

## **REGULATIONS FOR BANFF HARBOUR MARINA 2009**

(Including amendments approved by the Banff and Buchan Area Committee  
on 31 March 2009)

### **Article 1 HARBOUR and MARINA Regulations**

#### **Application of the Regulations**

Aberdeenshire Council is the designated Authority for Banff Harbour under the Harbours Order - Confirmation Act of 1987.

Aberdeenshire Council is responsible for ensuring that Banff Harbour and Marina is used and managed properly, and for looking after the best interests of all USERS, including all VESSEL owners, residents and businesses in the environs of the harbour, and members of the public using harbour facilities.

Every person entering the HARBOUR AND MARINA for any purpose and by any means shall be deemed to agree to and be bound by these Regulations. Attention is also drawn to the Grampian Regional Council Harbours Byelaws 1990, which are presently in force.

#### **Risk**

Apart from any loss, damage or injury which results from the negligence or deliberate act of Aberdeenshire Council or that of those for whom Aberdeenshire Council is responsible every person using any part of the HARBOUR AND MARINA or its facilities for any purpose, whether by invitation or otherwise does so entirely at their own risk and the OWNER undertakes to make this known to every person in the OWNER'S PARTY including their family and visitors.

#### **Enforcement of Regulations**

Aberdeenshire Council accepts no responsibility to an OWNER or person to enforce any provision of these Regulations against any other Person and it may not be required to do so.

#### **DEFINITIONS**

**Wherever the following terms appear in the Regulations they will have the special meanings defined here:**

**ABERDEENSHIRE COUNCIL** is the designated authority for Banff Harbour and any and all structures, land and water as defined by the above Acts and Bylaws.

**BERTH/MOORING** means the space on water or land from time to time allocated to the OWNER by ABERDEENSHIRE COUNCIL for the VESSEL during the term of any Services and Berthing/Mooring Package Agreement.

**VESSEL** includes any form of craft, vessel, ship, yacht, dinghy, multi-hull, or other marine structure that is the property of or is in the designated care and control of the OWNER whether or not detailed in any Services and Berthing/Mooring Package Agreement or lease agreement between ABERDEENSHIRE COUNCIL and the OWNER.

**MANAGER** means the person responsible for the day-to-day management and administration of the HARBOUR AND MARINA on behalf of Aberdeenshire Council. This person shall normally be the "Harbourmaster" as defined in the Harbours Confirmation Act or such person as designated by him to carry out the duties of Harbourmaster.

**HARBOUR and MARINA** means all the land, adjacent water and buildings occupied by or under the control of ABERDEENSHIRE COUNCIL, including docks, slipways,

pontoons, jetties, quays, piers, berths, sheds, workshops, hard standing, compounds roadways and car park.

**OWNER** includes any person or corporate body who, as principal or agent, has entered into a Services and Berthing/Mooring Package Agreement with Aberdeenshire Council and any charterer, master, agent or other person for the time being in charge of the VESSEL, excluding Aberdeenshire Council.

**OWNER'S PARTY** means the OWNER'S family and private guests or visitors lawfully at any time within the HARBOUR AND MARINA.

**USER** means any person using the HARBOUR AND MARINA for any purpose whatsoever.

## **Article 2 Safety and Environment**

2.1 The OWNER shall at all times be responsible for the proper upkeep and safe condition and maintenance of the VESSEL, its gear and equipment (whether afloat or on shore) including mooring lines, and shall maintain it in good, clean, and seaworthy condition and ensure that the VESSEL is able to navigate under its own power at all times. Bilge water levels should be minimized and polluted bilge water should not be pumped into the water in the HARBOUR or MARINA.

2.2 The OWNER shall take all steps to be aware of current Health and Safety, Environmental and other legal requirements and shall comply with all reasonable instructions of Aberdeenshire Council and/or the MANAGER in connection with all matters relating to the safe and efficient operation of the HARBOUR AND MARINA. The OWNER shall ensure that they have read and understood Aberdeenshire Council's Health and Safety policy and Environmental Policy, which are displayed and available from the HARBOUR AND MARINA Office and on Aberdeenshire Council's website ([www.banffmarina.co.uk](http://www.banffmarina.co.uk)). Aberdeenshire Council reserves the right to amend such policies from time to time without notice.

