

1973. No. 35

HARBOURS

Northern Ireland Fishery Harbour Authority Order
(Northern Ireland) 1973*Made* 13th February 1973*Coming into operation* 16th 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.

PART III

FUNCTIONS OF THE HARBOUR AUTHORITY

Functions of the harbour authority

7.—(1) As from the transfer date and subject to the provisions of this Order the Authority in relation to the transferred harbours shall have power to:—

- (a) improve, manage and maintain the harbours;
- (b) operate such facilities as may be provided at the harbours;
- (c) dredge and maintain the entrances and channels to the harbours and to deposit material in a place below high-water mark but only with the consent of the Crown Estate Commissioners (which may be subject to conditions) and to deposit such material in such places and subject to such conditions and restrictions as the Secretary of State for Trade and Industry and the Ministry may determine;
- (d) construct, alter or extend any tidal work with the prior consent of the Secretary of State for Trade and Industry, the Crown Estate Commissioners and the Ministry;
- (e) lease or with the consent in writing of the Ministry otherwise dispose of subject to conditions where applicable to protect any navigational interests any part of the land for the time being vested in the Authority provided that any such lease shall except where the Ministry otherwise approves be expressed to be terminable on a specified period of notice not being more than three months (to expire at any time) of such termination being given by the Authority or the lessee.

(2) If the Authority considers that a harbour, not being a transferred harbour, is principally used by the fishing industry, the Authority may recommend to the Ministry that the Authority should be established as the harbour authority for that harbour.

Tidal works

8.—(1) The Ministry, the Secretary of State for Trade and Industry and the Crown Estate Commissioners may, in giving any consent as provided by sub-paragraph (d) of Article 7(1) do so subject to such conditions as it or they think fit to impose but in the event of any inconsistency between a condition imposed by the Secretary of State for Trade and Industry 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.

(2) Schedule 1 shall have effect in relation to any tidal work vested in or which is to be constructed, altered or extended by the Authority.

Byelaws

9.—(1) The Authority may in relation to the transferred harbours make byelaws for all or any of the following purposes but so that no such byelaw shall come into operation before the transfer date:—

- (a) for regulating the use of the harbours;
- (b) for regulating the conduct of persons;
- (c) for regulating the exercise of the powers vested in a harbour master;
- (d) for regulating the movement of vessels;
- (e) for controlling vehicles;

- (f) for preventing the obstruction of, or injury to, the harbours;
- (g) for regulating the shipping and unshipping, landing, warehousing, stowing, depositing and removing of all goods within the harbours;
- (h) for regulating the bringing of dangerous goods to the harbours and the discharging, handling, transporting or storage of such goods within the harbours;
- (i) for regulating, with the consent of the Commissioners of Customs and Excise, the hours during which the gates, entrances or outlets to the harbours will be open;
- (j) 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 harbours;
- (k) for regulating the use of fires and lights;
- (l) for preventing damage or injury to any vessels or goods; and
- (m) for regulating the use of cranes and other equipment belonging to the Authority.

(2) Byelaws made by the Authority shall be made and have effect as if sub-sections (1) to (5) and (7) and (8) of section 91 and sections 92, 93 and sub-section (1) of section 94 of the Local Government Act (Northern Ireland) 1972(d) applied thereto as they apply to any byelaws made under that Act, and as if:—

- (a) for any reference to a council or to the clerk of such a council there were substituted a reference to the Authority or to the secretary of the Authority;
- (b) for any reference to the Ministry concerned there were substituted a reference to the Ministry;
- (c) for the reference in section 92 to twenty pounds there were substituted a reference to fifty pounds.

PART IV

TRANSFER OF HARBOURS

Abolition of functions

10. On the transfer date the functions of the transferors in relation to the transferred harbours shall be abolished.

Transfer of property, rights and liabilities

11. Subject to the provisions of this Order on the transfer date the interests of the transferors in all land and other property movable and immovable used for the purposes of the transferred harbours and all rights and liabilities enjoyed or incurred by them for or in connection with any of those purposes shall by virtue of this Article be transferred to and vest in the Authority and shall be enforceable by or against the Authority accordingly.

Extent of property transferred

12.—(1) The immovable property transferred to the Authority by virtue of Article 11 shall not include the interest of the Ministry in the land shown delineated and hatched in black and marked “excluded” on the map marked “Ardglass Harbour—Harbour Limits of the Northern Ireland Fishery Harbour Authority—Map No. 1” referred to in Article 24(3).

(d) 1972. c. 9 (N.I.).

