



# Harbours Act (Northern Ireland) 1970 <sup>F1</sup>

## 1970 CHAPTER 1

**N.I.**

An Act to make further provision with respect to harbours. [5th February 1970]

WHEREAS the consent of the Board of Trade and of the Crown Estate Commissioners to this Act has been obtained so far as it is required by section 9(1) of the Northern Ireland (Miscellaneous Provisions) Act 1932 <sup>M1</sup>:

And Whereas the Clerk of the Parliaments has certified accordingly pursuant to section 1 of the Legislative Procedure Act (Northern Ireland) 1933 <sup>M2</sup>:

**F1** functions transf. by SR 1999/481

### Marginal Citations

**M1** 1932 c. 11

**M2** 1933 c. 4

## PART I **N.I.**

### HARBOUR DEVELOPMENT AND HARBOUR CHARGES

**N.I.**

#### HARBOUR ORDERS

#### 1 Harbour orders. **N.I.**

- (1) The Ministry of Commerce (in this Act referred to as “the Ministry”) may, in relation to one or more harbours, make an order (in this Act referred to as a “harbour order”) for achieving all or any of the objects specified in Schedule 1.

*Status: Point in time view as at 06/04/2008.*

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- (2) A harbour order may include all such provision as appear to the Ministry to be requisite or expedient for rendering of full effect a provision of the order framed to achieve any of the said objects, including provision for all or any of the matters specified in Part I of Schedule 2.
- (3) A harbour order may contain provisions with respect to all or any of the matters specified in Part II of Schedule 2 for the purpose of providing for the control of the movements of ships in the interests of safety and the uninterrupted movement of ships.
- (4) Where it appears to the Ministry that in consequence of a harbour order, any employee of a harbour authority may suffer loss of employment or other financial loss, that order shall make provision for the compensation of any such employee.
- (5) A harbour order shall not be so framed as to permit of a person's being punished otherwise than on his conviction or as to permit—
  - (a) on his being summarily convicted, of the infliction of a penalty other than a fine not exceeding £100;
  - (b) on his being convicted on indictment, of the infliction on him of a term of imprisonment exceeding six months.
- (6) Before making a harbour order, the Ministry shall consult any harbour authority to which the order will apply and any harbour authority or local authority which the Ministry considers is likely to be affected thereby about the effect of the order on it.
- (7) A harbour order shall be subject to affirmative resolution.
- (8) The Ministry shall publish or require such harbour authority as it may specify, being an authority to which the order will apply, to publish, in the Belfast Gazette and in one or more newspapers, a notice—
  - (a) describing the scope of any harbour order which the Ministry has laid before Parliament in pursuance of subsection (7); and
  - (b) stating that the order is subject to affirmative resolution.

**N.I.**

EXCHEQUER ASSISTANCE FOR EXECUTION OF HARBOUR WORKS, &C.

## 2 **Loans for execution of harbour works, etc.** **N.I.**

- (1) Subject to the provisions of this section, the Ministry, with the approval of the Ministry of Finance, may give to a harbour authority assistance by way of loan—
  - (a) in respect of expenses incurred by the authority—
    - (i) in executing, at a harbour which it is improving, maintaining or managing, works for the improvement, maintenance or management of the harbour;
    - (ii) in executing works for the construction of a harbour which it proposes to improve, maintain or manage;
    - (iii) in providing plant or equipment required for the carrying out of harbour operations;

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- (iv) in acquiring land required for the purposes of the harbour or an extension thereof or in constructing a harbour as mentioned in subparagraph (ii);
  - (b) to enable it to repay the whole or part of the principal of, or to pay the whole or part of a sum due by way of the payment of interest on, a loan made to it by virtue of paragraph ( a);
  - (c) where the authority is established by a harbour order, in respect of any expenses chargeable against income, being expenses which are incurred by the authority during a period in respect of which in the opinion of the Ministry the authority was not in receipt of sufficient revenue to meet its expenses.
- (2) A loan under this section shall be made on such terms and conditions (including conditions by virtue of which the Ministry may participate in the profits or income of the authority) as the Ministry thinks proper and as are specified in the agreement for the loan.
- (3) After a loan is made under this section, its terms and conditions may be varied by the Ministry with the agreement of the harbour authority to which it is made.
- <sup>F2</sup>(4) Subject to subsection (5), where any instalment of principal or interest or both principal and interest due on foot of any loan made under this section is more than thirty-one days in arrear additional interest at such rate as may from time to time be determined by an order made by the Department of Finance subject to negative resolution shall, notwithstanding any enactment or rule of law to the contrary, be chargeable on that instalment as from the date on which it fell due and shall be recoverable therewith.
- (5) The Department may, with the approval of the Department of Finance, in such cases as it thinks fit waive the payment of such additional interest as is mentioned in subsection (4).]

F2 1976 NI 21

### 3 Grants for execution of harbour works, &c. **N.I.**

- (1) Subject to the provisions of this section, the Ministry, with the approval of the Ministry of Finance, may give to the following persons assistance by way of grant in respect of expenses incurred—
- (a) by any person improving, maintaining or managing a harbour or carrying out harbour operations or proposing to do any of those things, in executing works for the construction, improvement, maintenance or management of the harbour, in executing works required for the carrying out of harbour operations or in acquiring plant or equipment so required;
  - (b) by a harbour authority which is doing any of those things or proposes to do them, in acquiring land required for the purposes of the harbour or an extension thereof.
- (2) The Ministry, with the approval of the Ministry of Finance, may give to a harbour authority assistance by way of grant to enable it to pay the whole or part of a sum due by way of payment of interest on a loan.
- (3) A grant under this section may be made on such terms and conditions (including conditions for repayment in specified circumstances and conditions by virtue of which

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the Ministry may participate in the profits or income of the authority) as the Ministry may think fit to impose.

**4 Maximum amount of loans and grants under sections 2 and 3. N.I.**

The aggregate amount of loans and of grants together made under sections 2 and 3 by the Ministry shall not exceed<sup>F3</sup> £35 million].

**F3** 1989 NI 7

**N.I.**

HARBOUR CHARGES

**5 Repeal of provisions limiting discretion of certain harbour authorities as to charges chargeable by them. N.I.**

- (1) Subject to this Act, any statutory provision made with respect to a particular harbour authority shall cease to have effect in so far as (otherwise than by expressly providing for freedom from charges or prohibiting the levying of a charge in any manner) it limits the discretion of the authority as to the charges chargeable by it at a harbour which it is improving, maintaining or managing (whether by specifying any dues or charges, or otherwise).
- (2) Subject to this Act and to any statutory provision made with respect to it in particular as expressly provides for freedom from charges or in any manner prohibits the levying of a charge, a harbour authority—
  - (a) may demand, take and recover such charges as it thinks fit at a harbour which it is improving, maintaining or managing; and
  - (b) may make the use of services and facilities provided by it at such a harbour subject to such terms and conditions as it thinks fit.
- (3) Any such provision of the Harbours, Docks and Piers Clauses Act 1847 as incorporated in a statutory provision made with respect to a harbour authority as refers to rates shall, with any necessary modifications, apply to charges imposed by virtue of this section by that authority as if they were rates payable under a statutory provision made with respect to it.
- (4) Any statutory provision made with respect to a harbour authority which refers (in whatever terms) to charges payable to it under a statutory provision made with respect to it shall, in so far as it continues to have effect, apply with any necessary modifications to charges imposed by that authority under this section as if they were charges so payable.

