



Number 11 of 1996

HARBOURS ACT, 1996

AN ACT TO MAKE FURTHER AND BETTER PROVISION IN RELATION TO THE MANAGEMENT, CONTROL, OPERATION AND DEVELOPMENT OF CERTAIN HARBOURS, TO ENABLE THE MINISTER FOR THE MARINE, WITH THE CONSENT OF THE MINISTER FOR FINANCE, TO ESTABLISH COMPANIES IN RESPECT OF CERTAIN HARBOURS FOR THAT PURPOSE AND TO DEFINE THE FUNCTIONS OF COMPANIES SO ESTABLISHED, TO ENABLE THE MINISTER FOR THE MARINE TO MAKE, BY ORDER, PROVISION AS AFORESAID IN RESPECT OF CERTAIN OTHER HARBOURS, TO REVISE THE LAW RELATING TO PILOTAGE AND TO PROVIDE FOR THE CONFERRAL OF FUNCTIONS IN RELATION TO PILOTAGE ON CERTAIN COMPANIES AFORESAID, TO ENABLE CERTAIN HARBOURS AND PROPERTY TO BE TRANSFERRED TO LOCAL AUTHORITIES, TO AMEND THE FISHERY HARBOUR CENTRES ACT, 1968, AND CERTAIN OTHER ENACTMENTS, TO PROVIDE FOR THE DISSOLUTION OF HARBOUR AUTHORITIES AND PILOTAGE AUTHORITIES, TO REPEAL THE HARBOURS ACTS, 1946 TO 1976, THE PILOTAGE ACT, 1913, AND CERTAIN OTHER ENACTMENTS AND TO PROVIDE FOR MATTERS CONNECTED WITH THE MATTERS AFORESAID.

[20th May, 1996]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Harbours Act, 1996.

Short title and commencement.

(2) (a) This Act shall come into operation on such day or days as, by order or orders made by the Minister, may be fixed therefor, either generally or with reference to any particular purpose or provision and different days may be so fixed for different purposes and different provisions.

(b) An order under this subsection may as respects the repeal effected by *section 5 (2)* of the enactments mentioned in the *Second Schedule* fix different days for the repeal of different such enactments or for the repeal for different purposes of any such enactment.

Pr.I S.1 (c) An order under this subsection in relation to *subsection (4) or (5) of section 88* shall only be made with the consent of the Minister for the Environment.

Interpretation. 2.—(1) In this Act, except where the context otherwise requires—

“the Act of 1946” means the Harbours Act, 1946;

“company” means a company referred to in *section 7*;

“company’s harbour” shall be construed in accordance with *section 7 (3)*;

“the Companies Acts” means the Companies Act, 1963, and every enactment which is to be construed with it as one Act;

“contravene”, in relation to a provision, includes, where appropriate, fail or refuse to comply with the provision and cognate words shall be construed accordingly;

“document” includes a disc, tape, sound track or other device in which information, sounds or signals are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced in legible or audible form;

“functions” includes powers and duties, and references to the performance of functions include, as respects powers and duties, references to the exercise of the powers and the carrying out of the duties;

“harbour” (other than in *sections 86 to 89*) means a harbour, functions in respect of which are conferred on a company by or under this Act;

“harbour authority” means a harbour authority within the meaning of the Act of 1946;

“harbour master” shall be construed in accordance with *section 37 (1)*;

“holding company” has the meaning assigned to it by *section 155* of the Companies Act, 1963;

“former harbour authority” means a harbour authority referred to in *section 81*;

“land” includes land covered by water;

“local authority” means a local authority for the purposes of the Local Government Act, 1941;

“master”, in relation to a ship, means the person having command or charge of the ship, but does not include a pilot;

“the Minister” means the Minister for the Marine;

“pilot” means any person not belonging to a ship who has the conduct thereof;

“pilotage authority” has the same meaning as it has in the Pilotage Act, 1913;

“pilotage district” means a pilotage district referred to in *Part IV*;