2.3 The VESSEL shall be berthed by the OWNER in such a manner and in such location as Aberdeenshire Council may require. All necessary warps and fenders shall be provided by the OWNER and the OWNER expressly undertakes and agrees to ensure that the VESSEL is properly and safely secured and attached to the pontoon or mooring at all times. In particular it is the responsibility of the OWNER to check the security of warps and to replace them when necessary.

2.4 The OWNER shall navigate and control the VESSEL in the HARBOUR and MARINA at all times in a seamanlike manner so as to cause no danger, damage or inconvenience to any other person or VESSEL. In particular the VESSEL shall proceed at a speed which is safe in relation to prevailing conditions and shall at all times comply with any speed restrictions displayed from time to time within the HARBOUR and MARINA

2.5 The OWNER acknowledges and agrees that Aberdeenshire Council shall have the right without prior notice to require the OWNER to move and reberth the VESSEL and shall itself, by and with the defined authority of the "Harbourmaster", have the right to move and reberth the VESSEL to any new location within the HARBOUR and MARINA for reasons of safety or good management of the HARBOUR and MARINA.

2.6 Aberdeenshire Council shall have the right to board and enter the VESSEL (by force if necessary) to carry out any necessary actions or emergency work on the VESSEL without prior notice to the OWNER if such action or work is reasonably necessary for the safety of the VESSEL or the safety and/or convenience of other HARBOUR and MARINA Users or visitors. The OWNER shall pay on demand Aberdeenshire Council's reasonable charges and expenses for such work.

2.7 No dangerous, inflammable, poisonous or noxious substances, spirits, oil or petrol or other inflammable liquid, gas or solid shall be brought into the HARBOUR or MARINA or stored on the VESSEL except in properly secured containers expressly designed to contain such substances against leakage or escape. The consequences of any leakage or escape shall be for the OWNER'S account.

2.8 The OWNER may only refuel the VESSEL, its tenders and equipment in a safe and responsible manner and wherever possible in a designated refuelling area within the HARBOUR and MARINA. The OWNER shall comply at all times with all the directions

and regulations of ABERDEENSHIRE COUNCIL displayed in the HARBOUR and MARINA Office and/or the refuelling areas.

2.9 The OWNER and the OWNER'S PARTY shall at all times observe the Harbour Byelaws and all other policies, rules and regulations affecting the HARBOUR and MARINA.

2.10 The OWNER shall not operate or permit to be operated within the HARBOUR and MARINA any engine, generator, machinery, radio or any other apparatus so as to cause any noise, dust, pollution or any nuisance, annoyance or inconvenience to other USERS or any person residing in the vicinity of the HARBOUR and MARINA.

The OWNER shall observe and co-operate with any regulations governing the activities of contractors and any contractors' registration schemes. No person shall be permitted to work on the VESSEL or otherwise in the HARBOUR and MARINA so as to cause nuisance or annoyance or inconvenience to other HARBOUR or MARINA USERS or visitors or damage to other.

2.11 The OWNER further undertakes and agrees for themselves and the OWNER'S PARTY that they shall behave in a considerate manner while using the VESSEL and HARBOUR and/or MARINA facilities and in such a way as to cause no nuisance, annoyance or inconvenience to any other USERS or any person residing in the vicinity of the HARBOUR and MARINA.

2.12 The OWNER shall ensure that at all times halyards, flags, banners and other items attached to the VESSEL shall be secured so as not to cause any noise, nuisance, annoyance or inconvenience to other USERS or any person residing in the vicinity of the HARBOUR and MARINA.

2.13 The OWNER understands and agrees that Aberdeenshire Council has the right to require the OWNER or the OWNER'S PARTY (or any of them) to leave the HARBOUR and MARINA immediately if they act recklessly or unreasonably or fail to observe these or any other applicable regulations by and with the defined authority of the "Harbourmaster". Such behaviour will be notified to all Aberdeenshire Council Harbourmasters.

2.14 No waste or refuse is to be thrown into or deposited in any part of the HARBOUR or MARINA except in the designated receptacles provided by Aberdeenshire Council. Waste or refuse which is not disposed of or is not permitted by these regulations or other legal reasons to be disposed of in Aberdeenshire Council's receptacles shall be completely removed from the HARBOUR and MARINA. The disposal of batteries, Gas Cylinders, oil, petrol, tar, paint (antifouling or otherwise), sewage or any other similar toxic or noxious substances in any part of the HARBOUR and MARINA is strictly prohibited. The disposal of out of date flares or other pyrotechnics is the sole responsibility of the owner and cannot be disposed of by Aberdeenshire Council. In no circumstances shall any of the above waste materials be discharged into the water or left elsewhere in the HARBOUR or MARINA.