(2) The Ministry or other owners and occupiers for the time being of the lands referred to in paragraph (1) (hereinafter referred to as "the retained lands") shall have a right of access thereto for all purposes and at all reasonable times over the lands transferred to the Authority by virtue of Article 11 (hereinafter referred to as "the transferred lands") and the right to use and maintain for the service of the retained lands all sewers, drains, water pipes, electricity lines and other services laid or constructed in the transferred lands.

(3) The Authority shall have the right to use and maintain for the service of the transferred lands all sewers, drains, water pipes, electricity lines and other services laid or constructed in the retained lands, and a right of access to the said lands at all reasonable times for those purposes.

Contracts, etc., in force before the transfer date

13. Subject and without prejudice to the provisions of this Order all conveyances, leases, grants, assurances, deeds, contracts, agreements, notices and demands affecting the transferred harbours and in force immediately before the transfer date shall on and from that date be as binding and of as full force and effect in every respect and may be enforced as fully and effectually against or in favour of the Authority as if instead of the transferor the Authority had been a party thereto or bound thereby or entitled to the benefits thereof.

Provided that, as from the transfer date, those provisions of an agreement dated 7th December 1937 between the Council and the council of the urban district of Kilkeel whereby ordinary maintenance charges of the harbour of Kilkeel were to be borne by the rural district of Kilkeel and the urban district of Kilkeel shall cease to have effect insofar as the agreement would apply to the transferred lands.

Consequential modification of agreements, etc.

14. Subject to the provisions of this Order any agreement, or other document whatsoever, which relates to a transferor in relation to its functions at a transferred harbour shall on and after the transfer date have effect subject to any necessary modifications as if for any reference however worded and whether express or implied—

- (a) to a transferor there were substituted a reference to the Authority; and
- (b) to any officer of a transferor there were substituted a reference to the officer of the Authority who corresponds as nearly as may be to the first mentioned officer.

Saving of existing byelaws, etc.

15. Every byelaw, rule, regulation, direction, licence or consent made, issued or granted by a transferor in relation to a transferred harbour before the transfer date shall, until amended or revoked, and notwithstanding the repeal by this Order of any statutory provision, continue to have effect as if it had been made, issued or granted by the Authority, and, in the case of any byelaw, confirmed as provided for in accordance with paragraph (2) of Article 9.

Continuance of resolutions, etc.

16. Every resolution passed or deemed to have been passed, order made or deemed to have been made or notice served or deemed to have been served by the transferors before the transfer date, the operation, effect or term of which had not ceased or expired before that date shall, after the transfer date and so far as it is not inconsistent with the provisions of this Order, continue in force and have effect as if it were a resolution passed, order made, or notice

served by the Authority on the date on which the same was actually or was deemed to have been passed, made or served, as the case may be, by the transferors and as if the functions of the transferors were, on the said date, performable by the Authority.

Continuance of proceedings

17. Nothing in this Order shall release, discharge or suspend any action, arbitration, investigation or other proceeding, or any cause of action, arbitration, investigation or other proceeding, pending or existing immediately before the transfer date by or in favour of or against the transferors in relation to the transferred harbours and, subject to the provisions of this Order, any such action, arbitration, investigation or proceeding or cause of action, arbitration, investigation or proceeding may be maintained, instituted, continued or enforced by or in favour of or against the Authority.

Collection of harbour dues, etc.

18.—(1) Without prejudice to Article 11 all harbour dues, rents and other payments which immediately before the transfer date were due and payable to the transferors in respect of the transferred harbours shall on and after that date be due and payable to and may be collected and recovered by or on behalf of the Authority in like manner as they could have been collected or recovered by or on behalf of the transferors if the transfer of the harbours had not taken place.

(2) All harbour dues, rents and other payments which immediately before the transfer date were accruing due to the transferors in respect of the transferred harbours shall on and after that date accrue and be deemed always to have accrued due to the Authority, and when any such harbour dues, rents and other payments become due and payable they shall be due and payable to, and may be collected and recovered by or on behalf of the Authority in like manner as they could have been collected or recovered by or on behalf of the transferors if the transfer of the harbours had not taken place.

Saving for Interpretation Act (Northern Ireland) 1954

19. The provisions of Articles 15 to 18 are without prejudice to the provisions of sections 28 and 29 of the Interpretation Act (Northern Ireland) 1954.