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“recognised trade union or staff association” means a trade union or staff association recognised by a company for the purposes of negotiations which are concerned with the remuneration or conditions of employment, or the working conditions, of employees; Pr.I S.2

“relevant vesting day” shall be construed in accordance with *subsection (3) (a)*;

“ship” includes any description of vessel used in navigation and any boat (other than a boat propelled by oars);

“State authority” means an authority being—

- (a) a Minister of the Government, or
- (b) the Commissioners of Public Works in Ireland;

“subsidiary” means a subsidiary (within the meaning of section 155 of the Companies Act, 1963) of the particular company to which the provision or provisions of this Act containing that expression falls or fall to be applied (whether or not any such provision falls to be applied to any other company or companies);

“superannuation benefit” means a pension, gratuity or other allowance payable on resignation, retirement or death.

(2) A reference in this Act to the functions of the Minister in relation to Dún Laoghaire Harbour shall be construed as a reference to the functions of the Minister under the Dún Laoghaire Harbour Acts, 1990 and 1994.

(3) (a) A reference in this Act to a relevant vesting day shall be construed as a reference to the day appointed under *section 7 (2)* in relation to the particular company to which the provision or provisions of this Act containing that reference falls or fall to be applied (whether or not any such provision falls to be applied to any other company or companies).

(b) A reference in this Act to the commencement of *section 56* or a provision thereof in relation to a company shall, where an order or orders under *section 1 (2)* fixes or fix different days for the commencement of that section or provision, as the case may be, for different purposes in relation to the company, be construed as references to the day on which, by virtue of the said order or orders, that section or provision, as the case may be, comes into operation in its entirety in relation to the company.

(4) A reference in this Act to a Part, section or Schedule is a reference to a Part or section of, or a Schedule to, this Act unless it is indicated that reference to some other enactment is intended.

(5) A reference in this Act to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

(6) A reference in this Act to any enactment shall be construed as a reference to that enactment as amended or adapted by or under any subsequent enactment.

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(7) Where any function of a company is, under the memorandum of association of a subsidiary, a function of the subsidiary, every provision of, or of any instrument under, this Act or any other enactment relating to the company shall, in respect of that function, apply to the subsidiary as it applies to the company.

Regulations, orders and directions.

3.—(1) The Minister may make regulations prescribing any matter or thing which is referred to in this Act as prescribed or to be prescribed or for the purposes of enabling any provision of this Act to have full effect.

(2) An order or regulation made by the Minister under this Act (other than an order made by the Minister under *section 1 (2), 7 (2), 43, 74 (1), 86 or 87 or paragraph 2 or 7 of the Fourth Schedule*) shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling such order or regulation is passed by either such House within the next subsequent 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

(3) Where it is proposed to make an order under *section 43, 86 or 87* or an order amending or revoking such an order, the Minister shall cause a draft of the order to be laid before each House of the Oireachtas and the order shall not be made unless a resolution approving of the draft has been passed by each such House.

(4) (a) The Minister may by order amend or revoke an order made by him or her under this Act (other than an order under *section 1 (2) or 7 (2)* but including an order under this paragraph).

(b) The Minister may by direction amend or revoke a direction given by him or her under this Act (including a direction under this paragraph).

(c) An order or direction under this subsection shall be made or given in the like manner and its making or giving shall be subject to the like (if any) consents and conditions as the order or direction that it is amending or revoking.

(5) If in any respect any difficulty arises in bringing any provision of this Act into operation or in relation to the operation of any such provision, the Minister may by regulations do anything which appears to him or her to be necessary or expedient for removing that difficulty, for bringing that provision into operation, or for securing or facilitating its operation, and any such regulations may modify any provision of this or any other enactment so far as may be necessary or expedient for the purposes aforesaid but no regulations may be made under this subsection in relation to a provision of this Act after the expiration of 2 years from the commencement of that provision.

Expenses.

4.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Repeals.