In this subsection, “charges” includes charges of a specified class.

- (5) Any ship, passenger and goods dues in force immediately before the passing of this Act which are exigible by a harbour authority at a harbour which it is improving, maintaining or managing, being dues imposed under a statutory provision made with respect to the authority, shall be deemed to have been imposed by virtue of this section.

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## 6 Availability of copies of lists of certain charges. **N.I.**

- (1) A list showing the charges to which this section applies for the time being exigible by virtue of section 5 by a harbour authority at a harbour which it is improving, maintaining or managing—
  - (a) shall be kept at the harbour office; and
  - (b) shall be open there during reasonable hours for inspection by any person without charge;and copies of the list shall be kept for sale at that office at a price not exceeding [<sup>F4</sup> 10p] for each copy, or such other sum as may for the time being be specified for the purposes of this subsection by an order made by the Ministry subject to negative resolution.
- (2) Where a harbour authority enters into any arrangements with any person whereby any charge to which this section applies is reduced or compounded, subsection (1) shall not be construed as requiring the inclusion in any list required to be kept under that subsection of any such charge as so reduced or compounded.
- (3) No charge to which this section applies exigible as mentioned in subsection (1) shall be levied by the harbour authority concerned if, at the time at which it is exigible—
  - (a) the authority is in default in complying with subsection (1)( a); or
  - (b) the charge is not shown in the list kept there.
- (4) A copy of a list which, in pursuance of subsection (1), is for the time being kept by a harbour authority at the office of a harbour shall be supplied by it to the Ministry without charge.
- (5) The charges to which this section applies are ship, passenger and goods dues.

F4 1969 c.19

## 7 Right of objection to ship, passenger and goods dues. **N.I.**

- (1) <sup>F5</sup> Subject to subsections (10) and (11), subsections (3) to (6) shall have effect where written objection to a charge to which this subsection applies imposed by a harbour authority at a harbour which it is improving, maintaining or managing, is lodged with the Ministry by—
  - (a) a person appearing to it to have a substantial interest; or
  - (b) a body representative of persons so appearing;and the objection is expressed to be made on all or any of the following grounds, namely—
  - (i) that the charge ought not to be imposed at all;
  - (ii) that the charge ought to be imposed at a rate lower than that at which it is imposed;
  - (iii) that ships, passengers or goods of a specified class ought to be excluded from the charge either generally or in specified circumstances;
  - (iv) that the charge ought to be imposed, either generally or in specified circumstances on ships, passengers or goods of a specified class at a rate lower than that at which it is imposed on others.
- (2) The charges to which subsection (1) applies are ship, passenger and goods dues.

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- (3)<sup>F5</sup> The Ministry shall, forthwith after the objection is lodged, send a copy thereof to the authority and shall give notice to the objector that, as a condition precedent to the taking by the Ministry of further steps in the matter of the objection, he must publish in specified newspapers a notice (which, if a form therefor is specified, must be in that form)—
- (a) stating that he has lodged with it an objection to the charge (and specifying the ground or grounds on which it is expressed to be made); and
  - (b) stating that any of the following who desires to make to the Ministry representations in the matter, that is to say, a person having a substantial interest and a body representative of persons who have such an interest, should do so in writing within the time specified in the notice (which must not be less than forty-two days from the publication or first publication thereof).
- (4)<sup>F5</sup> Where the proper notice concerning the objection has been duly published, then so soon as practicable after the expiration of the time therein specified (but subject to subsection (5)), the Ministry shall, unless the objection has been withdrawn before the expiration of that time and no written representations in the matter have been made to it by any such person or body as is mentioned in subsection (3)(b) before the expiration of that time, proceed to consideration of the charge and any representations made and, unless it is satisfied that it can properly proceed to a decision in the matter without causing an inquiry to be held with respect to it, shall cause an inquiry to be so held.
- (5)<sup>F5</sup> Where written representations are made as mentioned in subsection (4), the Ministry shall send copies thereof to the authority and (except where the objection has been withdrawn) to the objector, and shall not proceed to consideration of the charge until such period for consideration of, and comment upon, the representations by the authority and by the objector (if the objection has not been withdrawn) as the Ministry thinks reasonable has elapsed.
- (6)<sup>F5</sup> The Ministry, after effect has been given to subsection (4), shall either—
- (a) approve the charge but set a limit (not being later than the expiration of twelve months from the date on which the Ministry approves it) to the period during which the approval is to be of effect, and give to the authority written notice that the Ministry has approved it, stating the limit set; or
  - (b) give to the authority such direction with respect to the charge as would meet objection thereto made on any of the grounds specified in subsection (2) above (whether that is or is not the ground, or is or is not included amongst the grounds, on which the objection whose lodging gives rise to the proceedings is expressed to be made).
- (7)<sup>F5</sup> A direction given under subsection (6) to an authority must be in writing and must specify a date for its coming into operation and the period from that date (which shall not exceed twelve months) during which it is to have effect, and the authority shall comply with it.
- (8)<sup>F5</sup> If a harbour authority fails to comply with an obligation to which it is subject by virtue of subsection (7), it shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding<sup>F6</sup> level 3 on the standard scale].
- (9)<sup>F5</sup> Forthwith after complying on any occasion with subsection (6), the Ministry shall publish, in the newspapers in which was published notice of the lodging of the objection the lodging whereof gave rise to the proceedings that resulted in the

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compliance on that occasion, the notice or direction given by it to the harbour authority concerned.

(10)<sup>F5</sup> Where, by virtue of this section, a charge imposed at a harbour is approved, subsections (3) to (6) shall not have effect by virtue of the lodging of a further objection thereto during the period during which the approval is of effect; and where, by virtue of this section, a direction is given with respect to a charge so imposed, those subsections shall not have effect by virtue of the lodging of a further objection to that charge during the period during which the direction has effect or of the lodging, during that period, of an objection to a charge that has come into existence by virtue of the direction.

(11)<sup>F5</sup> Where effect to subsections (3) to (5) is in course of being given in consequence of the lodging with the Ministry of an objection to a charge and a further objection to that charge is lodged with the Ministry, subsections (3) to (6) shall not have effect by virtue of the lodging of that further objection.

