Harbours Act (Northern Ireland) 1970

1970 CHAPTER 1

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.

(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.

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(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;

(iv) in acquiring land required for the purposes of the harbour or an extension thereof or in constructing a harbour as mentioned in sub-paragraph (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.

[F1](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

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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).]

F1 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 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 **[**[F2]£90 million**]**.

F2 Words in s. 4 substituted (2.3.2021) by Harbours (Grants and Loans Limit) Act (Northern Ireland) 2021 (c. 1), **ss. 1(1)**, 2

[[F3]4A Grants payable to certain harbour authorities in relation to expenses N.I.

(1) Subject to subsection (2), the Department of Agriculture and Rural Development, with the approval of the Department of Finance and Personnel, may give to a harbour authority in relation to which the Department of Agriculture and Rural Development exercises functions for the purposes of this Act financial assistance by way of grant 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 Department of Agriculture and Rural Development, the authority was not in receipt of sufficient revenue to meet its expenses.

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(2) 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 the Department of Agriculture and Rural Development may participate in the profits or income of the authority) as the Department of Agriculture and Rural Development may think fit to impose.**]**

F3 S. 4A inserted (29.4.2014) by Financial Provisions Act (Northern Ireland) 2014 (c. 6), **ss. 2(a)**, 13(1)

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 [[F4] 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 [F5] 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 [F5] 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 [F5] 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 [F5] 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 [F5] The Ministry, after effect has been given to subection (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 [F5] 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 [F5] 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**[**[F6] level 3 on the standard scale**]**.

(9 [F5] 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 [F5] 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 [F5] 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 [M1] 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
M1 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[F7] 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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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

– Act modified by 2023 c. 8 s. 9(7)