5.—(1) The Harbours Acts, 1946 to 1976, shall stand repealed in relation to—

(a) a harbour in respect of which a company is established pursuant to *section 7*, on the relevant vesting day,

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(b) a harbour in respect of which an order is made under *section 87*, on the day specified in the order for that purpose, Pt.I S.5

(c) a harbour to which an order under *section 88* relates, on the commencement of that order.

(2) Each enactment mentioned in *column (2)* of the *Second Schedule* is hereby repealed to the extent specified in *column (3)* of that Schedule.

(3) So much of any enactment mentioned in the Third Schedule to the Act of 1946 or of any instrument made under any such enactment that is in force immediately before the commencement of this subsection and is inconsistent with any provision of this Act or any instrument made thereunder shall cease to have effect as on and from such commencement.

(4) The enactments mentioned in the Fourth Schedule to the Act of 1946 shall not apply in relation to a company.

6.—(1) A person guilty of an offence under *section 13 (6), 32, 33, 46, 50, 52, 53, 54, 60, 73, 75 or 77* shall be liable— Penalties and proceedings.

(a) on summary conviction, to a fine not exceeding £1,500 or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine not exceeding £100,000 or imprisonment for a term not exceeding 2 years or both.

(2) A person guilty of an offence under *section 13 (2), 42, 47, 48, 49, 61, 66, 71, 76, 78, 89 (2) or 92 (10)* shall be liable, on summary conviction, to a fine not exceeding £1,500 or imprisonment for a term not exceeding 12 months or both.

(3) (a) On conviction of a person on indictment for an offence to which *subsection (1)* relates the Court may, in addition to any other penalty, order any apparatus, equipment or other thing used to commit the offence to be forfeited.

(b) An order under this subsection shall not take effect until the ordinary time for instituting an appeal against the conviction or order concerned has expired or, where such an appeal is instituted, until it or any further appeal is finally decided or abandoned or the ordinary time for instituting any further appeal has expired.

(4) Where an offence under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a person being a director, manager, secretary or other officer of that body corporate, or a person who was purporting to act in that capacity, that person shall also be guilty of an offence and be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(5) (a) Summary proceedings for an offence under this Act may be brought and prosecuted by the company to which the offence relates or in whose harbour or pilotage district the offence has been committed.

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(b) Without prejudice to *paragraph (a)*, summary proceedings for an offence under *section 33* may be brought and prosecuted by the Minister.

(6) Notwithstanding *section 10 (4)* of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under this Act may be instituted within 12 months from the date of the offence.

PART II

ESTABLISHMENT AND ADMINISTRATION OF COMPANIES

Formation of a company in respect of a harbour.

7.—(1) The Minister, with the consent of the Minister for Finance, may in respect of each harbour mentioned in *column (1)* of the *First Schedule* cause a private company conforming to the conditions laid down in this Act to be formed and registered under the Companies Acts.

(2) The Minister shall in relation to such a company by order appoint a day to be the vesting day for the purposes of this Act as soon as practicable after the registration of the company under the Companies Acts and the same day may be so appointed in relation to all or any two or more of the companies formed under the said Acts pursuant to this section.

(3) A reference in this Act to a company's harbour shall be construed as a reference to the harbour mentioned in *column (1)* of the *First Schedule* in respect of which the company has been established pursuant to this section and like references shall be construed accordingly.

Name and capital formation of a company.

8.—(1) The name of a company shall be the name mentioned in *column (2)* of the *First Schedule* opposite the mention in *column (1)* of that Schedule of the harbour in respect of which the company is established pursuant to *section 7*.

(2) *Section 6 (1) (a)* of the Companies Act, 1963, shall not apply to a company.

(3) (a) Subject to *paragraph (b)*, the authorised share capital of a company shall be an amount not exceeding the total of the following:

(i) the value of the property to be transferred to the company on the relevant vesting day under *section 96*, and

(ii) the amount of working capital of the company on the relevant vesting day,

divided into shares of one pound each.

(b) The Minister may, after consultation with the Minister for Finance, direct that the total amount obtained under *paragraph (a)* as respects a company shall, as the Minister specifies in the direction, be rounded upwards or downwards to the nearest £500,000 or £1,000,000 and the amount so obtained shall apply for the purposes of *paragraph (a)* as respects that company.