F5 mod. by 1987 c. 21

F6 1984 NI 3

## 8 Special provisions with respect to certain aviation charges. **N.I.**

Section 5(2) shall, so far as regards charges regulated by any such provision of an Order in Council under subsection (2) of section 8 of the Civil Aviation Act 1949<sup>M3</sup> as has effect by virtue of paragraph (o) (regulation of charges for use of licensed aerodromes and for services provided thereat) of that subsection, have effect subject to that provision; and section 7 shall not apply to any charges so regulated.

### Marginal Citations

M3 1949 c. 67

## 9 Repeal of certain enactments relating to harbour charges. **N.I.**

(1) The following provisions shall cease to have effect, namely—

*Para.(a) repeals ss.30,47 of 1847 c.27*

(b) any statutory provision (other than the said section 47<sup>F7</sup> or one in this Act) applying to a harbour authority in so far as (however it is expressed) it requires a list of charges imposed by the authority in the exercise of its powers as such to be published;

*Para.(c) repeals s.24 of 1853 c.131*

(d) section 17 (rates to be equally levied) of the General Pier and Harbour Act 1861 Amendment Act and any other statutory provision applying to a harbour authority in so far as (however it is expressed) it prohibits the authority from discriminating in the matter of charges imposed as aforesaid against any person in favour of any other person.

*Subs.(2) repeals 1867 c.15*

F7 i.e. s.47 of Harbours, Docks and Piers Clauses Act 1847 (c.27)



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## PART II **N.I.**

### HARBOURS VESTED IN LOCAL AUTHORITIES

#### 10 Powers of authorities. **N.I.**

- (1) A local harbour authority may, with the consent of the Ministry, acquire any land for the purposes of its functions relating to harbours.
- (2) The Ministry may, on the application of a local harbour authority, by order fix the area within which the powers of the authority and its officers may be exercised and the area within which any dues for the time being leviable may be charged.
- (3) A local harbour authority may dredge and maintain any harbour vested in it and the entrances and channels so vested of such a harbour, but may deposit material in a place below high-water mark only with the consent of the Crown Estate Commissioners (which may be subject to conditions) and in such places and subject to such conditions and restrictions as the Board of Trade and the Ministry may determine.
- (4) Subject to section 11, a local harbour authority may on harbour land provide, construct or take on lease, and maintain, such docks, wharves, buildings, equipment and facilities as may be found necessary in connection with the harbour or for harbour operations.
- (5) Any of the following persons, that is to say:—
  - (a) any person authorised in that behalf by the Ministry;
  - (b) any officer of customs and excise or of the Board of Trade, while acting as such;
  - (c) any person going to or returning from a lifeboat;
  - (d) any person using a lifeboat or any apparatus for saving life;
  - (e) any person brought ashore from a vessel in distress;
 shall, with any vessel on which he may be, at all times have, without payment, free ingress to, passage and egress on, along, through and out of a harbour vested in a local harbour authority.
- (6) A fishing vessel of a country with which a treaty exists under which the vessel is exempt from dues and port charges when forced by stress of weather to seek shelter in the ports or on the coasts of the United Kingdom shall, when forced by stress of weather to make use of a harbour vested in a local harbour authority, be exempt from any dues leviable in respect of the use of the harbour, if the vessel does not break bulk while doing so.

#### 11 Tidal works. **N.I.**

- (1) A local harbour authority may, with the consent of the Board of Trade, the Crown Estate Commissioners and the Ministry, construct, alter or extend any tidal work.
- (2) The Ministry, the Board of Trade and the Crown Estate Commissioners may, in giving any consent under subsection (1), do so subject to such conditions as it or they may think fit to impose, but in the event of any inconsistency between a condition imposed by the Board or the Crown Estate Commissioners and one imposed by the Ministry, that imposed by the Ministry shall be void to the extent of the inconsistency.



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- (3) Schedule 3 shall have effect in relation to any tidal work which is, or is to be, constructed, altered or extended by a local harbour authority.
- (4) In this section and in Schedule 3 “tidal work” means any work which is on, under or over any land which is below high-water mark or part of any such work.

## 12 Charges and leases by authorities. **N.I.**

A local harbour authority—

- (a) may lease any part of the land vested in it to any person for a period not exceeding twenty-one years;
- (b) shall not otherwise dispose of any part of that land unless the Ministry authorises it to do so.

## 13 Application of provisions of Harbours, Docks and Piers Clauses Act. **N.I.**

- (1) The Harbours, Docks and Piers Clauses Act 1847 <sup>M4</sup> (except sections 6 to 13, 16 to 19, 21, 31, 49, 50 and 83 to 90) shall, except in so far as the Ministry may by order direct, apply to a harbour vested in a local harbour authority as if—
  - (a) the harbour had been constructed in pursuance of an Act which incorporated that Act;
  - (b) this Act were the special Act for the purposes of that Act;
  - (c) the authority were the undertakers for those purposes.
- (2) Any reference to a vessel in the said Act of 1847 as applied by subsection (1) shall be deemed to include a sea-going hovercraft and in section 28 of that Act as so applied shall include a floating dock and a vessel of exceptional construction or method of propulsion.
- (3) Where—
  - (a) a wreck is sold in pursuance of section 56 of the Harbours, Docks and Piers Clauses Act 1847, as applied by subsection (1); and
  - (b) the amount realised by the sale is insufficient to meet any expenses incurred by a local harbour authority in removing the wreck;the authority may recover the amount of the deficiency from the person who was the owner of the vessel at the time when it was wrecked.

### Marginal Citations

M4 1847 c. 27

## 14 Byelaws. **N.I.**

- (1) A local harbour authority may make byelaws for all or any of the following purposes:
  - (a) for regulating the use of the harbour;
  - (b) for regulating the conduct of persons;
  - (c) for regulating the exercise of the powers vested in the harbour master;
  - (d) for regulating the movement of vessels;
  - (e) for controlling vehicles;

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- (f) for preventing the obstruction of, or injury to, the harbour;
  - (g) for regulating the shipping and unshipping, landing, warehousing, stowing, depositing and removing of all goods within the harbour;
  - (h) for regulating, with the consent of the Commissioners of Customs and Excise, the hours during which the gates, entrances or outlets to the harbour will be open;
  - (i) for regulating the functions of any person, not being an officer of customs and excise, employed (whether by the authority or any other person) in the harbour;
  - (j) for regulating the use of fires and lights;
  - (k) for preventing damage or injury to any vessel or goods;
  - (l) for regulating the use of cranes and other equipment belonging to the authority.
- (2) Sections 219 to 223<sup>F8</sup> of the Public Health (Ireland) Act 1878 shall apply to any byelaws made under subsection (1) as they apply to any byelaws made under that Act, subject to the following modifications:—
- (a) for any reference to a sanitary authority or to the clerk of such an authority there shall be substituted a reference to a local harbour authority or to the clerk of or secretary to such an authority;
  - (b) for any reference to the Ministry of Health and Social Services there shall be substituted a reference to the Ministry of Commerce;
  - (c) for any reference to a ratepayer of a district to which byelaws relate there shall be substituted a reference to any person;
  - (d) for the reference in section 220 to five pounds there shall be substituted a reference to fifty pounds.

