
STATUTORY RULES OF NORTHERN IRELAND

1998 No. 221

HARBOURS

Larne Harbour Order (Northern Ireland) 1998

Made - - - - - 17th June 1998

*To be laid before Parliament under paragraph 3(3) of
Schedule 1 to the Northern Ireland Act 1974*

Coming into operation 29th July 1998

The Department of the Environment, in exercise of the powers conferred by section 1(1), (2) and (3) of, and Schedules 1 and 2 to, the Harbours Act (Northern Ireland) 1970⁽¹⁾ (“the 1970 Act”) and now vested in it⁽²⁾ and of every other power enabling it in that behalf, and after consultation with Larne Harbour Limited 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 the 1970 Act, hereby makes the following Order:

Citation and commencement

1.—(1) This Order may be cited as the Larne Harbour Order (Northern Ireland) 1998 and shall come into operation on 29th July 1998.

(2) This Order shall be construed as one with The Curran Pier (Larne Harbour) Orders 1871 to 1936⁽³⁾.

(3) The Curran Pier (Larne Harbour) Orders 1871 to 1936 and this Order may be cited together as the Larne Harbour Orders 1871 to 1998.

Interpretation

2. In this Order—

“the Company” means Larne Harbour Limited;

“Department” means the Department of the Environment;

“harbour master” means the harbour master appointed by the Company and any person authorised by the Company to act in that capacity;

“level of high water” means the level of mean high-water springs;

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

(2) See Article 4 of S.I. 1982 No. 846 (N.I. 11) and by Article 3 of S.R. 1987 No. 105

(3) 1871 34 & 35 Vict. c. Iviii; 1888 51 & 52 Vict. c. cxix; 1936 26 Geo. 5 & 1 Edw. 8 c. i

“master” means any person other than a pilot for the time being having or taking the command, charge, possession or management of a vessel whether lawfully or wrongfully;

“oil” means oil of any description and includes spirit produced from oil of any description and also includes coal tar and a mixture containing oil;

“owner” when used with reference to any vessel means the owner of a vessel and any person having any interest in a vessel (whether as joint owner, lessee, charterer, mortgagee or otherwise);

“port” means the port of Larne, the limits of which are set out or referred to in Article 5 (area of jurisdiction);

“vessel” means every description of vessel, however propelled or moved, and includes—

- (a) anything constructed or used to carry persons or goods by water;
- (b) any rig, platform or other man-made structure on or in the water; and
- (c) a seaplane on or in the water, a hovercraft and a hydrofoil vessel.

Amendment of Curran Pier (Larne Harbour) Orders 1871 to 1936

3.—(1) The Curran Pier (Larne Harbour) Orders 1871 and 1888 shall be amended as follows—

- (a) in section 8 of the Curran Pier and Harbour Order 1871 for the words “and 26”, there shall be substituted the words “, 26, 52, 53, 57, 58, 64 and 65”;
- (b) in section 11 of the Curran Pier (Larne Harbour) Order 1888 for the words “and 26”, there shall be substituted the words “, 26, 52, 53, 57, 58, 64 and 65”.

(2) Section 69 of the Harbours, Docks, and Piers Clauses Act 1847(4), as deemed to be incorporated with the Curran Pier (Larne Harbour) Orders 1871 to 1936, shall have effect as if for the words from “shall forfeit” to the end of the section there were substituted the words “shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale”.

(3) Section 85 of the said Act of 1847, as deemed to be incorporated with the Curran Pier (Larne Harbour) Orders 1871 to 1936, shall have effect as if for the words from “in the prescribed manner” to the end there were substituted the words “by the Department”.

General powers of Company in respect of port

4.—(1) The Company may, subject to the provisions of this Order, take such steps from time to time as it may consider necessary for the improvement, regulation, maintenance, management, marking or lighting of the port and the facilities afforded therein or in connection therewith.

(2) For those purposes, and without prejudice to the generality of the foregoing, the Company may construct, demolish, reconstruct, maintain, alter, improve, enlarge or extend embankments, walls, footways, approaches, steps, landing places, pontoons, piers, quays, jetties, slips, wharves, groynes, sea defences, buoys, navigation marks, cranes, lights, beacons, sewers, drains, watercourses, gas and water pipes, apparatus for electric light and power, warehouses, offices, sheds and other works and facilities which may be found necessary to secure the purposes of this Order including the accommodation of vessels, vehicles or other traffic or for the protection of the port.

