

THE HARBOURS BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial Memorandum has been prepared by the Department for Infrastructure 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 is not, and is not meant to be, a comprehensive description of the Bill. So, where a clause or part of a clause or schedule does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The primary purpose of the Order is to modernise the legislative and governance framework for Northern Ireland's Trust Ports. Trust Ports are autonomous, statutory bodies and are run for the benefit of all their stakeholders. This legislation is to enable them to operate more efficiently and strengthen their contribution to the regional economy. In 2025 the Department for Infrastructure (DfI) completed a review of Trust Ports in Northern Ireland to ensure they are well placed to support economic growth, operate effectively, and respond to future opportunities.
4. This objective, in part, will be achieved with the enactment of subordinate legislation in the form of four harbour orders made under section 1 of the Harbours Act (Northern Ireland) 1970 for the ports of Belfast, Coleraine, Londonderry and Warrenpoint. These Orders will ensure the ports can operate more independently, provide enhanced commercial powers which must continue to support port-related objectives and maintain the financial health of the port.
5. However, primary legislation is required to update the governance to address the Office for National Statistics (ONS) classification of Trust Ports. This classification has no legal effect on the statutory powers, functions, or ownership of Trust Ports in Northern Ireland. The need for this arises from the Trust Port borrowings requiring capital budget cover from the Department and so this borrowing is effectively competing with our Departmental projects.

CONSULTATION

6. The Department issued a consultation document on a number of fundamental questions regarding the powers, status and governance of the Trust Ports on 16 December 2024. A total of sixty responses were received before the consultation closed, mainly from the harbour authorities, Government/Public Sector, Organisations (including Business, Trade, Industry, Academic, Political Party and Community/Resident/Voluntary

Organisations) and from individuals. The views expressed have been considered and, where appropriate, taken into account.

OPTIONS CONSIDERED

7. The Department considered retaining the status quo with no change to the legislative framework for harbour authorities. However, this would have resulted in impediments to Trust Ports future operation and growth.

OVERVIEW

8. Trust Ports are independent statutory bodies governed by their own legislation and run by independent boards who manage the assets of the trust for the benefit of stakeholders. They are generally creatures of statute and operate only within the powers and duties conferred on them by statute.
9. The overall impact of the Bill will be to modernise the legislative and governance framework for Northern Ireland's Trust Ports and harbour authorities, enabling them to operate more efficiently and strengthen their contribution to the regional economy and allow them the opportunity to operate at a competitive level with other ports in Great Britain and the Republic of Ireland.
10. The Bill also takes account of marine safety issues and makes similar provision to that introduced in GB following the introduction of the Marine Navigation Act 2013.
11. The Order is made up of six principal clauses. The first concerns the repeal of power to initiate transfer of harbour authorities. The second provides for the repeal of the Department's power to issue directions to harbour authorities. The third addresses the power of harbour authorities. The fourth relates to the power of harbour authorities to give harbour directions, and the fifth deals with the purposes for which harbour orders may be made under section 1 of the Harbours Act (Northern Ireland) 1970.

COMMENTARY ON CLAUSES

12. The Bill consists of 6 Clauses.

Clause 1: Limitation of power to initiate transfer of harbour authorities

This clause amends Article 12 of the Ports (Northern Ireland) Order 1994, in relation to Trust Ports. This removes the power for the relevant Department (Department for Infrastructure for the trust ports), to initiate privatisation schemes for those harbours which meet the turnover criteria.

This clause amends Article 12 of the Ports (Northern Ireland) Order 1994. Article 12 gives powers to relevant Departments to initiate schemes for the privatisation of a relevant port authority (within the meaning given by that Order) that meets criteria relating to annual turnover. The amendment prevents the Department for Infrastructure from exercising these powers in respect of the Belfast Harbour Commissioners, the Coleraine Harbour Commissioners, the Londonderry Port and Harbour Commissioners and the Warrenpoint Harbour Authority.

Clause 2: Limitation of power to issue directions to harbour authorities

This clause amends Article 4 of the Harbours (Northern Ireland) Order 2002, in relation to Trust Ports, by removing the power of the Department to give directions to designated harbour authorities.

Currently Article 4 provides the Department with the power to issue directions to a designated harbour authority (within the meaning given by that Order) in relation to the exercise of its functions and sets out the arrangements for doing so. The amendment, therefore prevents the Department for Infrastructure from giving directions to the Belfast Harbour Commissioners, the Coleraine Harbour Commissioners, the Londonderry Port and Harbour Commissioners and the Warrenpoint Harbour Authority.