**F8** Rep. and replaced, 1972 c.9 (NI); ss.90#94 of that Act app. with necessary mods. by s.149(4)

## 15 Harbour masters. **N.I.**

- (1) A local harbour authority may employ a harbour master and such other persons for the purposes of the harbour as it considers to be necessary.
- (2) Where any person is employed by a local harbour authority in an office referred to in sections 51 to 65 of the Harbours, Docks and Piers Clauses Act 1847, so much of the provisions of those sections as apply to that office shall apply to that person as if the harbour had been constructed in pursuance of an Act which incorporated that Act, this Act were the special Act for the purposes of that Act and the authority were the undertakers for those purposes.
- (3) In the application, by virtue of subsection (2), of section 52 of the said Act of 1847 to a harbour master employed by a local harbour authority, that section shall authorise a harbour master—
  - (a) to give directions prohibiting the mooring of any vessel in any part of the harbour specified by him;
  - (b) to impose terms and conditions upon which a pleasure-craft, hovercraft or hydrofoil may enter the harbour or any part of the harbour specified by him;
  - (c) in an emergency, to give general directions under that section which apply to all vessels or to any specified class of vessels.

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- (4) In the application, by virtue of subsection (1), of section 53 of the said Act of 1847 to a harbour master employed by a local harbour authority, that section shall be construed as authorising a harbour master to give directions to the master of a vessel otherwise than in writing.

## 16 Execution of certain operations in pursuance of orders of the Ministry. **N.I.**

- (1) Where—

- (a) any assistance by way of grant out of the Consolidated Fund or money provided by Parliament or loan from the Government Loans Fund is given to a local harbour authority in respect of the construction, reconstruction, improvement or repair of any work in or on a harbour; and
- (b) the Ministry is satisfied that any particular operation is necessary in order to maintain the work in an efficient condition and proper state of repair;

the Ministry may by notice served on the authority require it to carry out any operation specified in the notice within such period (not being less than one month from the service of the notice) as may be so specified.

- (2) A local harbour authority shall comply with any requirement contained in a notice served on it under subsection (1) unless, on an application made to the county court under subsection (3), the notice is cancelled or modified.
- (3) Where a local harbour authority is of the opinion that a requirement contained in a notice served under subsection (1) is unnecessary or unreasonable, it may, within one month of the service of the notice, apply to the county court for the cancellation or modification of the notice.
- (4) On an application under subsection (3) the county court may make such an order for the confirmation, cancellation or modification of any requirement contained in the notice which is the subject of the application as, having regard to all the circumstances, it thinks fit.
- (5) Where a local harbour authority fails to comply with a requirement contained in a notice served under subsection (1) within such period as is specified in the notice, or, where the notice has been modified by an order of the county court, within such period as is specified in the order, the Ministry—
- (a) may execute any operation necessary to satisfy the requirement; and
- (b) may recover the amount of any expenditure incurred by it in executing any such operation from the local harbour authority as if it were a debt due under a contract.

## 17 Discontinuation of a harbour's maintenance. **N.I.**

- (1) If it appears to a local harbour authority that a harbour vested in it is no longer required or cannot be adequately maintained except by expenditure which would not be justified by any benefit which would result from the harbour's continued existence, it may, subject to subsection (2), resolve to discontinue the maintenance of the harbour.
- (2) A resolution under subsection (1) shall not take effect unless it is approved by the Ministry and any approval under this subsection may be given subject to conditions.
- (3) On the application of a relevant harbour authority which has passed a resolution under subsection (1), the Ministry may by order make such provision as it considers

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necessary in relation to any outstanding liabilities of the authority in respect of the harbour.

- (4) When a resolution under this section takes effect, this Part and any enactment applying to the harbour to which the resolution relates shall cease to apply to the harbour except—
- (a) in so far as the Ministry by order otherwise directs;
  - (b) in so far as this Part or the enactment authorises the levying and recovery of rates to meet outstanding loan charges or the recovery of any rates levied but not recovered before the date on which the resolution takes effect.

## 18 Suspension of use of harbours. **N.I.**

- (1) Where the Ministry is satisfied that a local harbour authority should be authorised to suspend the use of a harbour (or any part of a harbour) vested in it for a period not exceeding one year in order—
- (a) to execute works which it would not otherwise be possible to execute;
  - (b) to prevent injury or damage to life or to property;

the Ministry may make an order suspending the use of that harbour or of such part of the harbour as is specified in the order, by such persons and for such purposes, as are specified in the order.

- (2) An order made under subsection (1) may be renewed for successive periods not exceeding one year.

*S.19 rep. by 1972 NI 16*

## 20 Order of application of authority's revenue. **N.I.**

A local harbour authority shall apply the revenue (whether from dues or otherwise) received by it in respect of one or more harbours vested in it for the following purposes and in the following order:—

- (a) in paying the expenses properly chargeable to revenue in maintaining, repairing and managing the harbours;
- (b) in paying the interest charges in respect of money borrowed for the purposes of the harbours;
- (c) in paying the appropriations, instalments or sinking fund charges in respect of money borrowed for the purpose of the harbours;
- (d) in paying sums into such a reserve fund as may be approved by the Ministry, subject to such conditions as may be so approved.

## 21 Exercise of power to grant leases and exclusive rights. **N.I.**

A local harbour authority shall not—

- (a) grant a lease of any part of the land vested in it;
- (b) confer any right or privilege to the exclusive use of any part of the land vested in it or of any machinery or equipment vested in it;

unless it is satisfied that it is in the public interest to do so.

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*Status: Point in time view as at 06/04/2008.*

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## **22 Interpretation (Part II). N.I.**

- (1) In this Part and in Schedule 3 “local harbour authority” means a local authority in which a harbour is vested.
- (2) In subsection (1) “local authority” means the council of a county, of a borough or of an urban district.

## **PART III N.I.**

### MISCELLANEOUS

#### **N.I.**

### POWERS OF HARBOUR AUTHORITIES

## **23 Power of harbour authorities to provide inland clearance depots. N.I.**

- (1) A harbour authority may provide, maintain and operate, either alone or together with any other person and either on harbour land or with the consent of the Ministry elsewhere, depots for the sorting of goods, with facilities for the reception, storage, weighing and handling of goods, and may do anything appearing to the authority to be requisite, convenient or advantageous for or in connection with the discharge of that function.
- (2) A harbour authority which maintains a depot for the sorting of goods may make and recover from the persons using the depot or any services or facilities provided thereat charges for their use.
- (3) Nothing in this section shall affect the power of the Commissioners of Customs and Excise under the enactments relating to customs and excise to approve places for the loading, unloading, deposit, keeping or securing of goods or the conditions and restrictions subject to which approval may be given to any such places.

