

2002 No. 395

HARBOURS

The River Bann Navigation Order (Northern Ireland) 2002

Made - - - - - 18th December 2002

Coming into operation 17th February 2003

*To be laid before Parliament under paragraph 7(3) of the
Schedule to the Northern Ireland Act 2000*

The Department for Regional Development(a), in exercise of the powers conferred by section 1 (1) and (2) of, and Schedule 1 and Part I of Schedule 2 to, the Harbours Act (Northern Ireland) 1970(b) and now vested in it(c) and of all other powers enabling it in that behalf, after consultation with the Coleraine Harbour Commissioners and such local authority which the Department considered likely to be affected by the Order in accordance with section 1(6) of that Act hereby makes the following Order:

Citation and Commencement

1.—(1) This Order may be cited as the River Bann Navigation Order (Northern Ireland) 2002 and shall come into operation on 17th February 2003.

(2) This Order shall be construed as one with the River Bann Navigation Acts 1879 to 1956(d).

(3) The River Bann Navigation Acts 1879 to 1956 and this Order may be cited together as the River Bann Navigation Acts and Order 1879 to 2002.

Interpretation

2. In this Order –

“the Act of 1879” means The River Bann Navigation Act 1879(e);

“the Acts and Order” means the River Bann Navigation Acts and Order 1879 to 2002;

“the Commissioners” means the Coleraine Harbour Commissioners incorporated under the Act of 1879;

“the Department” means the Department for Regional Development;

“the harbour” means the River Bann and the sea within the limits set out in Article 3 (harbour limits);

“the harbour undertaking” means the business of the Commissioners and includes all activities which the Commissioners are by the Acts and Orders authorised to carry on;

“the new constitution date” means 30th June 2003;

(a) S.I. 1999/283 (N.I. 1) Article 3(1)

(b) 1970 c. 1 (N.I.)

(c) S.R. 1999 No. 481 Article 6(d) and Schedule 4 Part IV

(d) 42 & 43 Vict. c. clxxv; 48 & 49 Vict. c. cxxxv; 17 & 18 Geo. 5 c.iv (N.I.); 2 Geo. 6 c.ii; 5 Eliz. 2 c.v

(e) 42 & 43 Vict. c. clxxv

Harbour Limits

3. The limits within which the Commissioners shall exercise jurisdiction as a harbour authority shall comprise the River Bann from the downstream side of the Millennium pedestrian and cycle Bridge at Coleraine to the sea and so much of the sea below high water mark as lies within a distance of five hundred metres from any part of the east pier or the west pier at the mouth of the said river and shall include all inlets and havens whereof the entrances are within those limits and all landing-places, docks, piers, quays and works for the time being vested in the Commissioners or lying within their jurisdiction (other than railways and works connected with railways and road bridges).

General powers and duties in respect of harbour

4.—(1) The Commissioners may take such steps from time to time as they consider necessary or expedient for the improvement, maintenance and management of the harbour and the accommodation and facilities afforded therein or in connection therewith.

(2) For those purposes, and without prejudice to the generality of paragraph (1), the Commissioners may –

- (a) improve, maintain, regulate, manage, mark and light the harbour and provide accommodation and harbour facilities therein;
- (b) construct, alter, demolish and reconstruct structures and works in the harbour;
- (c) lend money to any person for the purposes of any undertaking carried on by him or, where that person is a body corporate, any undertaking carried on by a subsidiary of that body corporate;
- (d) maintain such reserve funds as they think fit;
- (e) invest any sums not immediately required for the purposes of the harbour undertaking; and
- (f) do all other things which in their opinion are necessary or expedient to facilitate the proper carrying on or development of the harbour undertaking.

(3) This Article is without prejudice to any powers of the Commissioners under or by virtue of any other enactment (including any other provision of this Order).

Further powers with respect to land

5.—(1) The Commissioners may –

- (a) retain any land acquired by them for such time as they think fit; and
- (b) dispose of any land acquired by them which is no longer required for the purposes of their functions in such manner and for such consideration and on such terms and conditions as they think fit.

(2) The powers of the Commissioners under sub-paragraph (1)(b) shall be exercisable in accordance with arrangements made by the Department.

(3) The Commissioners may for the purposes of the harbour undertaking manage, use or develop land belonging to them as they think fit.

(4) Any capital money received by the Commissioners in respect of any transaction under this Article shall be applied in or towards the repayment of monies borrowed by the Commissioners or for other purposes of the Commissioners for which capital money may properly be applied.

Subsidiaries

6.—(1) The Commissioners may form and promote a wholly-owned subsidiary for carrying on any activities which the Commissioners have power to carry on.

