STATUTORY INSTRUMENTS

2018 No. 278

DEVOLUTION, ENGLAND AND WALES CONSTITUTIONAL LAW

The Wales Act 2017 (Welsh Harbours) (Transitional Provisions and Savings) Regulations 2018

Made - - - -	*28th February 2018*
Laid before Parliament	*6th March 2018*
Coming into force - -	*1st April 2018*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 70(2) of the Wales Act 2017(**1**):

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Wales Act 2017 (Welsh Harbours) (Transitional Provisions and Savings) Regulations 2018 and come into force on 1st April 2018.

(2) In these Regulations "the transfer of functions" means the transfer of functions to the Welsh Ministers by virtue of section 29(1) of the Wales Act 2017(**2**).

Transitional provisions and savings

2. The transfer of functions has effect subject to the provisions set out in the Schedule.

Nusrat Ghani
Parliamentary Under Secretary of State
Department for Transport

28th February 2018

(**1**) 2017 c.4.
(**2**) By virtue of S.I. 2017/1179, section 29 of the Wales Act 2017 comes into force on 1st April 2018.

SCHEDULE

Regulation 2

Transitional Provisions and Savings

1.—(1) The transfer of functions exercisable under or by virtue of sections 14 to 17 of, and Schedule 3 to, the Harbours Act 1964(**3**) ("the 1964 Act") has no effect to the extent that those functions arise by virtue of section 14 or section 16 of the 1964 Act in circumstances where—

(a) subject to sub-paragraph (3) a person has given notice to the Secretary of State under paragraph 3(1)(a) of Schedule 3 to the 1964 Act, but the Secretary of State has not responded under paragraph 5 or 6(**4**) of that Schedule before 1st April 2018; or

(b) a person has made an application for either a harbour revision order or a harbour empowerment order under Schedule 3 to the 1964 Act which has not been finally determined before 1st April 2018.

(2) Where paragraph (1) applies, section 17(2C) of the 1964 Act has effect as if the amendment made by section 30(2) of the Wales Act 2017 had not been made.

(3) Notwithstanding paragraph (1)(a), any functions in respect of any application made on or after 1st April 2018 for a harbour revision or harbour empowerment order so far as exercisable in relation to harbours that are wholly in Wales, other than harbours that are reserved trust ports, are to be determined by the Welsh Ministers.

2. The transfer of functions exercisable under or by virtue of sections 30 and 31(**5**) of the 1964 Act has no effect to the extent that those functions arise in circumstances where—

(a) a person has lodged an objection in writing to which section 31 applies; and

(b) that objection has not been finally determined before 1st April 2018.

3. The transfer of functions exercisable under or by virtue of section 1 of the Pilotage Act 1987(**6**) ("the 1987 Act") has no effect to the extent that those functions arise in circumstances where—

(a) a harbour authority which is not a competent harbour authority has made an application under section 1(4) of the 1987 Act to be treated as such an authority; and

(b) that application has not been finally determined before 1st April 2018.

4. The transfer of functions exercisable under or by virtue of section 8(3) of the 1987 Act has no effect to the extent that those functions arise in circumstances where—

(a) a competent harbour authority has made an application under section 8(3); and

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(**3**) 1964 c.40. Sections 14 and 16 were amended by paragraphs 2 to 4, and 14(2) and (3) of Schedule 6 to the Transport Act 1981 (c.56), by section 46 of the Criminal Justice Act 1982 (c.48), by paragraphs 1(2) to (7) and 2(2), (4) and (5), of Schedule 3 to the Transport and Works Act 1992 (c.42), by paragraph 9 of Schedule 2 to the Planning Act 2008 (c.29), and by S.I. 2006/1177 and 2009/1941. Section 15 was amended by Schedule 12 to the Transport Act 1981, section 15A was inserted by paragraph 5(1) of Schedule 6 to the Transport Act 1981, and both sections 15 and 15A were amended by sections 58(7), 101(1), 141(6), 160(1), (2) and (4), 163, 189(4) to (10), 190, and 193(1) of, paragraph 31(1) of Schedule 25 and paragraphs 3(1) and (2), 17, 40(4), 57(6), and 58 of Schedule 26 to, the Water Act 1989 (c.15). Section 17 was amended by paragraph 14 of Schedule 5, and Schedule 12, to the Transport Act 1981, by paragraph 3 of Schedule 3, and paragraph 1 of Schedule 4, to the Transport and Works Act 1992, by section 30(2) of the Wales Act 2017, and by S.I. 1999/3445, 2006/1177 and 2017/1070. Functions of the Secretary of State under sections 14 to 16 are delegated to the Marine Management Organisation by virtue of S.I. 2010/674.

(**4**) Paragraphs 5 and 6 were substituted by S.I. 2017/1070.

(**5**) Section 30 was amended by section 10(1) of the Decimal Currency Act 1969 (c.19), by paragraph 8 of Schedule 16, and Part 3 of Schedule 18, to the Transport Act 1968 (c.73), by paragraph 8(2) of Schedule 6, and Part 1 of Schedule 12, to the Transport Act 1981, by paragraph 1 of Schedule 31 to the Transport Act 2000 (c.38), by paragraph 1 of Schedule 12 to the Merchant Shipping Act 1995 (c.21), and by S.I. 1978/272 and 2012/1659. Section 31 was amended by paragraph 10(2) and (3) of Schedule 5, paragraphs 8(3) and 13(2) and (4) of Schedule 6, and Part 2 of Schedule 12, to the Transport Act 1981, by paragraph 8(1)(a), (2) and (4) of Schedule 3 to the Fisheries Act 1981 (c.29), and by sections 58(7), 101(1), 141(6), 160(1), (2) and (4), 163, 189(4) to (10), 190, and 193(1) of, paragraph 31(1) of Schedule 25 and paragraphs 3(1) and (2), 17, 40(4), 57(6), and 58 of Schedule 26 to, the Water Act 1989.

(**6**) 1987 c.21. Section 1 was amended by Schedule 3 to the Transport and Works (Scotland) Act 2007 (asp 8), and by section 1 of the Marine Navigation Act 2013 (c.23).