## **24 Power of harbour authorities to acquire a harbour business or shares in a harbour business. N.I.**

- (1) Subject to subsection (3), a harbour authority may acquire by agreement any business or undertaking which consists wholly or mainly of the carrying out of harbour operations or of the provision, maintenance or operation of any such depot as is mentioned in section 23 or so much of any business or undertaking as consists of the carrying out of such operations or of the provision, maintenance or operation of any such depot.
- (2) Subject to subsection (3), a harbour authority may subscribe for or acquire any securities of a body corporate which is wholly or mainly engaged or which it is proposed should become wholly or mainly engaged in carrying out harbour operations or in providing, maintaining or operating any such depot.
- (3) A harbour authority shall not by virtue of this section acquire a business or undertaking which consists of or includes the provision, maintenance or operation of any such depot, or subscribe for or acquire any securities of a body corporate which is engaged

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or which it is proposed should become engaged in providing, maintaining or operating any such depot, without the consent of the Ministry.

- (4) In this section “securities”, in relation to a body corporate, means any shares, stock, debentures, debenture stock, and any other security of a like nature, of the body corporate.

## 25 Miscellaneous powers of harbour authorities. **N.I.**

- (1) Subject to section 10, a harbour authority may for the purpose of any of its statutory functions by agreement acquire or take on lease any land wherever situated or acquire land compulsorily in accordance with section 26.
- (2) A harbour authority may carry out any harbour operations either within the limits within which the authority has jurisdiction or on harbour land.

## 26 Compulsory acquisition of land by harbour authorities. **N.I.**

- (1) Where a harbour authority desires to acquire, otherwise than by agreement, any land for the purposes of its functions, it may apply to the Ministry for an order vesting in it the fee simple or any lesser estate in that land, and—
- (a) the Ministry may make the vesting order in respect of the whole of the land or any part of it;
  - (b) on an application for an order vesting the fee simple in the land, the Ministry may make an order vesting in the harbour authority such lesser estate in the land or in any portion thereof as may be specified in the order.
- (2) Section 22(2) of, and Schedule 2 to, the Local Government Act (Northern Ireland) 1934 shall, subject to the modifications specified in Schedule 4, have effect for the purposes of an order under subsection (1).
- (3) For the purposes of this section and of the application, by subsection (2), of the enactments mentioned in that subsection, the interest of a grantee under a fee farm grant shall be taken to be a lesser estate than a fee simple.
- (4) The Ministry shall not make a vesting order under subsection (1) in respect of any land owned or occupied by or on behalf of the [<sup>F9</sup> Northern Ireland Housing Executive], a local authority, a public utility undertaking or,<sup>F10</sup> . . . the Post Office.
- (5) In this section—
- “local authority” means the council of a county, county or other borough or of an urban or rural district;
- “public utility undertaking” includes any body corporate carrying on a<sup>F11</sup> . . .  
<sup>F12</sup> . . . public transport undertaking and any undertaking for providing or improving drainage.

**F9** 1981 NI 3

**F10** 1981 c. 38

**F11** 1996 NI 2

**F12** S. 26(5): words in definition of “public utility undertaking” repealed (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#), arts. 1(2), 308(2), [Sch. 13](#) (with arts. 8(8), 121(3), 307); S.R. 2007/194, [art. 2\(2\)](#), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

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## 27 Water supplies. **N.I.**

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**F13** S. 27 repealed (1.4.2007) by Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), 308(2), Sch. 13 (with arts. 8(8), 121(3), 307); S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

**N.I.**

### FURNISHING OF INFORMATION

## 28 Power of Ministry to obtain information and forecasts. **N.I.**

(1) For the purpose of obtaining information and forecasts reasonably required by the Ministry in order to allow the Ministry to regulate harbours, assist in their development, promote their efficient use or compile statistics relating to the external trade of Northern Ireland the Ministry may—

- (a) by notice in writing served on a person improving, maintaining or managing a harbour, require him to furnish to the Ministry such information or forecasts as may reasonably be specified in the notice;
- (b) by notice in writing served on a person carrying out at a harbour, harbour operations of a particular description, not being the person improving, maintaining or managing that harbour, require him to furnish to the Ministry such information or forecasts relating to harbour operations of that description carried out by him at that harbour as may be so specified; or
- (c) by notice in writing served on a person (other than a person referred to in paragraph (a) or (b)) improving, maintaining or managing a dock or wharf require him to furnish to the Ministry such information or forecasts relating to that dock or wharf as may reasonably be specified in the notice;

and any such notice may require any such information or forecasts to be furnished in such manner and within such time as may be specified in the notice, and either periodically or on one occasion or more.

(2) A person who—

- (a) fails to satisfy an obligation to which he is subject by virtue of subsection (1), unless he proves that he had reasonable excuse for the failure; or
- (b) in purported compliance with a requirement imposed under subsection (1), gives any information which he knows to be false in a material particular or makes a statement which he knows to be so false or recklessly gives any information which is so false or recklessly makes any statement which is so false;

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding<sup>F14</sup> level 3 on the standard scale].

**F14** 1984 NI 3



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## 29 Information in relation to grants and loans. **N.I.**

- (1) The Ministry may by notice require any person who has received a grant or loan under this Act, and any person acting on his behalf, to furnish to the Ministry such information, or to produce for examination on behalf of the Ministry, such books, records or other documents, as may be specified in the notice for the purpose of enabling the Ministry to determine whether any condition subject to which the grant or loan is made is satisfied or is being complied with or whether the grant has become repayable in whole or in part, or the loan has become repayable on terms other than the terms on which it would otherwise have been repayable, in accordance with any such condition.
- (2) Subject to subsection (3), a notice under subsection (1) may require the information to which it relates to be furnished within such time as may be specified in the notice, and may require the documents to which it relates to be produced at such time and place as may be so specified.
- (3) The time specified in a notice under subsection (1) for furnishing any information or producing any document shall not be earlier than the end of the period of twenty-eight days beginning with the service of the notice.
- (4) Any person duly authorised in that behalf by the Ministry may for the purposes mentioned in subsection (1), on production (if so required) of written evidence of his authority, at all reasonable times enter and inspect any premises where any plant or equipment in respect of which a grant or loan under this Act has been made is, or in accordance with any condition attached to the grant or loan should be, and require any person appearing to him to have charge of those premises to produce or identify the plant or equipment for inspection.
- (5) Any person who in purported compliance with a notice under subsection (1) knowingly or recklessly makes any statement or produces any document which is false in a material particular shall be guilty of an offence and liable—
  - (a) on summary conviction to a fine not exceeding<sup>[F15]</sup> level 3 on the standard scale], or to imprisonment for a term not exceeding three months, or to both;
  - (b) on conviction on indictment to a fine, or to imprisonment for a term not exceeding two years, or to both.
- (6) Any person who without reasonable excuse fails to comply with a notice under subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds.
- (7) Any person who wilfully obstructs any person in the exercise of a right of entry conferred by subsection (4), or without reasonable excuse fails to comply with a requirement under that subsection, shall be guilty of an offence and liable on summary conviction to a fine not exceeding<sup>[F15]</sup> level 3 on the standard scale].
- (8) Any person who without reasonable excuse fails to comply with any condition subject to which a grant or loan was made to him under this Act requiring him to inform the Ministry of any event whereby the grant or loan becomes repayable in whole or in part or the loan becomes repayable on terms other than the terms on which it would have been repayable if the event had not occurred shall be guilty of an offence and liable—
  - (a) on summary conviction, to a fine not exceeding<sup>[F15]</sup> level 4 on the standard scale];
  - (b) on conviction on indictment, to<sup>[F15]</sup> an unlimited fine].

