1973. No. 35

HARBOURS

Northern Ireland Fishery Harbour Authority Order (Northern Ireland) 1973

Made . . . . . 13*th February* 1973

Coming into operation . . . . . 16*th April* 1973

To be laid before the Parliament of the United Kingdom under paragraph 4(5)(*b*) *of the Schedule to the Northern Ireland* (*Temporary Provisions*) *Act* 1972.

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The Ministry of Commerce, on behalf of the Secretary of State and in exercise of the powers conferred on it by section 1 of the Harbours Act (Northern Ireland) 1970(a) and of every other power enabling it in that behalf, and after consultation with the harbour authorities to which the Order will apply and the harbour authorities and local authorities likely to be affected thereby, hereby makes the following Order:—

PART I

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Northern Ireland Fishery Harbour Authority Order (Northern Ireland) 1973 and shall come into operation on the 16th April 1973.

Interpretation

2. In this Order—

"the Act" means the Harbours Act (Northern Ireland) 1970;

"the Authority" means the Northern Ireland Fishery Harbour Authority established by virtue of Article 4(1);

"the Council" means the Council of the administrative county of Down;

"the harbour of Ardglass" means the land, quays, wharves, dock and other property at Ardglass in the County of Down which immediately before the transfer date are under the control and management of the Ministry as harbour authority;

"the harbour of Kilkeel" and "the harbour of Portavogie" mean the land, quays, piers and other property at Kilkeel and Portavogie respectively in the County of Down which immediately before the transfer date are under the control and management of the Council as harbour authority;

"the Minister" means the Minister of Commerce;

"the Ministry" means the Ministry of Commerce;

"officer" includes a servant;

"the transfer date" means the 31st day of May 1973;

"the transferred harbours" means the harbour of Ardglass, the harbour of Kilkeel and the harbour of Portavogie and "transferred harbour" means any one of them;

"the transferors" means, to the extent of their functions under any statutory provision relating to harbours, the Ministry and the Council or either of them and "a transferor" means either of them;

"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.

Incorporation of enactments

3. The following provisions of the Harbours, Docks, and Piers Clauses Act 1847(b) that is to say, sections 1 to 5, 14, 15, 21, 22, 24, 27 to 29, 33 to 41, 43 to 46, 48, 51 to 72, 74 to 82, 92, 94, 99, 100, 102 and 103 are hereby incorporated with this Order (but without prejudice to any other provisions of this Order) and shall apply to the transferred harbours as if—

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

(b) 10 & 11 Vict. c. 27.

(*a*) the transferred harbours had been constructed in pursuance of an Act which incorporated that Act;

(*b*) this Order were the Special Act for the purposes of that Act;

(*c*) the Authority were the undertakers for those purposes,

and subject to the following modifications, that is to say:—

(*a*) for any references in any of the said sections to the Special Act, the undertakers and the prescribed limits there shall be substituted references to this Order, the Authority and the limits of the transferred harbours respectively;

(*b*) any references in any of the said sections to a vessel shall be deemed to include a sea-going hovercraft and the reference in section 28 to a vessel shall include a floating dock and a vessel of exceptional construction or method of propulsion;

(*c*) in section 15 for the words from "shall forfeit" to the end of the section there shall be substituted the words "shall be liable on summary conviction to a fine not exceeding £100.";

(*d*) in the application by virtue of this Article of section 52 to a harbour master employed by the Authority that section shall authorise a harbour master to—

(i) give directions prohibiting the mooring of any vessel in any part of the transferred harbours specified by him;

(ii) impose terms and conditions upon which a pleasure craft, hovercraft or hydrofoil may enter the transferred harbours, or any part of them specified by him;

(iii) give, in an emergency, general directions to all vessels or to any specified class of vessels;

(*e*) section 53 shall be construed as authorising a harbour master to give directions to the master of a vessel otherwise than in writing;

(*f*) in section 56 there shall be added at the end of the section the words "where the amount realised by such sale is insufficient to meet any expenses incurred by the 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.";

(*g*) in section 69 for the words from "a sum" to the end of the section there shall be substituted the words "a sum not exceeding £10.";

(*h*) where in any of the said sections reference is made to any person being liable to a penalty or a forfeiture such reference shall be construed as being a reference to a fine on the conviction of such person.

PART II

CONSTITUTION OF THE HARBOUR AUTHORITY

Establishment of the harbour authority

4.—(1) There shall be and is hereby established a body to be called the Northern Ireland Fishery Harbour Authority.

(2) The Authority shall be a body corporate with perpetual succession and shall, subject to the provisions of this Order, have all the rights, powers and privileges of a body corporate to which section 19 of the Interpretation Act (Northern Ireland) 1954(c) has been applied.

(c) 1954. c. 33.

(3) The seal of the Authority shall be authenticated by the signature of the chairman or some other member of the Authority authorised by the Authority to act for that purpose and of the secretary or some other officer so authorised.

(4) Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal may be entered into or executed on behalf of the Authority by any person generally or specially authorised by the Authority to act for that purpose.

(5) The Authority shall have such functions as are conferred on it by this Order.

Constitution of the harbour authority

5.—(1) The Authority shall consist of a chairman and not less than four and not more than eight other members who shall be appointed by the Minister after consultation with the Minister of Agriculture subject to such conditions as the Minister may determine.

(2) In the event of a casual vacancy occurring in the office of chairman the members shall elect one of their number to fill such vacancy and the person so elected shall hold office until a successor has been appointed by the Minister.

(3) A member shall hold and vacate office in accordance with the terms of his appointment; but, notwithstanding anything in those terms, he may at any time resign his membership by giving notice in writing to the Minister.

Procedures of the harbour authority

6.—(1) A meeting of the Authority shall be held not later than one month after the coming into operation of this Order and thereafter meetings shall be held on such dates and at such intervals as the Authority may determine.

(2) At the first meeting of the Authority the members shall appoint a person to act as secretary to the Authority.

(3) The quorum required for a meeting of the Authority shall be four.

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

(5) Any disclosure made by a member under paragraph (4) shall be recorded in the minutes of the meeting, and, save insofar as may be authorised by the other members present at the meeting, that member shall not take part after the disclosure in any deliberation or decision of the Authority with respect to that contract or other transaction.

(6) Where under paragraph (5) a member is prohibited from taking part in any deliberation or decision that member shall be disregarded for the purpose of constituting a quorum of the Authority for any such deliberation or decision.