- (c) A company may, with the consent of the Minister and the Minister for Finance, divide the shares in its share capital into several classes, and attach thereto respectively any preferential, deferred, qualified or special rights, privileges or conditions. Pr.II S.8
- (d) No issue of shares in the share capital of a company shall be made other than those provided for in *sections 19, 20 and 25.*

9.—(1) (a) The limits of a company's harbour shall be those set out in *Part I* of the *Third Schedule*. Limits of a company's harbour.

(b) A reference in this Act to a company's harbour shall be construed as including a reference to any point within the limits of its harbour as aforesaid.

(2) (a) The Minister may, after consultation with the company concerned, by order alter the limits of a company's harbour as set out in *Part I* of the *Third Schedule* and for so long as such an order is in force the said Part, in so far as it relates to the said limits, shall be construed and have effect in accordance with the order.

(b) The reference in *paragraph (a)* to an order in force shall, as respects such an order that is amended by an order in force under *section 3 (4)*, be construed as a reference to the first-mentioned order as so amended.

10.—The memorandum of association of a company shall be in such form consistent with this Act as may be approved of by the Minister with the consent of the Minister for Finance. Form of memorandum of association.

11.—(1) The principal objects of a company shall be stated in its memorandum of association to be— Objects of a company.

- (a) to take all proper measures for the management, control, operation and development of its harbour and the approach channels thereto,
- (b) to provide such facilities, services, accommodation and lands in its harbour for ships, goods and passengers as it considers necessary,
- (c) to promote investment in its harbour,
- (d) to engage in any business activity, either alone or in conjunction with other persons, that it considers to be advantageous to the development of its harbour,
- (e) to utilise and manage the resources available to it in a manner consistent with the objects aforesaid.

(2) Nothing in this section shall prevent or restrict the inclusion among the objects of a company as stated in its memorandum of association of all such objects and powers as are reasonably necessary or proper for or incidental or ancillary to the due attainment of the principal objects aforesaid and are not inconsistent with this Act.

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(3) A company shall have power to do anything which appears to it to be requisite, advantageous or incidental to, or which appears to it to facilitate, either directly or indirectly, the performance by it of its functions as specified in this Act or in its memorandum of association and is not inconsistent with any enactment for the time being in force.

(4) Without prejudice to the generality of *subsection (3)*, a company may—

- (a) take such steps either alone or in conjunction with other persons as are necessary for the efficient operation and management of its harbour,
- (b) appropriate any part of its harbour to the use of any person for the purposes of any trade or profession in consideration of the payment to it of such charges as the company considers reasonable,
- (c) promote leisure activities that may be carried on in its harbour or which relate to the marine generally,
- (d) engage either alone or in conjunction with other persons in activities outside the State (related to its functions in respect of its harbour) which, in its opinion, will promote the interests of trade or tourism in the State.

General duties of a company.

12.—(1) It shall be the general duty of a company—

- (a) to conduct its affairs so as to ensure that the revenues of the company are not less than sufficient taking one year with another to—
 - (i) meet all charges which are properly chargeable to its revenue account,
 - (ii) generate a reasonable proportion of the capital it requires, and
 - (iii) remunerate its capital and pay interest on and repay its borrowings,
- (b) to conduct its business at all times in a cost effective and efficient manner,
- (c) to regulate operations within its harbour,
- (d) to have due regard to the consequences of its activities on the environment, the heritage (whether natural or man-made) relating to its harbour and the amenities generally in the vicinity of its harbour.

(2) Nothing in *section 11* or this section shall be construed as imposing on a company, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court to which it would not otherwise be subject.

Harbour charges.