Area of jurisdiction

5.—(1) Subject to the provisions of this Order, the Company shall exercise its functions within the port, being the area shown on the map bounded by—

- (i) a straight line drawn from reference point 54°52'34"N, 05°49'19"W (Black Cave Head) to reference point 54°52'41"N, 05°45'13"W (the beacon at South Hunter Rock);
- (ii) a straight line drawn from reference point 54°52'41"N, 05°45'13"W (the beacon at South Hunter Rock) to reference point 54°51'34"N, 05°45'40"W (Skernaghan Point);
- (iii) a straight line drawn from reference point 54°51'34"N, 05°45'40"W (Skernaghan Point) to reference point 54°51'30"N, 05°46'44"W (Barr's Point);
- (iv) the level of high water on the shores of Islandmagee from reference point 54°51'30"N, 05°46'44"W (Barr's Point) to reference point 54°50'24"N, 05°46'40"W (south-east of Ballylumford Power Station);
- (v) a straight line drawn from reference point 54°50'24"N, 05°46'40"W (south-east of Ballylumford Power Station) to reference point 54°50'24"N, 05°48'00"W (Curran Point);
- (vi) the level of high water from reference point 54°50'24"N, 05°48'00"W (Curran Point), extending in a northerly direction, to reference point 54°52'34"N, 05°49'19"W (Black Cave Head);

together with the docks, landing places, and all other works and land of the Company for the time being held by it for the purposes of or in connection with that area.

(2) In this Article "the map" means the map marked "Larne Harbour Order (Northern Ireland) 1998" which has been signed and sealed by the Department with reference to this Order and deposited at the Office of the Department at Clarence Court, 10-18 Adelaide Street, Belfast BT2 8GB.

Power to secure sufficient waterway and sell dredged, etc. materials

6.—(1) The Company may deepen, dredge, scour or excavate, or blast any rock in, any part of the port or the approaches thereto to the extent necessary to secure a sufficient waterway for vessels using the port or approaching or leaving the same.

(2) The Company shall not deposit any materials in a place below the level of high water except—

- (a) with the consent of, and subject to any conditions imposed by, the Crown Estate Commissioners; and
- (b) in such places and subject to such conditions as the Secretary of State concerned with navigation and the Department may determine.

(3) In the exercise of the powers under this Article the Company shall not—

- (a) interfere with or damage or otherwise injuriously affect any apparatus belonging to or maintained by any statutory undertaker; or
- (b) do anything which will obstruct or impede any work relating to the inspection or repair of any such apparatus,

without the consent of the statutory undertaker concerned.

(4) For the purposes of this Article "statutory undertaker" means any person including a Government Department or district council authorised by any statutory provision to carry on any railway, dock, harbour, gas, water, or other public undertaking, any licensee under Article 10(1) (licences authorising supply, etc.) of the Electricity (Northern Ireland) Order 1992⁽⁵⁾ or an operator of a telecommunications code system as defined in paragraph 1(1) of Schedule 4 to the Telecommunications Act 1984⁽⁶⁾.

⁽⁵⁾ S.I. 1992/231 (N.I. 1)

⁽⁶⁾ 1984 c. 12

Power to raise and remove wrecks

7.—(1) The Company may raise, remove, blow up or otherwise destroy or dispose of any vessel which is sunk, stranded or abandoned (whether before or after the making of this Order) in the port or the approaches thereto.

(2) Where the Company has exercised any of its powers under paragraph (1), it may cause the vessel or its cargo or anything associated with the vessel to be sold in such manner as it thinks fit and may, out of the proceeds of sale, retain the expenses incurred by it in the exercise of its powers under this Article and any expenses incurred by the Company in marking, buoying, watching, lighting or otherwise controlling the vessel or its cargo, in removing or saving the cargo or anything associated with the vessel, or giving warning to shipping of the presence of the vessel and shall pay the surplus, if any, to the person entitled thereto.

(3) If the proceeds of sale are insufficient to reimburse the Company for the said expenses, it may recover as a simple contract debt from the person who, at the time of the sinking, stranding or abandonment of the vessel, is or was the owner thereof, or from the administrators or executors of such owner, or from any person claiming succession in title from such owner, any such expenses which are not reimbursed out of the proceeds of sale or, in the case of an appeal under paragraph (4) against the amount demanded, such sum as may be awarded under that paragraph.