If the OWNER or any agent of the OWNER shall fail promptly to clear away any such waste Aberdeenshire Council shall be entitled (but not obliged) to remove such waste and if it does so the OWNER shall pay on demand Aberdeenshire Council's reasonable costs and expenses incurred in collecting and disposing of such waste.

2.15 Animals may only be brought into the HARBOUR and MARINA on condition that they are at all times kept under the control of the OWNER. Dogs are to be kept on a leash. No animal shall cause inconvenience in the form of noise or fouling of the HARBOUR and MARINA or any other VESSEL or vessel. So far as is reasonably

practical animals shall be kept aboard the VESSEL at all times. Strict regulations exist for the control of rabies and Aberdeenshire Council reserves the right to require the OWNER to remove any animal from the HARBOUR and MARINA without prior notice. No animal that has originated from or has been taken abroad shall be brought into or landed in the HARBOUR and MARINA without the prior written consent of Aberdeenshire Council. Aberdeenshire Council reserves the right to report the presence of any animal in the HARBOUR and MARINA to the Environment Agency or other responsible authority.

2.16 The OWNER shall not erect any washing line on the VESSEL or within the HARBOUR or MARINA or allow any washing to be displayed on the exterior of the VESSEL. Drying lines, provided by the Council, in the upper compound shall be used for the purpose of storing and drying wet clothing.

2.17 The OWNER shall take all necessary precautions against the outbreak of fire in or upon the VESSEL. The OWNER shall provide at least one fire extinguisher in or upon the VESSEL suitable for the type of engines, fuel and equipment relating to the VESSEL and of a kind which shall be approved by the appropriate Government Department. Such extinguishers shall at all times be kept instantly ready for use and in good and efficient working order.

2.18 Fishing, water skiing, speeding, VESSEL racing, windsurfing, hydro-planing, jet skiing, swimming and diving are prohibited within the HARBOUR and MARINA. Day launch facilities are provided in the Middle and Outer Basins and may be used for the launch and recovery of vessels including Personal Water Craft. Wash shall be kept to a minimum. A maximum water speed limit of 5 knots and a maximum land speed of 10 mph must at all times be observed within the HARBOUR and MARINA.

2.19 Luggage trolleys must be returned to the designated trolley storage area after use.

2.20 The OWNER or any other persons whilst on the HARBOUR and MARINA are to report in writing to the MANAGER within 24 hours any injury or accident that occurs within the HARBOUR and MARINA.

2.21 No VESSEL stored ashore may be moved nor shall any chocks or shores be moved except with Aberdeenshire Council's consent. OWNERS or their agents must not at anytime interfere with, alter or remove chocks, shores or cradle legs used for the storage of any vessel.

2.22 Nothing shall be attached to any part of the HARBOUR or MARINA without the express consent of Aberdeenshire Council.

### **Article 3 Management**

3.1 VESSELS are berthed, moored or stored ashore at the sole risk of the OWNER.

3.2 Aberdeenshire Council retains all rights of possession in respect of the BERTH.

3.3 In all cases the allocation of berths shall be at the sole discretion of and the amount of space allocated for each berth shall be determined by Aberdeenshire Council in accordance with their normal practice. The decision of Aberdeenshire council with regard to this shall be final.

3.4 Aberdeenshire Council shall have an absolute right to alter the location of the BERTH within the HARBOUR AND MARINA and the VESSEL shall be moored in the BERTH allocated by Aberdeenshire Council from time to time and shall not be moored elsewhere

in the HARBOUR or MARINA without the approval of the MANAGER. Any OWNER who berths or permits the berthing of his VESSEL in a berth that is not assigned to him shall be charged the daily rate for the period that the VESSEL is berthed in such a berth irrespective whether they have paid a seasons dues and fees for another berth in the MARINA and HARBOUR.

3.5 At any time when the BERTH is not actually occupied by the VESSEL, Aberdeenshire Council shall be free to permit its use by any other VESSEL.

3.6 Access is strictly limited to those parts of the HARBOUR and MARINA which Aberdeenshire Council makes available for use by the OWNER and the OWNER'S PARTY. Entry upon restricted areas of the HARBOUR and MARINA and upon all other adjoining land and water owned or controlled by Aberdeenshire Council is forbidden.