13.—(1) A company may impose charges (in this Act referred to as “harbour charges”) at such rates as are from time to time determined by it on—

- (a) the owner or master of a ship which—
- (i) enters within its harbour,
 - (ii) uses any quay, anchorage or mooring in its harbour, or
 - (iii) plies within its harbour,
- (b) the owner, consignor, consignee or carrier of goods shipped, transhipped, unshipped or stored within its harbour,
- (c) the owner or master of a ship which carries passengers to or from a place within its harbour,
- (d) a person for whom any service or facility is performed or provided by it or to whom it hires any equipment.
- (2) (a) For the purpose of *paragraph (a) of subsection (1)* the master of a ship to which that provision applies shall furnish to the company concerned such type of certificate of tonnage in respect of the ship as is specified by the company and such other documentation in relation to the ship or goods thereon as may be specified by it.
- (b) For the purposes of *paragraphs (b) and (c) of subsection (1)*, where passengers are to be carried, or goods are to be shipped, transhipped or unshipped, within a harbour the master of the ship on which the passengers or goods are to be carried or are carried, or, in the case of goods which are to be transhipped, the ship from which the goods are to be transferred, shall furnish to the company concerned a statement of the number of those passengers and their classes as such passengers or, as the case may be, a true account of such goods, in such form as may be specified by the company.
- (c) A master of a ship who refuses or fails to furnish to a company any certificate, documentation, statement or account referred to in *paragraph (a) or (b)* when requested by the company to do so shall be guilty of an offence.
- (3) Different rates of harbour charges may be imposed by a company in different circumstances.
- (4) Harbour charges may, in relation to any thing referred to in *paragraph (a), (b) or (c) of subsection (1)*, be imposed by a company on two or more of the appropriate persons referred to in the said *paragraph (a), (b) or (c)*, as the case may be, and where harbour charges are so imposed the liability of the persons concerned for the harbour charges shall be joint and several.
- (5) (a) Without prejudice to *section 14*, harbour charges shall be recoverable by a company from the person or persons on whom they have been imposed as a simple contract debt in any court of competent jurisdiction.
- (b) The reference in *paragraph (a)* to harbour charges includes a reference to any balance of an amount of harbour charges remaining due to a company after it has sold a ship, goods, equipment or stores under *section 14* to

satisfy those charges or has received any payment on foot of any bond or other security concerned referred to in *subsection (7)*.

(6) A person liable to pay harbour charges to a company who evades or attempts to evade payment of the charges shall, without prejudice to any proceedings or steps taken or to be taken for the purpose of recovering the charges under *subsection (5)* or *section 14*, be guilty of an offence.

(7) (a) A company may require—

- (i) where the condition specified in *paragraph (a) (i)* or *(b)* of *subsection (8)* is satisfied, the owner or master of a ship, or
- (ii) where the condition specified in *paragraph (a) (ii)* of *subsection (8)* is satisfied, the agent for a ship,

being in either case a ship the navigation of which or the fact of its carrying goods or passengers or of any other circumstances referred to in *subsection (1)* that involve the ship will result, or results, in harbour charges being imposed by the company (whether on one or more than one occasion), to give to the company a bond, or such other type of security as the company specifies, for the payment of those charges.

(b) The amount of the bond or other security that a company may require to be given under this subsection (other than in relation to harbour charges imposed in respect of a ship referred to in *subsection (8) (b)*) shall not exceed 25 per cent. of—

- (i) if the company has imposed harbour charges on the owner, master or agent concerned (“the person concerned”) in each of two or more years prior to the making of the requirement, the average of the amount of harbour charges imposed by it on that person in such a year,
- (ii) if the company has imposed harbour charges on the person concerned in only one such year, the amount of harbour charges imposed by it on that person in that year,
- (iii) in any other case, the amount of harbour charges the company estimates it will impose on the person concerned in the period of 12 months commencing on the making of the requirement.