(2) The Commissioners shall secure that any company formed in exercise of the powers conferred by paragraph (1) remains such a wholly-owned subsidiary.

(3) The Commissioners may enter into arrangements with a company formed in exercise of the powers conferred by paragraph (1) for the transfer to that company from the Commissioners or from any other company so formed, in such manner and on such terms (including payments by any of the parties to the arrangements to any of them) as may be provided for by the arrangements, of any property, rights, liabilities or obligations of the Commissioners or of that other company, which are relevant to the carrying on of the activities to be carried on by the first-mentioned company.

Borrowing

7.—(1) The Commissioners may borrow money upon the security of all or any of the revenues and property of the Commissioners and by any method or methods they see fit.

(2) The total amount of monies borrowed under this Article and outstanding at any one time shall not exceed £250,000 or such greater amount as may be approved by the Department in writing.

(3) In calculating for the purposes of paragraph (2) the amount of money borrowed by the Commissioners and outstanding at any one time there shall be excluded any monies borrowed for use within 3 months of the date of borrowing for repayment of any sum for the time being outstanding by way of principal on any amount previously borrowed.

(4) Monies borrowed by the Commissioners under this Article shall be applied only to purposes to which capital money is properly applicable.

(5) For the purposes of paragraph (4) but without prejudice to the generality thereof, purposes to which capital money is properly applicable shall be deemed to include –

- (a) the payment of any interest falling due on a sum of money borrowed under this Article within the five years immediately following the date of that borrowing; and
- (b) the repayment within 12 months of the date of borrowing of any sum for the time being outstanding by way of principal on any amount previously borrowed.

Temporary Borrowing

8.—(1) The Commissioners may borrow temporarily, by way of overdraft or otherwise, such sums as the Commissioners may require for meeting their obligations or discharging their functions under or in pursuance of any enactment.

(2) The total amount of monies borrowed under this Article and outstanding at any one time shall not exceed such amount as may be approved by the Department in writing.

(3) The power conferred by this Article shall be in addition to any other borrowing power for the time being exercisable by the Commissioners.

Power to license pleasure craft and boatmen

9.—(1) The Commissioners may grant, upon such terms and conditions as they think fit, licences for pleasure craft to be let for hire to the public in the course of trade or business or to be used for carrying passengers for hire within the harbour, and to the boatmen or persons assisting in the charge or navigation of such craft.

(2) Any such licence may be granted for such period as the Commissioners may think fit, and may be suspended or revoked by the Commissioners whenever they shall deem such suspension or revocation to be necessary or desirable in the interests of the public.

(3) The existence of the power to suspend or revoke the licence shall be plainly set forth in the licence itself.

(4) A person shall not within the harbour –

- (a) let for hire to the public a pleasure craft which is not licensed in accordance with this Article; or
- (b) carry, or permit to be carried, passengers for hire in a pleasure craft unless the craft, and the boatmen in charge thereof and the navigator, are so licensed.

(5) This Article shall not be taken to require a person to be licensed as a boatman who takes on hire a pleasure craft for purposes other than for profit.

(6) A licence under this Article shall not be required for any craft which has a passenger certificate issued by the Maritime and Coastguard Agency and valid for the voyage intended or, in the case of hovercraft within the meaning of the Hovercraft Act 1968(a), a certificate of safety valid for the voyage intended.

(7) A person shall not carry or permit to be carried in any pleasure craft a greater number of passengers for hire than shall be specified in the licence applying to such craft, and every owner of any such craft shall before permitting the same to be used for carrying passengers for hire, paint or cause to be painted, in letters and figures not less than three centimetres in height and one half centimetre in breadth, on a conspicuous part of the said craft, his own name and also the number of persons which it is licensed to carry, in the form “Licensed to carry – persons”.

(8) Any person who shall act in contravention of paragraphs (4) or (7) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(9) Any person aggrieved by the withholding, suspension or revocation of any licence or by any term or condition subject to which a licence has been granted under the provisions of this Article may appeal to a court of summary jurisdiction.

(10) In this Article “pleasure craft” means any vessel of not more than 100 tonnes gross used wholly or mainly for recreation or for the carriage of passengers for reward and includes pleasure boats.

Constitution and Procedure of Commissioners

10.—(1) On and after the new constitution date the provisions of Schedule 1 shall have effect with respect to the constitution and procedure of the Commissioners.

