from that area anything over which that person has control.

(3) A direction under byelaw 7(1)(a) or 7(2)(a) may include a direction not to return to those areas, that area or that part until—

(a) the end of a period specified by the person giving the direction; or

(b) if no period is specified, the end of the day on which the direction is given.

(4) A period specified under byelaw 7(1)(a) or 7(2)(a) must not exceed 28 days, beginning with the day the direction is given.

(5) A direction under byelaw 7(1) or 7(2)—

(a) must be given in writing, unless it is impractical to do so; and

(b) if in writing, must specify the date on which it is given.

(6) A direction under byelaw 7(1) or 7(2) may—

(a) be given to a person individually or two or more persons together; and

(b) be withdrawn or varied by the person who gave it or by the appointed person.

(7) It is an offence to fail to comply with a direction given under byelaw 7(1) or 7(2).

(8) In byelaws 7(1) and 7(2) "authorised person" means any person authorised in writing by the appointed person for the purposes of those byelaws and acting under his or her instructions.