(4) At any time before the expiration of 14 days from the date of service of a demand for the payment of any amount under paragraph (3) the person on whom the demand is made may, if he is dissatisfied with the amount demanded, appeal to the Department which shall appoint an arbitrator to determine whether any, and if so what, sum should properly be payable in respect of the Company's expenses aforesaid; and the decision of the arbitrator shall be final and binding on both parties, and the costs of the appeal and award shall be borne by the parties in such manner as the arbitrator may determine and be recoverable as a simple contract debt.

(5) Except where there is, in the opinion of the harbour master, an emergency, paragraph (1) shall not apply in relation to any vessel unless, before exercising in relation to that vessel any of the powers conferred on the Company by that paragraph, the Company has given to the owner of the vessel not less than 48 hours' notice of its intention to do so; and if before the notice expires the Company receives from the owner counter-notice in writing that he desires to dispose of the vessel himself, he shall be at liberty to do so, and the Company shall not exercise its powers in relation to that vessel until the expiration of seven days from the receipt of the counter-notice and of any further continuous period thereafter during which the owner of the vessel proceeds with the disposal thereof with all reasonable diligence and in compliance with any directions for the prevention of interference with navigation or the business at the port which may be given to him by the harbour master.

(6) If the owner of a vessel to whom notice is to be given under paragraph (5) is not known to the Company, or if his place of business or abode is not so known or is outside the United Kingdom, the notice may be given by displaying it at the office of the Company for the period of its duration.

(7) The powers conferred by this Article shall be in addition to the powers exercisable by the Company under section 252 of the Merchant Shipping Act 1995(7).

Obstruction of harbour master and others

8. Any person who obstructs or interferes with the harbour master or with any officer or servant of the Company in the exercise of his powers or the performance of his duties under this Order shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Power to obtain information as to vessels

9.—(1) In this Article “vessel” means any vessel named or identified in a notice under this Article.

(2) Where, with a view to performing a function conferred on it by or under any enactment, the Company considers that it ought to have information as to the master or the owner, as the case may be, of any vessel which is or has been in the port, the Company may serve a notice on any person reasonably believed by it to be the master or owner, or to have been the master or owner at any date specified in the notice, requiring the recipient to furnish to the Company within a period specified in the notice (which shall not be less than 14 days beginning with the day on which the notice is served) the following information—

- (a) the name and address of any person whom the recipient of the notice believes to be the master or owner of the vessel, or to have been such master or owner at any date specified in the notice;
 - (b) the capacity in which any person who is or has been or is believed by the recipient of the notice to be or have been the master has or takes command, charge, possession or management of the vessel, or had or took such command, charge, possession or management at any date specified in the notice; or
 - (c) the nature of the interest in or control over the vessel, at any date specified in the notice, of any person who is or has been or is believed by the recipient of the notice to be or have been the owner.
- (3) A notice under this Article shall—
- (a) name or otherwise identify the vessel in respect of which it is served;
 - (b) specify the function for the purpose of the performance of which the notice is served; and
 - (c) specify the enactment by or under which that function is to be performed.

(4) A notice shall not be served under this Article on any person who, at the date of service, is believed by the Company to be no longer the master or owner of the vessel named or identified in the notice if the Company believes that more than 6 months have elapsed since the recipient ceased to be such owner or master.

- (5) A person who—
- (a) fails, without reasonable excuse, to comply with the requirements of a notice served on him under this Article; or
 - (b) in furnishing any information in compliance with such a notice makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

General rules for navigation

10. A master who navigates his vessel in the port—

- (a) without due care and attention; or
- (b) in a manner liable to injure or endanger persons, other vessels, the banks of the port (whether above or below the level of high water) or any facility, structure or installation in the port,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Vessels adrift

11.—(1) The owner or master of a vessel adrift in the port shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) It shall be a defence for the owner or master of a vessel charged with an offence under paragraph (1) to prove that the vessel did not become adrift as the result of any neglect or default on his part.

General directions to vessels

12.—(1) The Company may give directions for the purposes of promoting or securing conditions conducive to the ease, convenience or safety of navigation in the port and, without prejudice to the generality of the foregoing, for any of the following purposes—

- (a) for designating areas, routes and channels within the port which vessels are to use or refrain from using for movement or mooring;
- (b) for securing that vessels move only at certain times or during certain periods; or
- (c) requiring the master of a vessel to give to the harbour master information relating to the vessel reasonably required by the harbour master in order to effect the objects of this paragraph.