(8) The conditions referred to in *subsection (7)* are—

(a) that, before the making of the requirement referred to in that subsection—

- (i) the owner or master concerned has failed to pay harbour charges imposed by the company or, on 2 or

more occasions, has paid harbour charges imposed by the company to the company after the latest date stipulated by it for their payment, or

- (ii) in the case of the agent concerned, he or she has failed to pay moneys to the company which he or she has received from a person on account of harbour charges imposed on that person by the company or, on 2 or more occasions, has paid moneys so received by him or her to the company after the latest date stipulated by it for the payment of the harbour charges concerned,

(b) that—

- (i) the ship concerned has not entered the company's harbour on any previous occasion and the company does not regard it as likely that it will enter its harbour again in the period of 12 months commencing on the entry concerned, and
- (ii) the owner or master of the said ship has not retained an agent to act on his or her behalf for the purpose of paying any harbour charges that may be imposed by the company in the circumstances concerned.

(9) If by reason of the situation of any harbour it is necessary for a ship proceeding to such a harbour to enter or anchor within the harbour of another company, then where a ship enters or anchors within the harbour of such a company for the purpose, and the purpose only, of proceeding to the first-mentioned harbour, the said company may not impose any harbour charges in respect of such entry or anchoring by that ship:

Provided that this subsection shall not prevent the said company from imposing harbour charges of an amount that, having regard to all the circumstances, is fair and equitable in respect of any service it performs, facility it provides or equipment it hires in relation to a ship aforesaid whilst the ship is in its harbour.

(10) If the company established pursuant to *section 7* in respect of the first-mentioned harbour in *subsection (9)* considers that the amount of any harbour charges referred to in the proviso to the said subsection that have been imposed is not, having regard to all the circumstances, fair and equitable, it may request the company which imposed the charges to cancel the imposition of the said charges and impose harbour charges of another amount or, as appropriate, reimburse the payer of the said charges a portion of the said charges, and, if the said company fails or refuses to comply with such a request, either company may refer the matter to a person nominated by the Minister for his or her determination and the determination of that person in the matter shall be final.

14.—(1) Where default is made in the payment of harbour charges imposed by a company under *section 13 (1)* the company may, subject to the provisions of this section, detain, pending payment of such charges—

Detention and sale of ship or goods for unpaid harbour charges.

- (a) if the charges were imposed under *paragraph (a), (b) or (c) of section 13 (1)*, the ship or goods concerned or, if the

goods concerned have been removed outside the harbour, any other goods within the harbour belonging to the person in default, or

- (b) if the charges were imposed under *paragraph (d) of section 13 (1)*, any ship or goods in relation to which the service or facility concerned was performed or provided or the equipment concerned was hired or, if such goods have been removed outside the harbour, any other goods within the harbour belonging to the person in default,

and if the charges are not paid within 56 days of the date when the detention commences, sell the ship or goods in order to satisfy the charges.

(2) Notwithstanding *subsection (1)*, if the goods detained by a company under that subsection are of a perishable nature the company may, subject to the provisions of this section, sell the goods at any time before the expiration of the period referred to in that subsection (without prejudice to its right to sell them after such expiration) in order to satisfy the harbour charges concerned.

(3) No goods forfeitable under the Customs Acts shall be detained under *subsection (1)*.

(4) A company shall not detain, or continue to detain, a ship or goods under *subsection (1)* if—

- (a) the owner or master of the ship, the owner of the goods or any other person referred to in *paragraph (b) or (d) of section 13 (1)*, as may be appropriate, or

- (b) any person claiming an interest in the ship or goods,

alleges that the harbour charges concerned, or any of them, are not due and gives to the company, pending the determination of the question as to whether the charges are due, sufficient security for the payment of the charges which the company alleges to be due.

(5) For the purpose of effecting the detention of a ship or goods under *subsection (1)*, the harbour master of the harbour concerned may enter the ship or any place (including any ship or vehicle) within the harbour where the goods are and do all things in relation to the ship or goods necessary for or incidental to the said purpose and without prejudice to the foregoing may remove the goods from the said place and store them elsewhere.