Audit of accounts

20.—(1) The accounts of all receipts and payments of the transferors and of any committees thereof in relation to the transferred harbours and of the respective officers of the transferors and such committees up to the transfer date shall, as soon as conveniently may be after that date, be audited, and disallowances, surcharges, charges and penalties in relation to such accounts, receipts and payments shall be made, recovered and enforced in like manner as nearly as may be as if this Order had not been made.

(2) Every officer of the transferors or of any committees thereof whose duty it is to make up any accounts of or to account for any portion of the receipts or payments in respect of the transferred harbours to the transferor or of any such committees shall, until the audit of the accounts of such receipts and payments up to the transfer date is complete, be deemed for the purposes of such audit to continue in office and be bound to perform the same duties and render the same account and be subject to the same liabilities as if this Order had not been made.

PART V

TRANSFER OF OFFICERS

Transfer of staff

21.—(1) As from the transfer date any officer who immediately before that date was employed on a full-time basis by the transferors wholly or mainly in connection with any of the transferred harbours shall become an officer of the Authority and until he is served with a statement in writing of his new terms and conditions of employment shall enjoy terms and conditions of employment (including conditions as to superannuation benefits) not less favourable than those he enjoyed when he was employed by the transferors immediately before the date of this Order.

(2) The new terms and conditions referred to in the foregoing paragraph shall be such that—

(a) as long as a transferred employee is engaged in duties reasonably comparable to those in which he was engaged immediately before the transfer date, the scale of his salary or remuneration; and

(b) the other terms and conditions of his employment,

are taken as a whole not less favourable than those enjoyed immediately before the date of this Order.

(3) Where the terms and conditions (including conditions as to superannuation benefits) of a person who becomes an officer of the Authority by virtue of this Article are on or after the date of this Order and before the transfer date varied in any respect the Ministry may direct that the variation shall be wholly or partially included among the terms and conditions on which he becomes employed by the Authority and paragraph (2) shall have effect in relation to him as if so much of the variation specified in the direction had been included in the terms and conditions of his employment immediately before the date of this Order.

(4) Where a person enters the employment of the transferors on or after the date of this Order but before the transfer date, paragraphs (2) and (3) shall have effect as if for any reference to terms and conditions of employment enjoyed immediately before the date of this Order there were substituted a reference to terms and conditions of employment enjoyed immediately after entering that employment.

(5) Any question which may arise between the Authority and a person as to whether that person is transferred to the employment of the Authority by virtue of paragraph (1) or the duties of a transferred employee are reasonably comparable to those mentioned in paragraph (2) may be reported by the Authority or such person to the Minister of Health and Social Services and, if a dispute so reported is not otherwise disposed of, that Minister shall refer it for determination by the Industrial Court.

(6) Where at any time after the transfer date the Authority considers it necessary in the interests of its more efficient organisation or administration to require an officer who has entered its employment pursuant to this Article to work at a place other than that at which he worked before the transfer date the Authority shall reimburse that officer for any removal expenses and increase in travelling expenses which he may incur to such extent and for such period as may be reasonable in the circumstances.

Pensions, etc.

22.—(1) The provisions of the Superannuation (Northern Ireland) Order 1972(e) (hereinafter referred to as “the Order of 1972”) with respect to local authorities and any statutory instrument made or document issued thereunder shall be deemed to apply in relation to the Authority as they apply in relation to local authorities.

(2) The Order of 1972 as applied to the Authority by paragraph (1), Part III of the National Insurance Act (Northern Ireland) 1966(f) and any statutory instrument or document issued under the Order of 1972 or the said Part III shall have effect in relation to a person who, by virtue of Article 21 is transferred to the employment of the Authority as if his employment by the Authority and his employment before the transfer were one continuous employment.

Compensation for loss of employment, etc.

23.—(1) Where a person becomes an officer of the Authority by virtue of Article 21 and who subsequent to his transfer suffers loss of employment or loss or diminution of emoluments (including superannuation rights) which is attributable to this Order he shall be entitled to receive from the Authority the like amount of compensation to which he would be entitled if he were an officer of a local authority who is transferred to a district council under section 135 of the Local Government Act (Northern Ireland) 1972, any service of his as an employee of the transferor being treated, for the purposes of this Article, as service as an officer of a local authority.

(2) Regulations made under section 137 of the Local Government Act (Northern Ireland) 1972 shall, with any necessary modifications, apply accordingly in relation to compensation payable under the foregoing paragraph.