3.7 Aberdeenshire Council permits routine maintenance and upkeep work in accordance with 2.19 above but neither the OWNER nor anyone employed by them shall be permitted to construct or complete the construction of any VESSEL within the HARBOUR or MARINA without the prior written consent of Aberdeenshire Council.

3.8 No part of the HARBOUR or MARINA or the VESSEL shall be used by the OWNER for any commercial purpose, including hiring, embarkation of charter parties, sale or demonstration for sale or hire of the VESSEL without the prior written consent of Aberdeenshire Council to the specific purpose concerned. For the purpose of this Regulation the occasional use of the VESSEL by a friend of the OWNER on payment to the OWNER of a contribution towards the actual running cost of the VESSEL shall not be deemed a commercial purpose.

In no circumstances shall the OWNER display or caused to be displayed any 'For Sale', 'For Charter', 'To Rent' or other notice on or in the VESSEL or on any other part of the HARBOUR and MARINA without the express permission, in writing, of the MANAGER.

3.9 The OWNER shall not themselves nor shall they permit any other person to live aboard the VESSEL. For the purposes of this Regulation a person shall be deemed to be "living aboard" a VESSEL if they shall spend more than 14 nights aboard in any period of 30 days.

3.10 Dinghies, tenders and rafts shall be stowed aboard the VESSEL unless the OWNER and Aberdeenshire Council shall otherwise agree in writing.

3.11 The VESSEL and any associated dinghies, tenders, trailers and cradles shall be clearly marked with the name of the VESSEL. Any other equipment which is not stored securely in the VESSEL shall also be clearly marked with the name of the VESSEL.

3.12 No parts of the VESSEL or other equipment, dinghies, gear, fittings, supplies, stores or similar items shall be stored or left upon or otherwise within the HARBOUR or MARINA without the prior written consent of Aberdeenshire Council.

3.13 Aberdeenshire Council reserves the right to introduce Regulations and new terms and conditions or to vary these Regulations and terms and conditions in order to promote the better administration of the HARBOUR and MARINA in the interests of HARBOUR and MARINA USERS as a whole or to comply with statutes, regulations or Byelaws.

3.14 If requested by Aberdeenshire Council the OWNER shall deposit keys with the MANAGER giving full access to the interior and lockers of the VESSEL including engine keys. Such request is made solely for the purpose of the good management of the HARBOUR and MARINA. Aberdeenshire Council will not accept responsibility to act as a key holder for the convenience of the OWNER unless the OWNER provides

Aberdeenshire Council with a list of no more than two authorised personnel to whom the keys may be given together with a means of positive identification for each of them.

3.15 The OWNER of visiting vessels shall inform the MANAGER prior to each departure of the VESSEL from the HARBOUR and/or MARINA. The OWNER shall specify the departure time, the period the VESSEL will be away from the HARBOUR and MARINA and the anticipated date and time of return. The MANAGER will rely upon this information in planning access for visiting vessels. If the information supplied by the OWNER is inaccurate or incomplete Aberdeenshire Council is unable to guarantee that the BERTH will be available upon the return of the VESSEL to the HARBOUR and MARINA. The MANAGER has the express authority to refuse a berth to any visiting vessel except in the circumstances of providing safe shelter in adverse weather.

3.16 The OWNER shall cause the VESSEL to leave or be removed from the HARBOUR and MARINA on at least one occasion during the term of the annual berthing contract if requested by Aberdeenshire Council to do so.

3.17 If the OWNER fails to remove the VESSEL having been requested to do so by Aberdeenshire Council then Aberdeenshire Council shall have the right to remove the VESSEL and to recover from the OWNER the reasonable costs and expenses of ABERDEENSHIRE COUNCIL including but not limited to craneage and storage charges at the HARBOUR and MARINA'S published rates.

3.18 All VESSELS must comply with the Harbour By Laws and Directions of the Harbour Master when navigating within the environs of the HARBOUR and MARINA. Copies of the Harbour By Laws are available from the HARBOUR AND MARINA Office. Harbour Dues are payable and may be paid to the HARBOUR AND MARINA Office or directly to Aberdeenshire Council.

#### **Article 4 Car Parking**

4.1 Subject to the Banff HARBOUR and MARINA Berthing Application, all vehicles and trailers (with or without VESSELS) are parked at the sole risk of the vehicle owner.

4.2 The OWNER, OWNER'S PARTY and their visitors are to park vehicles in accordance with the parking regulations in force in the HARBOUR AND MARINA or as the MANAGER shall direct. The OWNER shall bring these Regulations to the attention of all such persons and shall be responsible to Aberdeenshire Council for their compliance with them.