Clause 3: Power of harbour authorities to acquire businesses etc

This clause amends section 24(1) and (2) of the Harbours Act (Northern Ireland) 1970 (“the 1970 Act”) by substituting “harbour operations” and “such operations” with “activities relating to harbours”. This clause also provides for the amendment of Section 24(3) of the 1970 Act by removing the requirement that harbour authorities obtain the consent of the Minister.

This clause amends section 24 of the "the 1970 Act" which enables harbour authorities to acquire a harbour business or shares in a harbour business.

In subsections (1) and (2) references to “activities relating to harbours” are substituted for the existing references to “harbour operations”. The effect is to widen the purposes power to acquire a harbour business or shares in a harbour business.

Subsection (3), which requires harbour authorities to obtain the consent of the relevant Department before acquiring a harbour business or shares in a harbour business, is omitted.

Clause 4: Power of harbour authorities to give harbour directions

Subsection (1) of this clause amends "the 1970 Act" and inserts new sections 27A to 27D

Power to give harbour directions

New section 27A provides that the appropriate Department may by Order authorise a harbour direction to give directions (‘harbour directions’) to ships within, entering or leaving their harbour. Harbour directions may relate to the movement of ships, their mooring or unmooring, their equipment and their crewing. Those subject matters enable a designated harbour authority to regulate safety and environmental protection in the harbour. The appropriate Department is the Department for Agriculture, Environment and Rural Affairs in the case of fishery harbours and Department for Infrastructure for any other harbour.

Procedure for harbour directions

New section 27B governs the procedure applicable to harbour directions. A harbour authority must consult users and publicise a harbour direction before the direction is given and publicise the fact that it has been given. There is also provision for the inspection of harbour directions and the provision of copies. A charge may be made for such copies.

Enforcement of harbour directions

New section 27C creates an offence where a master of a ship fails to ensure compliance with harbour directions without reasonable excuse. This is punishable on summary conviction by a fine not exceeding level 4 on the standard scale.

Harbour directions: supplementary provision

New section 27D contains supplementary provisions relating to the making of harbour directions.

Subsection (2) amends section 38(1) of "the 1970 Act" by inserting a number of definitions for the purposes of the Act.

Clause 5: Purposes for which harbour orders may be made

This clause amends Schedule 1 to "the 1970 Act" by adding objects for whose achievement harbour orders may be made under section 1 of that Act.

Paragraph (a) inserts a new paragraph 13A to Schedule 1. Paragraph 13A will mean that that a harbour order may permit a harbour authority to delegate the performance of any of the functions of the authority subject to a number of exceptions set out in paragraph 13A.

Paragraph (b) inserts a new paragraph 16 to Schedule 1. Paragraph 16 will mean that a harbour order may be made for any object not falling within the preceding paragraphs of the Schedule if the object is one the achievement of which will be conducive to the efficient functioning of a harbour.

Clause 6: Commencement and short title

This clause provides for the Act to come into operation on the day after receiving Royal Assent, and sets out the title of the act. The other provisions of this Act come into operation on such day or days as the DOI may by order appoint.

FINANCIAL EFFECTS OF THE BILL

13. Northern Ireland's Trust Ports are classified as Public Corporations by the Office for 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).
14. The Bill aims to repeal the perceived levers of Government control with the intended aim of having the Office for National Statistics review their classification of Trust Ports in Northern Ireland. A successful review would lead to a reclassification which would in turn sever the link between Trust Port's borrowing and the Department's budget.

HUMAN RIGHTS ISSUES

15. Human rights impacts were considered during the consultation and no specific issues were identified. The provisions of the Bill are compatible with the provisions of the European Convention on Human Rights.

EQUALITY IMPACT ASSESSMENT

16. The potential equality implications of the policy proposals contained in this Bill have been considered in accordance with the departments statutory duties under Section 75 of the Northern Ireland Act 1998.
17. The proposals have been subject to equality screening, which concluded that there are no significant equality impacts arising and that a full Equality Impact Assessment was not required.
18. The equality screening document is available on the DfI website– [Impact Assessments - Ports](#).

SUMMARY OF THE REGULATORY IMPACT ASSESSMENT

19. A regulatory impact assessment screening has been completed, which concluded that no full regulatory impact assessment is required. The screening document is available on the DfI website – [Impact Assessments - Ports](#).

DATA PROTECTION IMPACT ASSESSMENT/DATA PROTECTION BY DESIGN

20. None required as the Bill does not require the processing of personal information.

RURAL NEEDS IMPACT ASSESSMENT

21. 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

At Introduction the Minister for Infrastructure, Mrs Liz Kimmins, had made the following statement under section 9 of the Northern Ireland Act 1998:

“In my view the Harbours Bill would be within the legislative competence of the Northern Ireland Assembly.”



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