(2) A general direction may apply—

- (a) to all vessels or to a class of vessel designated, or the designation of which is provided for, in the direction;
- (b) to the whole of the port or to a part designated, or the designation of which is provided for, in the direction; or
- (c) at all times or at times designated, or the designation of which is provided for, in the direction,

and every general direction shall specify the extent of its application in relation to the matters referred to in sub-paragraphs (a), (b) or (c).

(3) The Company may revoke or amend a general direction.

(4) Notice of a general direction shall as soon as practicable after it is given, be published by the Company once in Lloyd's List or some other newspaper specialising in shipping news and shall state a place at which copies of the direction may be inspected.

Special directions

13.—(1) The harbour master may give a special direction in respect of a vessel anywhere in the port for any of the following purposes—

- (a) regulating or requiring the movement, berthing, mooring or unmooring of the vessel;
- (b) regulating the loading, discharging, storing and safeguarding of its cargo, fuel, water or stores and the dispatch of its business at the port;
- (c) specifying the precautions to be taken in respect of apparatus, machinery and equipment;
- (d) prohibiting or restricting the use of fires or lights;
- (e) as to the use of ballast;
- (f) requiring the removal of the vessel from any part of the port if—
 - (i) it is on fire;
 - (ii) it is such condition as to be liable to become immobilised or waterlogged, or to sink;
 - (iii) it is making an unlawful use of the port;

(iv) it is interfering with the use of the port by vessels or otherwise or the dispatch of business therein; or

(v) its removal is necessary to enable maintenance or repair work to be carried out to the port or to premises adjacent thereto;

and requiring its removal outside the port if such removal is considered by the harbour master to be necessary in order to avoid danger to life (including wildlife) or to property.

(2) A special direction under this Article may also be given, so far as required for safety of navigation, for requiring or regulating the use of tugs in relation to a vessel.

(3) A special direction may be given in any manner considered by the harbour master to be appropriate.

Enforcement of special directions

14.—(1) Without prejudice to any other remedy available to the Company, if a special direction is not complied with within a reasonable time, the harbour master may put persons aboard the vessel to carry out the direction or may otherwise cause the vessel to be handled in accordance with the direction.

(2) If there is no one on board a vessel to attend to a special direction, the harbour master may proceed as if the direction had been given and not complied with.

(3) Expenses incurred by the Company in exercise of the powers conferred by paragraph (1) shall be recoverable by it as if they were a charge of the Company in respect of the vessel.

Failure to comply with directions

15.—(1) The master of a vessel who fails to comply with a general direction or a special direction shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) It shall be a defence for the master of a vessel charged with an offence under paragraph (1) to prove that he had reasonable ground for believing that compliance with the direction in question would be likely to imperil his vessel or that in the circumstances compliance was impracticable.

Master's responsibility in relation to directions

16. The giving of a general direction or a special direction shall not diminish or in any other way affect the responsibility of the master of the vessel affected in relation to that vessel, to persons on board, to its cargo or to any other person or property.

Power to prevent or reduce oil pollution

17.—(1) Subject to paragraph (2), in addition to any powers conferred on the Company or on the harbour master by or under any enactment in respect of vessels which are sunk, stranded or abandoned, if a vessel which is sunk, stranded or abandoned in the port is discharging oil, or, in the opinion of the Company, is likely to discharge oil, into the port or the approaches thereto (then whether or not the Company or the harbour master have exercised in relation to that vessel any of the powers aforesaid) the Company may give such directions as respects the vessel or its cargo as it considers necessary or expedient for the purpose of preventing or reducing oil pollution, or the risk of oil pollution, to the master of that vessel.

(2) The Company shall not give directions under paragraph (1), if and so long as it is of the opinion that every practicable measure is being taken with all reasonable diligence for the purpose of preventing or reducing oil pollution, or the risk of oil pollution.

(3) If the master of such vessel as is mentioned in paragraph (1) fails to comply with the directions given under that paragraph, or if there be no competent person on board such vessel to attend to such directions, the Company may take such steps as it considers necessary or expedient as respects the vessel or its cargo, including operations involving the taking over of control of the vessel, for the purpose of preventing or reducing oil pollution, or the risk of oil pollution, and any expenses incurred by the Company in respect of such steps shall, save as provided by paragraph (5), be recovered by the Company from the owner and the Company may detain such vessel for securing the expenses and on non-payment of such expenses on demand may sell such vessel and out of the proceeds pay such expenses paying the surplus, if any, to the owner on demand.