4.3 No vehicle is to be parked or placed so as to obstruct the pontoons, roadways, slipways, craneage platforms or any other area of the HARBOUR AND MARINA, nor shall any vehicle or trailer be abandoned within the HARBOUR AND MARINA. Aberdeenshire Council reserves the right to remove any obstructing or abandoned vehicle or trailer at the vehicle owner's risk by craneage, towage or otherwise. If a vehicle does not display a valid road fund licence or is in visibly poor condition Aberdeenshire Council shall reasonably regard it as having been abandoned. Aberdeenshire Council reserves the right to recover the reasonable costs and expenses incurred in moving or storing or, where appropriate, disposing of any such vehicle or trailer from the vehicle owner or where the vehicle has been admitted to the HARBOUR AND MARINA at the request of, or with the consent or assistance of the OWNER from that OWNER.

4.4 No tent, caravan (motor or trailer), commercial vehicles or any other vehicle adapted or designed for sleeping or storage may remain in any part of the HARBOUR AND MARINA without the prior written consent of Aberdeenshire Council.

## **Article 5 Insurance**

5.1 Subject to the Banff HARBOUR and MARINA Berthing Application, the OWNER assumes all risk and responsibility for the security of the VESSEL and its safe operation at all times. The OWNER shall maintain in full force and effect third party liability insurance against the liabilities of the OWNER, their crew, guests and invitees with an indemnity of not less than FIVE HUNDRED THOUSAND POUNDS STERLING per incident for the VESSEL and its tenders together with such other insurance cover as is normal for a VESSEL of its size, power and description. Such insurance to be effected with reputable insurers. Additionally where the OWNER engages paid crew for the VESSEL they shall maintain a policy of Employers' Liability Insurance fully in accordance with current legal requirements.

5.2 The OWNER shall not cancel, surrender or materially alter the terms of any part of the insurance programme without the prior written consent of Aberdeenshire Council.

5.3 The OWNER shall furnish Aberdeenshire Council on request with full details and legible copies of the current insurance certificates and policies together with evidence of their goodstanding.

5.4 Notwithstanding any other provisions of these Regulations concerning the control and management of any person working upon the VESSEL and the consenting process for work to be undertaken it is the OWNER'S strict responsibility to ensure the competence, satisfactory insurance status and adequate and safe working conditions of all persons that may carry out any work upon the VESSEL. It is a condition of the OWNER'S agreement with Aberdeenshire Council that the OWNER ensures that any such persons hold current, adequate and appropriate insurance cover. Failure to do so will expose the OWNER to substantial financial risk and possible prosecution. The OWNER should notify the MANAGER in advance of any such work being carried out.

5.5 Third party insurance cover must also be provided for vessels stored in compounds.

## **Article 6 Electrical supply**

6.1 Electricity (where applicable) is provided subject to the following terms and conditions:

6.2 Aberdeenshire Council cannot guarantee continuous supply as power cuts and breakdowns are not within its control.

6.3 Connectors and cables not supplied by Aberdeenshire Council shall be approved by Aberdeenshire Council. The OWNER shall not seek to connect or reconnect the connectors and cables prior to receiving approval.

6.4 Overloading will cause trips to activate and whilst Aberdeenshire Council will do all it can to effect immediate reconnection this may not be possible outside normal office hours.



6.5 Supply is provided to and for the VESSEL only. Shared supply is not permitted.

6.6 All electricity consumed shall be paid for by the OWNER on demand at the current rate of charges in force at the HARBOUR AND MARINA from time to time.

6.7 Access to the power , on Pontoon Berths or Compound Sites, shall be granted by the Harbourmaster upon payment of a fixed deposit of £5.91 (or the rate stated in the Aberdeenshire Council Rates and Dues for the current year for access to power supply whichever is the higher). This deposit will be retained for the period of time that the OWNER is given access to the power supply. The OWNER shall pay to the MANAGER the notified cost of the monthly bill for consumption of power. Electricity shall be charged for at a rate fixed by Aberdeenshire Council and based upon the charges levied by the supplier. Alternatively, the OWNER may request the refund of his deposit, less the cost of electricity consumed, at any time that the MANAGER is on duty. At this time future access to the power supply will be denied to that owner. Following disconnection, in these circumstances, a charge will be made for subsequent reconnection.