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- (9) Summary proceedings for an offence under subsection (8) may be instituted by the Attorney General or the Ministry at any time—
- (a) within the period of three years from the commission of the offence; or
  - (b) within the period of twelve months from the date on which evidence to justify a prosecution for the offence comes to the knowledge of the Attorney General or the Ministry, as the case may be;
- whichever period first expires.
- (10) For the purposes of subsection (9) a certificate purporting to be signed by the Attorney General as to the date on which such evidence as aforesaid came to his knowledge or to the knowledge of the Ministry shall be prima facie evidence thereof.

F15 1984 NI 3

**N.I.**

#### FINANCIAL PROVISIONS

### 30 Accounts, &c., relating to harbour authorities. **N.I.**

- (1) An annual statement of accounts which—
- (a) relates to a harbour authority (whether or not it relates also to another authority); and
  - (b) is, by virtue of a statutory provision made with respect to it, required to be prepared by the authority;
- shall, so far as it relates to the authority, be in such form, contain such particulars and be compiled in such manner as may be prescribed in relation to the authority by regulations made by the Ministry subject to negative resolution.
- (2) A harbour authority shall be under an obligation to comply with such of the following requirements as it is not, by virtue of other statutory provision made with respect to the authority, under obligation to comply with, namely—
- (a) to prepare an annual statement of accounts relating to the authority;
  - (b) to send to the Ministry a copy of each such annual statement;
  - (c) to send to the Ministry a copy of the auditors' report upon each such annual statement.
- (3) No regulation under subsection (1) shall be taken to require the doing of anything in contravention of any requirement imposed by <sup>F16</sup>the Companies Act 2006] with respect to the form, contents or manner of compilation of accounts.
- (4) Regulations under this section may be made so as to apply to a particular harbour authority.

F16 Words in s. 30(3) substituted (6.4.2008) by Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), arts. 2(2), 3(1), Sch. 1 para. 41 (with arts. 6, 11, 12)

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### 31 **Borrowing by harbour authorities.** **N.I.**

- (1) The purposes for which a harbour authority may borrow money under any statutory provision shall include the following:—
- (a) meeting any expenses properly chargeable to capital;
  - (b) acquiring a business or undertaking or part of a business or undertaking in the exercise of powers conferred by section 24 or any other statutory provision;
  - (c) subscribing for or acquiring any securities (within the meaning of that section) of a body corporate in the exercise of such powers as are mentioned in paragraph ( b).
- (2) So much of any statutory provision of local application as limits the rate of interest at which a harbour authority may borrow money shall cease to have effect.

### 32 **Over-riding of limits on borrowing powers of harbour authorities.** **N.I.**

Where the Ministry is satisfied—

- (a) that expenditure incurred or to be incurred by a harbour authority for any purpose for which the authority may borrow money should be met by borrowing and repayment spread over a term of years; and
- (b) that the borrowing would exceed any limit imposed by any enactment passed before 20th December 1956 on the borrowing powers of the authority;

then notwithstanding any such enactment<sup>F17</sup> . . . the authority may borrow money to meet the expenditure.

F17 1991 NI 6

### 33 **Miscellaneous financial provisions.** **N.I.**

- (1) Where—
- (a) the Ministry recommends that the whole or any part of the principal or interest of a loan made under this Act should be written off by reason that it not likely to be recovered; and
  - (b) the Ministry of Finance directs that the amount is to be written off;
- the amount shall be treated as a loss to the Exchequer, but this subsection shall not affect the liability of any person to pay to the Ministry the principal of, or interest on, any such loan or part thereof.
- (2) Any amount which is repayable to the Ministry under this Act may, without prejudice to any other means of recovery, be recoverable by deduction from any grant or other sum payable out of money provided by Parliament or the Consolidated Fund by a government department to the person from whom the amount is due, and that grant or sum shall be abated accordingly.

*Subs.(3) rep. by SLR 1976*

- (4) The Ministry of Finance may issue out of the Consolidated Fund to the Ministry such sums as are necessary to enable the Ministry to make loans under section 2 or grants under section 3.
- (5) For the purpose of providing sums to be issued under subsection (4), the Ministry of Finance may borrow money.

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- (6) Money borrowed under subsection (5) shall be repaid within sixty years from the date of borrowing and provision for the repayment may be made out of money provided by Parliament.

*S.34, with Schedule 5, effects amendments*

**N.I.**

#### MISCELLANEOUS

*S.35 rep. by 1971 c.13 (NI)*

### 36 Transitional provisions and repeals. **N.I.**

- (1) Nothing in this Act shall prejudice or affect any right of the Ministry to recover money lent under any Act repealed by this Act or to enforce any covenant, condition or other provision in any instrument executed as security for, or in connection with, the loan.

*Subs.(2), with Schedule 6, effects repeals*

[<sup>F18</sup>37 **N.I.**

Paragraph 23 of the<sup>F19</sup> electronic communications code] (which provides a procedure for certain cases where works involve the alteration of<sup>F19</sup> electronic communications apparatus] ) shall apply to a person authorised by a harbour order to execute any works, for the purposes of those works.]

**F18** 1984 c. 12

**F19** 2003 c. 21

### 38 Interpretation. **N.I.**

- (1) In this Act—

“Act” includes an Act of the Parliament of the United Kingdom;

“charges” includes fares, rates, tolls and dues of every description;

“dock” means a dock used by sea-going ships;

“expenses”, in relation to the provision by any person of plant or equipment includes—

(a) expenses on or incidental to its installation;

(b) expenses consisting of instalments under a hire purchase agreement or otherwise consisting of instalments of or payments towards the purchase price of or cost of providing it;

(c) where it is being provided by being manufactured or constructed by that person, such sum as appears to the Ministry to be properly attributable to its provision in that manner;

“fish” includes molluscs and crustaceans;

“goods” includes fish, livestock and animals of all descriptions;

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“harbour” means any harbour, whether natural or artificial, and any port, haven, estuary, tidal or other river or inland waterway navigated by sea-going ships, and includes any dolphins, a dock, a wharf and a hoverport;

“harbour authority” means any person in whom are vested under this Act, or by or under another Act, functions of improving, maintaining or managing a harbour;