(2) Notwithstanding any provision of the Acts and Order every Commissioner who holds office at the date of coming into operation of this Order shall continue in office until the new constitution date unless –

- (a) he resigns his office by notice in writing to Coleraine Borough Council;
- (b) he has become bankrupt or makes an arrangement with his creditors; or
- (c) he is incapacitated by physical or mental illness from discharging the functions of a Commissioner.

Modification of Harbours, Docks and Piers Clauses Act 1847 etc.

11. In relation to the Commissioners, the provisions of Section 23 of the Harbours, Docks and Piers Clauses Act 1847(b) and Section 37 of the Commissioners Clauses Act 1847(c) shall cease to have effect.

Crown rights

12. Nothing contained in this Order shall be deemed to be or shall operate as grant by or on behalf of the Crown of any estate or interest or right over the foreshore or seabed or any part thereof owned by the Crown from time to time, nor shall anything contained in or done under any of the provisions of this Order in any respect prejudice or injuriously affect the rights and interest of the Crown in such foreshore and seabed, or prevent the exercise thereon of any public rights or prejudice or injuriously affect any right, power or privilege legally exercisable by any person in, over or in respect of the foreshore or seabed.

(a) 1968 c. 59

(b) 10 & 11 Vict. c. 27

(c) 10 & 11 Vict. c. 16

Repeal

13.—(1) The statutory provisions specified in columns 1 and 2 of Part I of Schedule 2 are hereby repealed to the extent specified in column 3 of that Part.

(2) On the new constitution date the statutory provisions specified in columns 1 and 2 of Part II of Schedule 2 are hereby repealed or revoked to the extent specified in column 3 of that Part.

Sealed with the Official Seal of the Department for Regional Development on 18th December 2002.

(L.S.)

R. McMinnis

A senior officer of the Department for Regional Development

SCHEDULE 1

Article 10

COLERAINE HARBOUR COMMISSIONERS

PART I

CONSTITUTION OF COMMISSIONERS

1. In this Schedule “the Council” means the Coleraine Borough Council.
2. The Commissioners shall be a body corporate with perpetual succession and shall, subject to the provisions of this Order, have all the rights, powers and privileges of a body corporate to which Section 19 of the Interpretation Act (Northern Ireland) 1954(a) applies.
- 3.—(1) The Commissioners shall consist of up to 12 persons who shall be appointed by the Council.
 - (2) The Commissioners shall consist of: –
 - (a) three members of the Council;
 - (b) two persons representing users of the harbour;
 - (c) six persons who are not members of the Council; and
 - (d) the General Manager or other senior officer of the Commissioners for the time being.
 - (3) (a) A person appointed as Commissioner under sub-paragraph (2) other than a person referred to in sub-paragraphs (2)(a) or (d) shall hold office for a period of 4 years or such lesser period as the Council may determine but shall be eligible for re-appointment.
 - (b) A person appointed under sub-paragraph (2)(a) shall be eligible to serve as Commissioner for a period coterminous with his membership of the Council and any person so appointed who ceases to be a member of the Council shall thereupon cease to be a Commissioner.
 - (c) A person referred to in sub-paragraph (2)(d) shall hold office as Commissioner so long as he holds the qualifying office by virtue of which he was appointed.
 - (4) (a) Subject to sub-paragraph (b) the Council shall designate a Commissioner as Chairman of the Commissioners and may designate another Commissioner as Deputy Chairman.
 - (b) A person referred to in sub-paragraph (2)(d) shall not hold the office of Chairman or Deputy Chairman of the Commissioners.
 - (5) The Commissioners shall appoint a person to act as General Manager to the Commissioners.
- 4.—(1) A casual vacancy arising in the office of a Commissioner shall, unless it is not reasonably practicable to do so, be filled by the appointment of a new Commissioner by the Council but the Commissioner so appointed must have the qualification required in terms of paragraph 3(2) to have entitled the Commissioner whose place he is to fill to be appointed.
 - (2) A Commissioner appointed to fill a casual vacancy under this paragraph shall hold office during the remainder of the term for which the Commissioner whom he replaces was appointed.
- 5.—(1) Subject to sub-paragraph (2) in the event of a casual vacancy occurring in the office of Chairman the vacancy shall be filled by the Deputy Chairman until a new Chairman is appointed by the Council.
 - (2) If there is no Deputy Chairman, the Commissioners shall elect one of their members other than a person referred to in paragraph 3(2)(d), to fill any such vacancy as is mentioned in sub-paragraph (1) and the Commissioner so elected shall hold office as Chairman until a new Chairman is appointed by the Council.
- 6.—(1) The Council in making appointments under paragraph 3(1) shall select persons who appear to it to have experience of, and to have capacity in, one or more of the matters mentioned in sub-paragraph (2) or to have in some other respect special knowledge or experience which would be of value to the Commissioners in the discharge of their functions, or to have any other skills or abilities considered from time to time by the Council to be relevant or useful to the Commissioners.
 - (2) The matters referred to in sub-paragraph (1) are the management of harbours, shipping, port usage, industrial, commercial or financial matters, administration, and the organisation of workers.

