STATUTORY RULES OF NORTHERN IRELAND

2002 No. 41

HARBOURS

The Londonderry Harbour Order (Northern Ireland) 2002

Made - - - - 12th February 2002
Affirmed by resolution of the Assembly - - - - 20th May 2002

Coming into operation in accordance with Article 1(1)

The Department for Regional Development(**1**) in exercise of the powers conferred by section 1(1) and (2) of, and Schedule 1 and Part I of Schedule 2 to, the Harbours Act (Northern Ireland) 1970(**2**) and now vested in it(**3**) and of all other powers enabling it in that behalf, after consultation with the Londonderry Port and Harbour Commissioners and such harbour authority or local authority which the Department considered likely to be affected by the Order in accordance with section 1(6) of that Act, hereby makes the following Order:

Citation and commencement

1.—(1) This Order may be cited as the Londonderry Harbour Order (Northern Ireland) 2002 and shall come into operation on the day after that on which it is affirmed by resolution of the Assembly.

(2) This Order shall be construed as one with the Londonderry Harbour Acts and Orders 1854 to 1991(**4**).

(3) The Londonderry Harbour Acts and Orders 1854 to 1991 and this Order may be cited together as the Londonderry Harbour Acts and Orders 1854 to 2002.

Interpretation

2. In this Order—

"the Act of 1854" means the Londonderry Port and Harbour Act 1854(**5**);

"the Acts and Orders" means the Londonderry Harbour Acts and Orders 1854 to 2002;

"the Commissioners" means the Londonderry Port and Harbour Commissioners incorporated under the Act of 1854;

(**1**) S.I.1999/283 (N.I. 1) Article 3(1)
(**2**) 1970 c. 1 (N.I.)
(**3**) S.R. 1999 No. 481 Article 6(*d*) and Schedule 4 Part IV
(**4**) 17 & 18 Vict. c. clxxvii; 37 & 38 Vict. c. xlix; 45 & 46 Vict. c. cxlii; 9 & 10 Geo. 5 c. lxviii; 10 & 11 Geo. 5 c. lxxv; S.R. 1976 No. 389; S.R. 1991 No. 261
(**5**) 17 & 18 Vict. c. clxxvii

"the Department" means the Department for Regional Development;

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

"the port" means the harbour of Londonderry.

General powers and duties in respect of port

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

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

(a) improve, maintain, regulate, manage, mark and light the port and provide accommodation and port facilities therein;

(b) construct, alter, demolish and reconstruct structures and works in the port;

(c) lend money to any person for the purposes of any undertaking carried on by him or, where that person is a body corporate, any undertaking carried on by a subsidiary of that body corporate;

(d) maintain such reserve funds as they think fit;

(e) invest any sums not immediately required for the purposes of the harbour undertaking; and

(f) do all other things which in their opinion are necessary or expedient to facilitate the proper carrying on or development of the harbour undertaking.

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

Further powers with respect to land

4.—(1) The Commissioners may—

(a) retain any land acquired by them for such time as they think fit; and

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

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

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

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

Subsidiaries

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

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

(3) The Commissioners may enter into arrangements with a company formed in exercise of the powers conferred by paragraph (1) for the transfer to that company from the Commissioners or from

any other company so formed, in such manner and on such terms (including payments by any of the parties to the arrangements to any of them) as may be provided for by the arrangements, of any property, rights, liabilities or obligations of the Commissioners or of that other company, which are relevant to the carrying on of the activities to be carried on by the first-mentioned company.

Borrowing

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

(2) The total amount of monies borrowed under this Article and outstanding at any one time shall not exceed £2,500,000 or such greater amount as may be approved by the Department in writing.

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

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

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

(a) the payment of any interest falling due on a sum of money borrowed under this Article within the five years immediately following the date of that borrowing; and

(b) the repayment within 12 months of the date of borrowing of any sum for the time being outstanding by way of principal on any amount previously borrowed.

Temporary borrowing

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

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

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

Power to license pleasure craft and boatmen

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

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

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

(4) A person shall not within the port—

(a) let for hire to the public a pleasure craft which is not licensed in accordance with this Article; or

(b) carry, or permit to be carried, passengers for hire in a pleasure craft unless the craft, and the boatmen in charge thereof and the navigator, are so licensed.

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

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

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

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

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

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

Amendment of the Londonderry Port and Harbour Commissioners Acts (Amendment) Order (Northern Ireland) 1976

9. For Schedule 1 to the Londonderry Port and Harbour Commissioners Acts (Amendment) Order (Northern Ireland) 1976(**7**), there shall be substituted the provisions set out in Schedule 1 to this Order.

Modification of the Harbours, Docks and Piers Clauses Act 1847

10. In relation to the Commissioners, the provisions of section 23 of the Harbours, Docks and Piers Clauses Act 1857(**8**) shall cease to have effect.

Repeal and revocation

11. The statutory provisions specified in columns 1 and 2 of Schedule 2 are hereby repealed or revoked to the extent specified in column 3 of that Schedule.

(**6**) 1968 c. 59
(**7**) S.R. 1976 No. 389
(**8**) 10 & 11 Vict. c. 27