6.8 If payment is overdue for more than 28 days the supply will be disconnected. Aberdeenshire Council accepts no responsibility for the consequences of disconnection or other interruption of the electrical supply. Following disconnection for late payment a charge will be made for subsequent reconnection.

### **Article 6a Water Supply**

6.9 Water (where applicable) is provided subject to the following conditions:

6.10 Aberdeenshire Council cannot guarantee continuous supply as this is dependent upon the supplier and breakdowns are not within its control.

6.11 Aberdeenshire Council have provided supply points to the pontoons, piers, and compounds that comply with the regulations and requirements of Scottish Water. The OWNER shall be responsible for the supply of a hose from that point to the VESSEL. This hose shall be of the lay flat type and shall be retained for the use of a single VESSEL in compliance with Scottish Water Regulations for Ports and Harbours. All hoses, connections and fittings shall comply with the requirements of Scottish Water and shall be subject to inspection and approval by the Harbourmaster.

6.12 Overloading may cause reductions in pressure that are outwith the control of Aberdeenshire Council and the Council will not accept any responsibility for and consequence of such reduction in pressure.

6.13 Supply is provided to and for the VESSEL only. Shared supply is not permitted.

6.14 The discharge of water from any other source than that provided by Aberdeenshire Council is expressly prohibited in the Harbour.

6.15 Access to the water supply shall be granted by the Harbourmaster upon payment of £10.00, the rate stated as the "Standard charge" in the Aberdeenshire Council Rates and Dues 2009/2010 for access to water supply. This shall form a fee for a one year supply of water to one VESSEL and shall be payable each year or part of a year ("year" is defined as 1 April to 31 March) when access is granted.

6.16 Aberdeenshire Council shall, in the person of the Harbourmaster, monitor the use of water in the Harbour. In the event of excessive use of water by any particular VESSEL Aberdeenshire Council shall reserve the rights to charge that VESSEL for water

consumed at the prevailing rates and charges levied upon the Harbours Service of Aberdeenshire Council.

6.17 If payment under Items 6.15 and/or 6.16 is overdue for more than 28 days the water supply will be disconnected. Payment for dues under Items 6.15 and/or 6.16 shall remain as an outstanding debt until paid. Aberdeenshire Council accepts no responsibility for the consequences of disconnection or other interruption of the water supply. Following disconnection for late payment a charge may be made for subsequent reconnection.

## **Article 7 Launches, Recovery and Storage**

7.1 No person shall launch or recover any vessel other than the vessel's tender from the HARBOUR or MARINA without the permission of Aberdeenshire Council.

7.2 Launch and recovery may be made only from slipways and the designated crane area.

7.3 No VESSEL, trailer or other equipment may be stored in the compounds, on quaysides or the environs of the HARBOUR and MARINA without the express permission of and in the location designated by Aberdeenshire Council.

7.4 The MANAGER shall designate storage berths recognising the priority of current Banff Harbour Marina patrons. Vessels that have not used the HARBOUR or MARINA for sailing shall not be stored in the compounds.

7.5 Vessels in storage must be safe and suitably secured, chocked and level to the satisfaction of Aberdeenshire Council. When stored in the Compounds of the MARINA and HARBOUR masts must be stepped down within the first week of storage, wherever possible, and stored in a safe and tidy manner.

7.6 OWNERS are responsible for supplying their own materials for safely securing vessels in the compounds with materials to a standard approved by Aberdeenshire Council.

7.7 An OWNER may be instructed to correct or remove a vessel from a compound if it is considered to be hazardous by Aberdeenshire Council.

7.8 Minor VESSEL maintenance may be carried out in the compounds in accordance with the provisions set out above (Clause 2.11), however no hazardous activity will be permitted, including spray painting, use of blow torches, welding equipment, or bench saws, and large scale glass fibre work.

7.9 Only vessels maintained in a seaworthy condition and in a condition in which they can be safely moved may remain in the compounds.

## **Article 8 Berth Rental and Harbour Dues**

8.1 Berths may be rented for the periods and rates published from time to time by Aberdeenshire Council.

8.2 Where a berth rental charge is calculated with reference to the overall length of the VESSEL, the length will include extensions such as davits, bowsprits etc. and will be rounded up to the next whole meter.

8.3 An OWNER is not entitled to the exclusive use of a particular berth.

8.4 In the case of an OWNER renting a berth on an annual basis the berthing year will be the period of twelve months commencing on the 1 April and rental charges will be demanded by invoice and payment is to be received within 30 days of the invoice date. No berth will be allocated prior to receipt of payment for that berth.