(a) 1954 c. 33 N.I.

7. The Department may appoint one of its officials to attend meetings of the Commissioners as an observer. Any observer so appointed shall not take part in any deliberation or decision of the Commissioners.

PART II

PROCEDURE, ETC, OF COMMISSIONERS

8. A meeting of the Commissioners shall be held not later than one month after the date on which the first appointment of Commissioners under this Schedule takes effect and thereafter meetings shall be held on such dates and at such intervals as the Commissioners may determine.

9. The quorum required for a meeting of the Commissioners shall be four.

10.—(1) A Commissioner shall, if he is in any way directly or indirectly interested in any contract or other transaction entered into or proposed to be entered into by the Commissioners which involves or is likely to involve any payment by or on behalf of the Commissioners, disclose the nature of his interest at a meeting of the Commissioners as soon as possible after the relevant circumstances have come to his knowledge.

(2) Any disclosure under sub-paragraph (1) shall be recorded in the minutes of the meeting, and that Commissioner shall withdraw from the meeting while that contract or transaction is being considered and shall not take part after the disclosure in any deliberation or decision of the Commissioners with respect to that contract or transaction.

(3) Where under sub-paragraph (2) a Commissioner is prohibited from taking part in any deliberation or decision, that Commissioner shall be disregarded for the purpose of constituting a quorum for that deliberation or decision.

11. The proceedings of the Commissioners or any Committee appointed by the Commissioners shall not be invalidated by any vacancy in the membership thereof or by any defect in the appointment of or by the disqualification of any person acting as Chairman or Deputy Chairman or a Commissioner.

12. The seal of the Commissioners shall be authenticated by the signature of the Chairman of the Commissioners or some other Commissioner authorised by the Commissioners to act in that behalf and of the Secretary to the Commissioners or some other person authorised by the Commissioners to act in that behalf.

SCHEDULE 2

Article 13

STATUTORY PROVISIONS REPEALED OR REVOKED

PART I

<i>Chapter</i>	<i>Short Title</i>	<i>Extent of Repeal</i>
42 & 43 Vict. c. clxxv	The River Bann Navigation Act 1879	Sections 3, 55, 95 to 101 and 104 to 109
2 Geo. 6 c. ii	The River Bann Navigation Act (Northern Ireland) 1938	Sections 4(2)

PART II

<i>Chapter</i>	<i>Short Title</i>	<i>Extent of Repeal or Revocation</i>
42 & 43 Vict. c. clxxv	The River Bann Navigation Act 1879	Sections 8 to 10, 12 and 15 to 40
17 & 18 Geo. 5	The River Bann Navigation Act (Northern Ireland) 1927	Section 28
S.R. & O. (N.I.) 1973 No. 313	Local Government (Modification and Repeal of Transferred Provisions relating to Harbours) Order (Northern Ireland) 1973	Article 5(4)
S.R. 1988 No. 286	The River Bann Navigation Act 1879 (Amendment) Order (Northern Ireland) 1988	The whole Order

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order provides new limits of jurisdiction of the Coleraine Harbour Commissioners (Article 3).

The Order also confers the following powers on the Coleraine Harbour Commissioners –

- (1) general powers and duties of the Coleraine Harbour Commissioners in respect of the harbour (Article 4);
- (2) retention or disposal of land subject to arrangements made by the Department (Article 5);
- (3) formation of wholly-owned subsidiaries for carrying on activities which the Commissioners have power to carry on (Article 6);
- (4) regulation of the power of the Commissioners to borrow money (Articles 7 and 8);
- (5) licensing of pleasure craft and boatmen within the harbour (Article 9).

The Order further provides for a new Constitution in relation to appointment of the Commissioners and new procedures, etc to be adopted at meetings of the Commissioners (Article 10 and Schedule 1).

£2.50

Published by The Stationery Office Limited

ISBN 0-337-94433-4



Printed in the UK by The
Stationery Office Limited
under the authority and
superintendence of Carol
Tullo, Controller of
Her Majesty's Stationery
Office being the Government
Printer for Northern Ireland and
the Officer appointed to print the
Acts of the Northern Ireland Assembly
Dd. N729. C4. 12/02. Gp. 130. 14567.