“harbour land” means land adjacent to a harbour and occupied wholly or mainly for the purposes of activities there carried on;

“harbour order” has the meaning assigned to it by section 1;

“harbour operations” means—

- (a) the berthing or dry docking of a ship;
- (b) the warehousing, sorting, weighing or handling of goods on harbour land or at a wharf;
- (c) the movement of goods or passengers within the limits within which the person engaged in improving, maintaining or managing a harbour has jurisdiction or on harbour land;
- (d) in relation to a harbour (which for the purposes of this paragraph does not include a wharf)—
  - (i) the towing or moving of a ship which is in or is about to enter or has recently left the harbour;
  - (ii) the loading or unloading of goods, or embarking or disembarking of passengers, in or from a ship which is in the harbour or the approaches thereto;
  - (iii) the lighterage or handling of goods in the harbour; and
- (e) in relation to a wharf,—
  - (i) the towing or moving of a ship to or from the wharf;
  - (ii) the loading or unloading of goods, or the embarking or disembarking of passengers, at the wharf in or from a ship;

“high water mark” means the level of mean high water springs;

“hovercraft” means a vehicle which is designed to be supported when in motion wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the ground, water or other surface beneath the vehicle;

“hoverport” means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the arrival and departure of sea-going hovercraft;

“the Ministry” has the meaning assigned by section 1;

“pension benefit” includes a gratuity, and any reference to a pension benefit includes a reference to an expectation of the accruer of such a benefit under a customary practice;

“plant or equipment” includes vessels;

“ship”, where used as a noun, includes every description of vessel used in navigation, seaplanes on the surface of the water and hovercraft;

“ship, passenger and goods dues” means, in relation to a harbour, charges of any of the following kinds, namely—

- (a) charges in respect of any ship for entering, using or leaving the harbour, including charges made on the ship in respect of marking or lighting the harbour;

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- (b) charges for any passengers embarking or disembarking at the harbour (but not including charges in respect of any services rendered or facilities provided for them); and
- (c) charges in respect of goods brought into, taken out of, or carried through the harbour by ship (but not including charges in respect of work performed, services rendered or facilities provided in respect of goods so brought, taken or carried);

“statutory functions” means, in relation to a harbour authority, functions vested in it under this Act, by another Act or by an order or other instrument made under another Act;

“statutory provision” means a provision, whether of a general or a special nature, contained in, or in a document made or issued under, this Act or any Act (whether of a general or of a special nature) other than this Act;

“vessel” has the same meaning as in the Harbours, Docks and Piers Clauses Act 1847 except that it includes a sea-going hovercraft;

“wharf” means any wharf, quay, pier, jetty or other place at which sea-going ships can ship or unship goods or embark or disembark passengers.

- (2) Any references in this Act to a provision of the Harbours Docks and Piers Clauses Act 1847 is a reference to that provision both as originally enacted and as incorporated in any Act or order.

### **39 Power to amend Acts of local application. N.I.**

- (1) The Ministry may, subject to the provisions of this section, by order repeal or amend any provision relating to a harbour which is contained in a local Act passed before this Act, where it appears to it that the provision is inconsistent with, or has become unnecessary in consequence of, any provision of this Act.
- (2) The Ministry shall not make an order under this section repealing or amending any provision in a local Act the Bill for which was promoted by a harbour authority or by any body which became a harbour authority by virtue of the Act or order or whose functions under the Act or order have become exercisable by a harbour authority, except on the application of that authority.
- (3) Before making an order under this section the Ministry shall consult with any harbour authority which appears to the Ministry to be concerned, not being an authority by which an application for the making of the order was made.

### **40 Saving for private Bills. N.I.**

For the purposes of the promotion of a Bill containing provision for achieving any object that might be achieved by a harbour order, it shall be deemed, notwithstanding the passing of this Act, that that object cannot be attained without new authority from Parliament.

### **41 Short title. N.I.**

This Act may be cited as the Harbours Act (Northern Ireland) 1970.

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## SCHEDULES

### SCHEDULE 1 N.I.

Section 1.

#### OBJECTS FOR WHOSE ACHIEVEMENT HARBOUR ORDERS MAY BE MADE

- 1           Establishing a harbour authority and conferring functions on it.
- 2           Winding-up and dissolving a harbour authority.
- 3           Transferring functions from one harbour authority to another or to a body constituted by or specified in the order.
- 4           Reconstituting a harbour authority or altering its constitution.
- 5           Conferring functions on a harbour authority or varying or abolishing the functions of an authority.
- 6           Abandoning a harbour.
- 7           Regulating the procedure of a harbour authority or of any committee of a harbour authority.
- 8           Settling or varying the limits within which a harbour authority is to exercise its functions.
- 9           Controlling the movement of ships, in the interests of safety and the uninterrupted movement of ships, in one or more harbours and in the approaches to one or more harbours.
- 10          Constructing, reconstructing, improving, maintaining or managing a harbour.
- 11          Marking or lighting a harbour, raising wrecks in a harbour or otherwise making safe the navigation of a harbour.
- 12          Regulating the carrying out by any person of harbour operations or any activities on harbour land.
- 13          Authorising the making of byelaws with respect to any matter.
- 14          Amending or repealing any statutory provision of local application affecting a harbour.
- 15          Securing the welfare of persons employed by a harbour authority and empowering the provision of pension benefits in respect of them.



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## SCHEDULE 2 **N.I.**

Section 1.

### FURTHER PROVISIONS RELATING TO HARBOUR ORDERS

#### PART I **N.I.**

##### PROVISIONS WHICH HARBOUR ORDERS MAY CONTAIN

- 1 Provisions transferring property from one harbour authority to another or from a person carrying on harbour operations to a harbour authority.
- 2 Provisions transferring persons in the employment of a harbour authority to the employment of another and provisions preserving pension benefits in respect of employees or former employees of the authority.
- 3 Provisions dissolving any body of constables maintained by a harbour authority and with respect to the appointment, dismissal and functions of constables in relation to a harbour.
- 4 Penal provisions.
- 5 Provisions for the settlement of disputes.

#### PART II **N.I.**

##### PROVISIONS FOR CONTROLLING SHIP MOVEMENTS

- 1 The designation of areas, routes or channels which ships are to use, or refrain from using, for movement or anchoring.
- 2 The person who may give directions under the order in relation to the movement of ships.
- 3 The equipment by means of which provisions of an order relating to the movement of ships are to be put into effect and the qualifications of persons operating the equipment.
- 4 The equipment which a ship must carry in order to enter the harbour when visibility is restricted and the radiotelephone equipment which a ship must carry in order to enter the harbour, being equipment and radiotelephone equipment which satisfies standards or requirements laid down or recommended by or under any international convention or conference.
- 5 The conferring of powers of entry and inspection in relation to premises, vehicles, ships or aircraft in or on which there is any such equipment as is referred to in paragraph 3 or 4.
- 6 The payment of fees in connection with the inspection or testing of any such equipment as is referred to in paragraph 3 or 4.
- 7 The application, subject to modifications, of <sup>F20</sup> section 191 of the Merchant Shipping Act 1995] to any person by whom provisions of an order relating to the movement of ships are administered and otherwise with respect to the liability of any such person arising out of the execution of those provisions.