(6) If a company proposes to sell a ship that it has detained under *subsection (1)* or goods that it has so detained and which it estimates to be of more than £5,000 in value, it shall apply to whichever of the following courts is appropriate for leave to sell the ship or goods, namely—

- (a) if the company estimates the value of the ship or goods to be not more than £30,000, the Circuit Court, or

- (b) if the company estimates the value of the ship or goods to be more than £30,000, the High Court,

and the Circuit Court or the High Court, as the case may be, shall not give such leave unless it is established that—

- (i) a sum is due to the company for harbour charges,

- (ii) default has been made in the payment thereof, and Pr.II S.14
- (iii) if the harbour charges concerned were imposed under *paragraph (d) of section 13 (1)*, the ship or goods was or were the ship or goods in relation to which the service or facility was performed or provided by the company or the equipment was hired by the company or, as the case may be, the goods were otherwise goods which the company was entitled to detain under *paragraph (b) of subsection (1)*.
- (7) (a) If a company proposes to apply for leave to sell a ship or goods under *subsection (6)*, it shall take such steps as may be practicable for—
- (i) bringing the proposed application to the notice of persons whose interests may be affected by the determination of the court thereon, and
- (ii) affording to any such person an opportunity of becoming a party to the proceedings on the application.
- (b) Failure by a company to comply with a requirement of this subsection in respect of any sale shall not, after the sale has taken place, be a ground for impugning the validity of such sale but this paragraph shall not prejudice any action for damages against a company by a person suffering loss in consequence of a failure aforesaid.
- (8) (a) The following provisions shall have effect in respect of an order of a court granting leave under *subsection (6)* for the sale of a ship (in this subsection referred to as “the order”) and the sale of the ship on foot of such order—
- (i) the order shall contain a declaration vesting in the company concerned by virtue of the order the right to transfer the ship, and the company shall by virtue of such declaration be entitled to transfer the ship in the same manner and to the same extent as if it were the registered owner thereof,
- (ii) the sale shall operate to vest the ship in the purchaser freed of all mortgages, liens, charges or other interests therein whatsoever, and the purchaser shall not require any other evidence of the title to the ship than a copy, certified by the company concerned, of the order,
- (iii) a registrar of shipping shall, on production of the order or a copy thereof certified by the company concerned, register the bill of sale effecting the transfer in the same manner as if the company were the registered owner.
- (b) If a company sells a ship or goods under this section it shall secure that the ship or goods is or are sold for the best price that can reasonably be obtained.
- (9) The proceeds of any sale under this section shall be applied as follows, and in the following order, that is to say—

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- (a) in payment of any duty (whether of customs or excise) or value-added tax chargeable on the ship or the goods, as the case may be,
- (b) in payment of the expenses incurred by the company concerned in detaining, keeping and selling the ship or the goods, as the case may be (including the expenses in connection with any application to a court under *subsection (6)*),
- (c) in payment of the harbour charges that the company concerned alleges to be due or, if an application has been made to a court under *subsection (6)*, that the court on such application has found to be due,

and the surplus, if any, of such proceeds shall be paid to, or among, the person or persons whose interest or interests in the ship or the goods have been divested by reason of the sale.

(10) Nothing in this section shall operate to authorise the sale of any goods the importation or sale of which is for the time being prohibited by or under any enactment or to relieve from any restriction or compliance with any condition to which the importation or sale of goods is for the time being subject by or under any enactment.

(11) The power of detention and sale conferred by this section in respect of a ship shall extend to the equipment of the ship and any stores for use in connection with the operation of the ship (being equipment and stores carried in the ship) whether or not such equipment or stores is or are the property of the person who is the owner or master of the ship and, accordingly—

- (a) references in *subsection (1)*, *subsections (4) to (9)* and *subsection (12)* to a ship shall be construed (save where the context does not admit such a construction) as including references to such equipment and stores,
- (b) *subsection (10)* shall have effect in relation to such equipment and stores as it has effect in relation to goods.

(12) (a) An application under *subsection (6)* to the Circuit Court shall be made to the judge of the Circuit Court for the circuit in which the ship or goods concerned was or were detained.

- (b) If, in relation to an application under *subsection (6)* to the Circuit Court, that court becomes of opinion during the hearing of the application that the value of the ship or goods the subject of the application, is, contrary to the estimate of the company making the application, more than £30,000, it may, if it so thinks fit, transfer the application to the High Court.

