

HARBOURS (GRANTS AND LOANS LIMIT) BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial memorandum has been prepared by the Department for Infrastructure (“the Department”) in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It does not, and is not meant to be, a comprehensive description of the Bill. Where a clause or part of a clause does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. As part of a small island off the mainland of Europe, Northern Ireland has no physical connections to the wider UK or European transport infrastructure, excluding the Republic of Ireland, and is entirely reliant on our sea ports and airports for access to key markets and destinations. This is reflected in the fact that a major proportion of our goods arrive through our commercial sea ports. The maritime sector will be aiming to thrive and strengthen, as it plans to address the threats and opportunities that exiting the EU brings, in addition to the challenges generated by the current Covid-19 pandemic. It is therefore important that our key gateway ports have sufficient capacity to facilitate future economic growth, and are connected to key destinations and markets.
4. All of Northern Ireland’s ports are governed by the grants and loans legislation contained in the Harbours Act (Northern Ireland) 1970 (the Act). The Trust Ports at Belfast Harbour, Coleraine Harbour, Foyle Port and Warrenpoint Port, and the privately owned Port of Larne, as Harbour Authorities all fund their own capital investment, while the Department can make loans and grants to them under the Act. All the Ports are expected to be commercially self-supporting and the main purpose of the financial aspects of the Act is to assist in developments of a major nature. It is usual to provide a limit on the amount of assistance which government may give in a particular field.
5. An urgent amendment is required to the Act in order to raise the existing total limit of £35m that the Department can provide to the region’s ports by means of loans and grants.
6. The existing total limit of £35m was set in 1989 and applying the Retail Prices Index provides a new limit of £90m. The new limit will help to ensure that the Department

is in a position to assist the ports during the Covid-19 crisis, and with any additional development works required as a result of EU Exit.

CONSULTATION

7. The Department carried out a targeted consultation with Belfast Harbour, Coleraine Harbour, The Port of Larne, Foyle Port and Warrenpoint Port. All four of Northern Ireland's main commercial ports were in agreement with the proposed Bill. Coleraine Harbour did not reply to the consultation.

OPTIONS CONSIDERED

8. In addition to the power for the Department to provide grants and loans (subject to the £35m cap) to the ports, it should be noted that in 2002, individual harbour orders were introduced for the Trust Ports (Belfast, Coleraine, Foyle and Warrenpoint) that included the ability for the ports to borrow commercially. However, the Department of Finance has advised that Treasury's Consolidated Budgeting Guidance is clear that commercial borrowing can only be used in certain very specific circumstances, one of which is that there is no power for Government to lend to Public Corporations like the Trust Ports. Therefore, commercial borrowing can only be seen as a safety net for the ports if it is not possible to get the £35m borrowing limit in the 1970 Act amended as a matter of urgency.
9. In considering the need to increase the £35m limit in the Act and the level at which the new limit should be set, consideration was given to getting the balance right in terms of continuing to encourage the Trust Ports to be self-funding, while at the same time not restricting their future plans for development, particularly at this challenging time for them. The most realistic option in terms of raising it was seen to be to do it in line with inflation. There are three main inflationary estimates produced by the Office of National Statistics, all of which produced slightly different estimates when applied to the existing £35m limit. Departmental Economists and the Department of Finance suggested the use of the Retail Prices Index (RPI). RPI is currently used to index various prices and incomes, including tax allowances, state benefits, pensions, rail fares and student loan repayments. Applying RPI provided the new limit of £90m.

OVERVIEW

10. The Bill has one substantive clause. It increases the statutory limit on loans and grants under sections 2 and 3 of the Harbours Act (Northern Ireland) 1970. It increases the existing £35m limit to a new limit of £90m.

COMMENTARY ON CLAUSES

Clause 1: Increase of limit on grants and loans for harbour works, etc.

This clause increases the statutory limit on loans and grants under sections 2 and 3 of the Harbours Act (Northern Ireland) 1970. It raises the existing total loan and grant limit from £35m to £90m. This will enable the Department to continue to be able to provide financial assistance to the region's ports by means of loans and grants. The existing limit has almost been reached and there are major challenges being faced by the ports at this time, particularly as a result of the Covid-19 crisis and EU Exit.

As a consequence of the increase to the statutory limit, subsection (2) of this clause repeals Article 4 of the Financial Provisions (Northern Ireland) Order 1989, a provision which previously amended the statutory limit.

Clause 2: Commencement

This provides that the Bill comes into operation on the day after the Act receives Royal Assent.

Clause 3: Short Title

This cites the Bill as the Harbours (Grants and Loans Limit) Act (Northern Ireland) 2020.

FINANCIAL EFFECTS OF THE BILL

11. The Bill will not give rise to any government expenditure, rather it will ensure that the Department is in a position to facilitate any future loans and grants that are agreed for the region's ports.
12. The UK's major Trust Ports are classified as Public Corporations by the Office of National Statistics because the Government was deemed to have an overall controlling interest. As a result of this classification any borrowings by Trust Ports irrespective of where the funds are sourced, count against the Department's capital Delegated Expenditure Limit (DEL).
13. The Bill falls within section 63(2)(a) of the Northern Ireland Act 1998 because it increases a charge on the Consolidated Fund, therefore, the recommendation of the Minister of Finance has been obtained for the Bill.

HUMAN RIGHTS ISSUES

14. The proposal has been screened and is considered to be Convention compliant.

EQUALITY IMPACT ASSESSMENT

15. The opportunities which may be provided or preserved directly or indirectly due to the Department being able to facilitate future loans and grants to the regions ports has the potential for a positive effect on the NI economy and on all citizens. Therefore, this Bill does not have any adverse impact on any group.

SUMMARY OF THE REGULATORY IMPACT ASSESSMENT

16. There would be potential negative impact on businesses if these legislation changes were not to be made and the ports were unable to carry out additional infrastructure or business development activities. Therefore, the need for a regulatory impact assessment has been screened out.

DATA PROTECTION IMPACT ASSESSMENT/DATA PROTECTION BY DESIGN

17. The Bill does not require the processing of personal information.

RURAL NEEDS IMPACT ASSESSMENT

18. The ports are geographically dispersed around the coastline of the region and are a major contributor to the NI and local regional economies. The need for a rural needs impact assessment has been screened out as the continued development of NI ports is beneficial to the local rural economy, both through the import and export of goods (often agricultural) and by providing regional employment opportunities.

LEGISLATIVE COMPETENCE

19. At Introduction the Minister for Infrastructure, Ms Nichola Mallon, had made the following statement under Section 9 of the Northern Ireland Act 1998:

“In my view the Harbours (Grants and Loans Limit) Bill would be within the legislative competence of the Northern Ireland Assembly.”

RECOMMENDATION

20. The Minister of Finance, Mr Conor Murphy, has made the following recommendation as required under section 63 of the Northern Ireland Act 1998:

“As Minister of Finance, I recommend this Bill to the Assembly as is required by Section 63 of the Northern Ireland Act 1998.”