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## SCHEDULE 3 N.I.

Section 11.

### CONDITIONS RELATING TO TIDAL WORKS

- 1 (1) Where a local harbour authority constructs, alters or extends any tidal work in contravention of section 11(1) or of any condition imposed under section 11(2), an appropriate department may—
  - (a) by notice in writing require the authority at its own expense to remove the work and to restore the site of the work to the condition in which it was before the contravention; or
  - (b) remove the work and restore the site of the work to the condition specified in paragraph (a).
- (2) Where a local harbour authority does not comply with a notice under sub-paragraph (1)(a) within a period of thirty days from the date on which an appropriate department served the notice, the department may remove any such work as is specified in that sub-paragraph and restore the site of the work to the condition specified in that sub-paragraph.
- (3) Where an appropriate department incurs any expenditure in pursuance of sub-paragraph (1) or (2), it may recover the amount of that expenditure from the responsible harbour authority as if it were a debt due under a contract.
- (4) In this paragraph and in paragraph 2 “responsible harbour authority” means the local harbour authority which, in relation to a tidal work, has contravened section 11(1) or a condition imposed under section 11(2).
- 2 (1) Where a local harbour authority abandons any tidal work, or allows it to fall into disrepair, an appropriate department may by notice in writing require the authority at its own expense—
  - (a) to repair and restore the work;
  - (b) to remove the work and to restore the land on which it is constructed to the condition in which the land was before the work was constructed.
- (2) Where—
  - (a) a local harbour authority abandons any work consisting of a tidal work and of other work or allows a work so consisting to fall into disrepair; and
  - (b) an appropriate department is satisfied that any part of the work which is not a tidal work is in such a condition as to interfere with or to cause reasonable apprehension that it may interfere with, navigation or public rights over the foreshore;

an appropriate department may include that part of the work in a notice under sub-paragraph (1).
- (3) Where a local harbour authority does not comply with a notice under sub-paragraph (1), within a period of thirty days from the date on which an appropriate department served the notice, the department may execute such works of repair, restoration or removal as are necessary to comply with the notice.
- (4) Where an appropriate department incurs any expenditure in pursuance of sub-paragraph (3), it may recover the amount of that expenditure from the responsible harbour authority as if it were a debt due under a contract.
- 3 (1) Where any tidal work in the harbour of a local harbour authority is damaged or decays, the authority shall—

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- (a) forthwith notify the Commissioners of Irish Lights;
  - (b) lay down such buoys, exhibit such lights and take such other steps to prevent any danger to navigation, as those Commissioners may specify.
- (2) If a local harbour authority contravenes sub-paragraph (1), it shall be guilty of an offence and liable—
- (a) on summary conviction thereof, to a fine not exceeding one hundred pounds;
  - (b) on conviction on indictment, to a fine.
- 4 (1) An appropriate department may cause a survey and examination to be made—
- (a) of any tidal work; and
  - (b) of the land upon which it is proposed to construct any such work.
- (2) Where an appropriate department incurs any expenditure in pursuance of sub-paragraph (1), it may recover the amount of that expenditure from the local harbour authority which proposes to construct, alter or extend the work in question as if it were a debt due under a contract.
- 5 (1) A local harbour authority shall, while a tidal work is being constructed, altered or extended—
- (a) exhibit, at or near the work, every night from sunset to sunrise such lights as an appropriate department may specify;
  - (b) take such steps to prevent any danger to navigation as an appropriate department may specify.
- (2) A local harbour authority shall, in relation to any tidal work, after the work is completed—
- (a) exhibit every night from sunset to sunrise such lights as the Commissioners of Irish Lights may specify, at such places as may be so specified;
  - (b) take such steps to prevent any danger to navigation as those Commissioners may specify.
- (3) If a local harbour authority contravenes sub-paragraph (1) or (2), it shall be guilty of an offence and liable—
- (a) on summary conviction thereof, to a fine not exceeding<sup>[F21]</sup> level 3 on the standard scale;
  - (b) on conviction on indictment, to a fine.

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- 6 In this Schedule “an appropriate department” means the Board of Trade or the Ministry.

SCHEDULE 4 **N.I.**

Section 26.

MODIFICATIONS OF SECTION 22(2) OF AND SCHEDULE  
2 TO THE LOCAL GOVERNMENT ACT (NORTHERN  
IRELAND) 1934 FOR THE PURPOSES OF SECTION 26

- 1 References to a vesting order made under section 22 of the Local Government Act (Northern Ireland) 1934 or to the powers conferred by that section shall be

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construed as references to a vesting order made under, or the powers conferred by, section 26, respectively.

2 References to the Ministry of Development or to a local authority shall be construed as references to the Ministry of Commerce or a harbour authority respectively.

3 Subject to paragraph 1, the references to section 22 of, or Schedule 2 to, that Act shall be construed as references respectively to that section or Schedule as applied by section 26 and modified by this Schedule.

4 In paragraph 27 of that Schedule, the reference to the area of a local authority shall be construed as a reference to the locality where the land is situated.

5 (1) In paragraph 28 of that Schedule, for the definition of “land” there shall be substituted the definition contained in section 45(1)( a) of the Interpretation Act (Northern Ireland) 1954 .

(2) In that Schedule “estate” shall have the meaning assigned by section 45(2) of the said Act of 1954.

6 Where an application is made to the Ministry for a vesting order in respect of a lesser estate than a fee simple or the Ministry makes such an order, section 22(2) of and Schedule 2 to the said Act of 1934 shall have effect with such modifications as may be necessary to enable that estate to be acquired by means of the vesting order and to enable compensation in respect thereof to be duly paid or discharged and shall have effect as if for the first paragraph of paragraph 6 of that Schedule there were substituted the following:—

“6 A vesting order shall operate, without further assurance, to vest in the harbour authority, as from the date on which the vesting order becomes operative (in this Schedule referred to as “the date of vesting” ) all such estates in, to or over the land to which the order relates as are specified in the order, freed and discharged from all the estates of any other person whomsoever therein except as is specified in the order, and the rights and claims of any such other person in respect of the estate so vested, shall as from the date of vesting, be transferred and attached to the extent to which compensation may be payable in accordance with this Schedule to the rate or funds of the harbour authority out of which the expenses of the authority in acquiring the land are to be defrayed (in this Schedule referred to as “the compensation fund” ) and shall be discharged by payments made out of the compensation fund.”.

N.I.

#### *Schedule 5—Amendments*

N.I.

#### *Schedule 6—Repeals*

**Status:**

Point in time view as at 06/04/2008.

**Changes to legislation:**

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