8.5 No refund is due for berths that are vacated part of the way through the year.

8.6 Aberdeenshire Council has the right to exercise a lien upon any vessel and or any gear and equipment whilst in the Marina or Harbour until all monies due to Aberdeenshire Council in respect of the VESSEL are paid.

8.7 The OWNER may not lend, lease, transfer or otherwise assign the designated berth to another OWNER or VESSEL, either temporarily or permanently.

8.8 The OWNER must notify Aberdeenshire Council of and change in the name of the VESSEL or of any physical or administrative change to the VESSEL or documentation relating thereto.

8.9 The OWNER must provide contact details, including address and an active contact telephone number, to Aberdeenshire Council and must advise Aberdeenshire Council in the event of any change to such details. The contact telephone numbers will be used in the event of emergency or problems with the VESSEL. THE OWNER OF THE VESSEL MUST PROVIDE A NUMBER THAT IS CONTACTIBLE AT ALL TIMES. An appointed and notified local Agent is acceptable providing that the agent's details and approved terms of contact are agreed with the Harbourmaster.

8.10 In the event of a VESSEL being sold or otherwise changing ownership the new OWNER must make application for a berth in the HARBOUR and MARINA. Aberdeenshire Council does not guarantee the use of the previous OWNER's berth nor that another berth will be made available.

8.11 In the event of a Vessel being sold and the OWNER's purchase of another VESSEL the OWNER must make application for a berth for the new VESSEL. Aberdeenshire Council does not guarantee the use of the OWNER's previously assigned berth nor that another berth will be made available.

### **Article 8a Temporary Winter Storage**

8.12 The Harbourmaster in accord with Article 3.5 may offer any berth for temporary winter storage to a VESSEL that is not normally berthed in the Marina.

8.13 The period of Temporary Winter Storage shall be from 1 October to 24 March or any part thereof. There shall be no discount for shorter periods than that stated above and the VESSEL shall be removed from the Harbour by 24 March.

8.14 Where that berth is in a compound the OWNER of that VESSEL shall pay the full "traditional" fees for a six month berth

8.15 Where that berth is on a pontoon the OWNER of that VESSEL shall pay a fee equal to 50% of the prevailing annual fee for that berth.

8.16 No "traditional berth" on the East Pier or Quayside will be offered as winter storage.

8.17 It should be noted that the Temporary Winter Berthing is offered as "unserviced" and any requirement for electricity or water must be paid in advance under the general terms and conditions of the Annual Rates and Dues for Aberdeenshire Council and is only offered with the express permission of and under the supervision of the Harbourmaster.

8.18 The OWNER of the VESSEL shall be deemed to have read and understood all of the rules of the Banff Harbour Marina and shall be required to confirm this in writing on the berthing form.

8.19 The Temporary Berth holder shall comply with all of the Rules and Regulations of Banff Harbour Marina during the term of their stay in the Marina e.g. insurance requirements and payment conditions prior to the allocation of any berth.

## **Article 9 Termination**

9.1 Aberdeenshire Council shall have the right (without prejudice to any other rights in respect of breach or breaches of the terms of these regulations or any statute or Byelaws by the OWNER) to terminate berthing in the following manner in the event of a Breach by the OWNER.

9.1.1 Having regard to the nature and seriousness of the breach, which condition shall be judged by Aberdeenshire Council or their agent, and the risk that it poses for the financial or other security of Aberdeenshire Council and/or of the OWNER and if the breach is capable of remedy, Aberdeenshire Council may serve notice on the OWNER specifying the breach and requiring the OWNER to remedy the breach within a reasonable time specified by Aberdeenshire Council.

Where the breach is serious or poses an immediate risk or threat to the health, safety, or welfare of any other person or property, such time specified may be immediate or extremely short. If the OWNER fails to effect the remedy within that time, or if the breach is not capable of remedy, Aberdeenshire Council may serve notice on the OWNER requiring removal of the VESSEL from the HARBOUR and MARINA immediately.

9.1.2 At the time of such notice to vacate, all outstanding monies and dues must be paid immediately and prior to removal of the VESSEL. Failure to settle such accounts may cause the VESSEL to be seized under the relevant clauses of the Harbours Order Confirmation act of 1987.