(4) If the proceeds of sale are insufficient to reimburse the Company for the said expenses it may recover any such expenses which are not reimbursed out of the proceeds of the sale or if there is no sale, the whole of those expenses from the person who at the time the directions specified in paragraph (1) were given was the owner of the vessel and any action under this paragraph shall fall within the admiralty jurisdiction of the High Court and shall be deemed to be a claim for dock charges or dues under section 55 of, and paragraph 1(1)(n) of Schedule 1, to the Administration of Justice Act 1956⁽⁸⁾.

(5) Where in respect of any vessel the Company or the harbour master exercises the powers which are referred to in paragraph (1), and where expenses incurred under those powers are recoverable by the Company, and where expenses are also incurred by the Company under paragraph (3) in respect of the same vessel, then the Company may recover all such expenses howsoever incurred as if they were incurred under paragraph (3).

(6) Any reference in this Article to the taking of any action includes reference to a compliance with a direction not to take some specified action.

(7) The Company shall, as soon as is practicable, notify the Department when exercising its powers under this Article.

(8) In this Article “cargo” includes bunker fuel and any of the machinery, boats, equipment or articles on board a vessel.

Incorporation of section 156 of the Merchant Shipping Act 1995

18. In the exercise of any powers conferred on the Company for the purpose of preventing an obstruction or danger to navigation, to dispose of any vessel sunk, stranded or abandoned, or for preventing or reducing the discharge of oil, or the risk of discharge of oil, the Company shall, for the purpose of section 156 of the Merchant Shipping Act 1995⁽⁹⁾, be regarded as a person performing salvage operations with the agreement of the owner.

Provisions relating to oil pollution and raising of wrecks

19.—(1) In the exercise of any of its powers under Article 7 (power to raise and remove wrecks) or Article 17 (power to prevent or reduce oil pollution) the Company shall have regard to the desirability of consulting the owner of the vessel and of co-ordinating with the owner, where practicable, the steps to be taken and shall in all cases notify the Department.

(2) Every person concerned with compliance with directions given, or with action taken, under the said Articles 7 and 17 shall use his best endeavours to avoid any risk to human life.

Removal of vehicles from port

20.—(1) If a vehicle is left without the permission of the Company—

⁽⁸⁾ 1956 c. 46

⁽⁹⁾ 1995 c. 21

(a) in a parking place provided by the Company for a longer period than 24 hours; or
(b) in any part of the port where the parking of vehicles is prohibited by notice erected by the Company; or
(c) in any place within the port where it is likely to obstruct or interfere with the use of the port, the Company may cause it to be removed to a place of safe custody.

(2) Any such notice as is referred to in paragraph (1) shall be conspicuously posted in or in proximity to the place to which it relates.

(3) Where the Company in exercise of the powers of this Article causes a vehicle to be removed, the expenses of and incidental to its removal and safe custody shall be recoverable by the Company from the person responsible.

(4) If the Company in exercise of the powers of this Article causes a vehicle to be removed, it shall, if and as soon as it is reasonably practicable to do so, send to the person for the time being registered as the keeper of the vehicle for the purposes of the Road Vehicles (Registration and Licensing) (Northern Ireland) Regulations 1973(10), at his last known address, his registered address or the address where the vehicle is ordinarily kept, notice that the Company has exercised the powers of this Article and of the place to which the vehicle has been removed.

(5) A notice stating the general effect of paragraph (1) shall be displayed in a prominent position at each entrance to any parking place provided by the Company and at each place where a road accessible to vehicles enters any part of the port, and shall be endorsed on any tickets issued to persons leaving vehicles in such parking place or elsewhere at the port.

(6) In paragraph (3) “person responsible”, in relation to a vehicle, means—

- (a) the owner of the vehicle at any time when it was left in the place from which it was so removed, unless he shows that he was not concerned in and did not know of its being put there; or
(b) any person by whom it was put in the place aforesaid.

Sealed with the Official Seal of the Department of the Environment on

L.S.

17th June 1998.

J. Ritchie
Assistant Secretary

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order confers powers on Larne Harbour Limited, as harbour authority in connection with the regulation, use and maintenance of the port of Larne.

The Order also defines the limits of jurisdiction of Larne Harbour Limited. Those limits of jurisdiction are identified by means of a map marked “Larne Harbour Order (Northern Ireland) 1998” which has been signed and sealed with reference to this Order and deposited at the Office of the Department of the Environment, Clarence Court, 10-18 Adelaide Street, Belfast BT2 8GB. Copies of the map have been deposited at Larne Harbour Limited, 9 Olderfleet Road, Larne BT40 1JS where they are available for inspection at any reasonable hour.