PART VI

LIMITS OF TRANSFERRED HARBOURS

Harbour limits

24.—(1) The limits within which the Authority shall have authority by virtue of any function conferred on it by this Order or by any enactment incorporated therewith and within which may be exercised the powers of any harbour master it may appoint shall comprise the transferred harbours and the conveniences connected therewith and, in the case of the harbour of Kilkeel and the harbour of Portavogie, the waters up to high-water mark within these harbours together with the seaward approaches within a radius of five hundred yards of the entrances of the said harbours.

(2) The Authority shall also have authority and the powers of any such harbour master as referred to in the foregoing paragraph may also be exercised within the limits of any land which may from time to time be vested in the Authority for the purposes of its functions.

(3) The limits (hereinafter referred to as the “harbour limits”) defined in paragraph (1) are shown by continuous red lines on the maps marked “Ardglass Harbour—Harbour Limits of the Northern Ireland Fishery Harbour Authority—Map No. 1”, “Kilkeel Harbour—Harbour Limits of the Northern Ireland Fishery Harbour Authority—Map No. 2” and “Portavogie Harbour—Harbour Limits of the Northern Ireland Fishery Harbour Authority—Map No. 3” signed and sealed with reference to this Order and deposited in accordance with paragraph (5).

(e) S.I. 1972, No. 1073 (N.I. 10).

(f) 1966. c. 6 (N.I.).

(4) In the event of any discrepancy between the harbour limits defined in paragraph (1) and the maps Nos. 1, 2 and 3 referred to in paragraph (3) the maps shall be deemed to be correct and shall prevail.

(5) The maps referred to in paragraphs (3) and (4) and in Article 12 signed and sealed with reference to this Order have been deposited at the office of the Ministry at Chichester House, 64 Chichester Street, Belfast, at which office the maps may be inspected at all reasonable hours. Copies of the said maps have been deposited at the office of the Department of Trade and Industry, Marine Division, Sunley House, 90 High Holborn, London WC1.

PART VII

FINANCIAL PROVISIONS

Order of application of revenue of the harbour authority

25. The Authority shall apply the revenue (whether from dues or otherwise) received by it in respect of the transferred harbours 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 purposes of the harbours;
- (d) in paying sums into such a reserve fund as may be established subject to such terms and conditions as the Ministry may approve.

Borrowing by the harbour authority

26.—(1) Subject to paragraph (2) the Authority may from time to time borrow at interest upon the security of all or any of the revenues and property of the Authority such sums of money as it may think fit for any purpose for which capital monies are properly applicable.

(2) The Authority shall not without the consent of the Ministry in writing borrow under the powers conferred by paragraph (1).

(3) Subject to paragraph (4) the Authority may borrow such sums of money as it deems necessary for providing temporarily for current expenditure for any of the purposes of the Authority.

(4) The aggregate amount outstanding in respect of borrowing under paragraph (3) shall not exceed £5,000 without the prior consent of the Ministry in writing.

Offenders to make good damage

27.—(1) Any person offending against or committing any breach or contravention of any of the provisions of this Order or of any byelaw made by the Authority in addition to any fine thereby incurred shall be liable to repay to the Authority the cost of repairing or making good any damage directly or indirectly occasioned thereby to the property of the Authority.

(2) The Authority may recover as a simple contract debt from any such person the cost of repairing or making good any such damage and may detain any vessel or other property belonging to or in charge of such person or belonging to the employees of such person until the said cost has been paid or until security therefor has been given to the satisfaction of the Authority.

Exemptions from charges

28.—(1) Any of the following persons 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 the transferred harbours:—

- (a) any person authorised in that behalf by the Ministry;
- (b) any officer of Customs and Excise or of the Department of Trade and Industry, 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;
- (f) any person in the employment of the Commissioners of Irish Lights in the execution of his duty.

(2) 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 the transferred harbours, be exempt from any dues leviable in respect of the use of the said harbours, if the vessel does not break bulk while doing so.

PART VIII

MISCELLANEOUS

Employment of officers

29. Subject to Articles 21, 22, 23 and 30 the number, remuneration and terms and conditions of employment of persons employed by the Authority (including a secretary appointed under Article 6(2)) shall, except insofar as the Ministry may otherwise direct, be subject to the approval of the Ministry.

Code of employment

30.—(1) The Authority shall within one month from the coming into operation of this Order submit to the Ministry for approval a code of procedure for—

- (a) securing fair and equal consideration of applications to the Authority by persons seeking to be employed as officers of the Authority; and
- (b) fair and equal treatment of persons so employed and officers who have been transferred pursuant to Article 21.

(2) If the Authority fails to comply with the requirements of paragraph (1) the Ministry may give to the Authority such directions as it thinks fit and the Authority shall comply with those directions.