9.2 If the OWNER fails to remove the VESSEL upon termination of his Berth (whether under this condition or otherwise), after settling such accounts as are outstanding, Aberdeenshire Council shall be entitled

9.2.1 to charge the OWNER at Aberdeenshire Council's 24 hour rate for overnight /temporary visitors for each day between termination of the Berthing Agreement and the actual date of removal from the HARBOUR and MARINA up to a maximum period of 28 days. Such 28 day period shall be taken as the period of notice required to seize the VESSEL for the recovery of due debt under the Harbours Order Confirmation Act 1987.

9.2.2 at the OWNER's risk to remove the VESSEL from the HARBOUR and MARINA and thereupon secure it elsewhere and charge the OWNER with all costs reasonably arising out of such removal including all alternative berthing and/or storage fees and dues.

9.3 Any notice of termination under these or any other regulation, statute or bylaw shall, in the case of the OWNER, be sent by registered post or recorded delivery to the address registered with Aberdeenshire Council under the above Clause 8.9

## **Article 10 Termination by the OWNER**

10.1 Berthing may be terminated by the OWNER upon 4 weeks notice in writing to Aberdeenshire Council.

10.2 The VESSEL may not be removed from the HARBOUR and MARINA until such time as the OWNER receives:

10.2.1 an account of all monies due and has made payment of such monies. Such payment by the OWNER shall be confirmed by Aberdeenshire Council at which time the VESSEL may be removed from the HARBOUR and MARINA

10.2.1 a confirmation in writing is provided by Aberdeenshire Council that there are no outstanding debts or fees.

10.3 If the OWNER fails to remove the VESSEL upon his/her termination of his/her Berth (whether under this condition or otherwise), within 7 days after settling such accounts as are outstanding, Aberdeenshire Council shall be entitled

10.3.1 to charge the OWNER at Aberdeenshire Council's 24 hour rate for overnight /temporary visitors for each day between the agreed termination of the Berthing Agreement and the actual date of removal from the HARBOUR and MARINA up to a maximum period of 28 days. Such 28 day period shall be taken as the period of notice required to seize the VESSEL for the recovery of due debt under the Harbours Order Confirmation Act 1987.

10.3.2 at the OWNER's risk to remove the VESSEL from the HARBOUR and MARINA and thereupon secure it elsewhere and charge the OWNER with all costs reasonably arising out of such removal including all alternative berthing and/or storage fees and dues.

## **Article 11 Additional Conditions of Particular Importance for Safety**

11.1 No person under the age of 18 years shall drive a power driven vessel or be in command of any vessel within the MARINA.

11.2 Children are to be accompanied by an adult at all times.

11.3 All VESSELS are required to be propelled by machinery within the HARBOUR AND MARINA, including in particular the entrance and navigation channels, and under no circumstances, except in an emergency, are to be propelled by sail within such navigation area.

11.4 All non-swimmers and children must wear a life jacket at all times whilst on the pontoons.

11.5 Pontoons and quaysides are slippery areas with uneven surfaces and obstructions, often not having guardrails, therefore extreme caution is required.

11.6 No person must interfere with chocks, cradles or VESSEL supports when VESSELS are stored ashore.

11.7 Aberdeenshire Council has made provision for security at the Marina, including physical barriers to deter access to the pontoons and vessels. However, ultimate responsibility for loss from or damage to a vessel lies with the OWNER.

11.18 No Ladder, Fixing, Fender or Mooring may be installed in the HARBOUR OR MARINA without the express permission of the Harbourmaster. All such furniture must comply with the specification and requirements of the Banff Harbour Marina and the Harbourmaster existing at that time.

Aberdeenshire Council does not accept responsibility for any privately fitted furniture nor for any accident or damage caused by whatever means and reason in the use and operation of such Ladder, Fixing, Fender or Mooring.

## **Article 12 Access and Security**

12.1 Access to the pontoon area is by keypad code at the entry gates.

12.2 The keypad number will be supplied to OWNERS who have complied with payment, insurance requirements and the other rules of the Harbour. The security of that number is the responsibility of the OWNER.

12.3 Aberdeenshire reserve the right to change the keypad number without notice if this is deemed to be required for the security of the VESSELS in the Harbour.

12.4 The OWNER is required to notify the Harbourmaster in writing if he has appointed any person to have unrestricted access to the OWNER's VESSEL. Only after such notification may the keypad number be notified to that named person.

12.5 The MANAGER has the right to question any stranger on the pontoons and be notified of the source of the access code. If the MANAGER is not satisfied of that person's right of access he may have that person removed from the Harbour and may take action under Article 12.3.