(3) The Ministry may approve a code submitted as mentioned in paragraph (1) subject to such modifications as it thinks fit.

(4) Subject to Article 21, no person shall be employed by the Authority otherwise than in accordance with a code so approved.

Repeal and revocation of enactments

31. As from the transfer date the enactments specified in columns 1 and 2 of Schedule 2 shall be repealed or revoked to the extent specified in column 3 of that Schedule.

Sealed with the Official Seal of the Ministry of Commerce this 13th day of February 1973.

(L.S.)

Kenneth Darwin,
Assistant Secretary.

SCHEDULE 1

ARTICLE 8

Conditions relating to tidal works

1. A tidal work shall not be constructed, altered or extended except in accordance with plans and sections approved by an appropriate department and subject to any conditions and restrictions imposed by the department before the work is begun.

2. If a tidal work is constructed, altered or extended in contravention of paragraph 1 or any condition or restriction imposed under the said paragraph—

- (a) an appropriate department may by notice in writing require the Authority at its own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition; and if, on the expiration of thirty days from the date when the notice is served upon the Authority it has failed to comply with the requirements of the notice, the department may execute the works specified in the notice; or
- (b) if it appears to an appropriate department urgently necessary so to do, it may itself remove the tidal work or part of it and restore the site to its former condition; and

any expenditure incurred by an appropriate department in so doing shall be recoverable from the Authority as a simple contract debt.

3.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof the Authority shall forthwith notify the Commissioners of Irish Lights and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the Commissioners of Irish Lights shall from time to time direct.

(2) If the Authority fails to notify the Commissioners of Irish Lights as required by sub-paragraph (1) or to comply in any respect with a direction given under the said sub-paragraph it shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

4.—(1) Where a tidal work is abandoned, or suffered to fall into decay, an appropriate department may by notice in writing require the Authority at its own expense either to repair and restore the work or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the appropriate department thinks proper.

(2) Where a work consisting partly of a tidal work and partly of works on or over land above the level of mean high-water springs is abandoned or suffered to fall into decay and that part of the work on or over land above the level of mean high-water springs is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, an appropriate department may include that part of the work, or any portion thereof, in any notice under sub-paragraph (1).

(3) If, on the expiration of thirty days from the date when a notice under sub-paragraph (1) is served upon the Authority it has failed to comply with the requirements of the notice an appropriate department may execute the works specified in the notice and any expenditure incurred by the department in so doing shall be recoverable from the Authority as a simple contract debt.

5. An appropriate department may at any time, if it deems it expedient, order a survey and examination of a tidal work constructed by the Authority or of the site upon which it is proposed to construct the work and any expenditure incurred by the department in any such survey and examination shall be recoverable from the Authority as a simple contract debt.

6.—(1) After the completion of a tidal work the Authority shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Commissioners of Irish Lights shall from time to time direct.

(2) If the Authority fails to comply in any respect with a direction given under sub-paragraph (1) it shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

7. In this Schedule "an appropriate department" means the Secretary of State for Trade and Industry or the Ministry.

SCHEDULE 2

ARTICLE 31

Enactments repealed or revoked

Chapter	Short Title	Extent of Repeal or Revocation
7 & 8 Geo. 4 c. lxxx	The Ardglass Harbour Act 1827	The whole Act
11 Geo. 4 c. xi	The Ardglass Harbour Act 1830	The whole Act
	The Ardglass Harbour Order 1864	The whole Order so far as it is not revoked
27 & 28 Vict. c. xciii	The Pier and Harbour Orders Confirmation Act 1864	So much thereof as relates to the Ardglass Harbour Order 1864
	The Ardglass Harbour Order 1866	The whole Order
29 & 30 Vict. c. lviii	The Pier and Harbour Orders Confirmation Act 1866	So much thereof as relates to the Ardglass Harbour Order 1866
39 & 40 Vict. c. ccxxxvi	The Ardglass Harbour Act 1876	Sections 1 to 3 and 5 to 15
23 & 24 Geo. 5 c. 14 (N.I.)	The Ardglass Dock and Harbour Act (Northern Ireland) 1933	Sections 1(2) and 2 to 5

EXPLANATORY NOTE

(This note is not part of the Order, but is intended to indicate its general purport.)

This Order constitutes a fishery harbour authority and transfers to it from Down County Council the harbours of Kilkeel and Portavogie and from the Ministry of Commerce the harbour of Ardglass. It confers powers on the harbour authority including the improvement, maintenance and management of the transferred harbours.