Provisions with respect to sale, leasing and acquisition of land.

15.—(1) A decision by a company to acquire any land or to dispose of any of its land (whether by sale or the grant of a lease) shall only be made by the directors of the company.

(2) The consideration for which any land is sold by a company shall, in so far as is practicable, not be less than its open market value.

(3) The rent to be reserved under a lease of land granted by the company shall be of an amount not less than the open market rent obtainable for that land save that a rent of below such an amount may be reserved under such a lease if—

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(a) in case any business or trade is to be carried on at the land, the company considers that, having regard to—

(i) the amount of business or trade that is likely to be transacted at the land, or

(ii) the effect the granting of the lease is otherwise likely to have on the amount of business or trade transacted in its harbour,

it is appropriate to reserve a rent at below such an amount, or

(b) in any other case, the Minister consents to the reservation of a rent at below such an amount.

(4) (a) In deciding whether to acquire any land or in deciding the consideration it shall pay for the acquisition of any land, a company shall have regard to any Government policy or guidelines in relation to the acquisition of land by State enterprises which is or are for the time being extant.

(b) Without prejudice to *paragraph (a)*, where a company proposes to acquire land it shall cause a valuation of the land to be made by an appropriately qualified independent person.

(c) In this subsection “State enterprise” means a company (within the meaning of the Companies Acts) one or more shares in the shareholding of which is held by a Minister of the Government and the principal objects of which (as stated in its memorandum of association) are prescribed in whole or part by statute.

16.—(1) A company may, in accordance with *paragraphs 1 to 6 of the Fourth Schedule*, acquire compulsorily any land (whether situate within or outside its harbour) or any interest in or right over any such land, for the purposes of ensuring the implementation of any scheme of development of its harbour or any part thereof which, in the opinion of the company, would prove impracticable without the land, interest or right concerned being included in the scheme.

Compulsory acquisition of land.

(2) (a) The provisions of *paragraphs 7 and 8 of the Fourth Schedule* shall, where appropriate, have effect in the circumstances set out in *subparagraph (1) of the said paragraph 7* for the purposes of vesting land in a company.

(b) The making of a vesting order by virtue of *paragraph 7 of the Fourth Schedule* shall not of itself prejudice any claim to compensation made after the making of the order in respect of any estate or interest in or right over the land, or any part thereof, to which the order relates and, accordingly, the provisions of *paragraph 6 of the Fourth Schedule* shall apply to such a claim.

17.—(1) (a) Subject to *paragraph (b)*, a reference in *subsection (3)* to a director includes a reference to the chairperson and to every person who this Act provides is to be a director of a company.

(b) A reference to a director—

(i) in *paragraph (b)* of *subsection (3)*, does not include a reference to the chief executive, the employee director or directors or the local authority directors,

(ii) in *paragraphs (c)* and *(d)* of *subsection (3)*, does not include a reference to the chief executive.

(c) A reference in *paragraph (e)* of *subsection (3)* to the remuneration of a director is, in the case of the chief executive, a reference to his or her remuneration in his or her capacity as a director as distinct from a chief executive.

(d) In this subsection—

“employee director” means a director referred to in *section 30 (1)*;

“local authority director” means a director referred to in *section 30 (6)*.

(2) The articles of association of a company shall be in such form consistent with this Act as may be approved of by the Minister with the consent of the Minister for Finance.

(3) The articles of association of a company shall provide that—

(a) the number of directors of the company shall be not more than 12;

(b) each such director shall be appointed by the Minister with the consent of the Minister for Finance;

(c) each such director shall be appointed for a period not exceeding 5 years and shall be eligible for reappointment;

(d) each such director may be removed from office by the Minister with the consent of the Minister for Finance;

(e) the remuneration of each such director shall be determined by the Minister with the consent of the Minister for Finance;

(f) the company shall consult with any recognised trade union or staff association concerned for the purposes of negotiations in relation to the pay and conditions of service of members of its staff;

(g) the company shall not establish or acquire a subsidiary without the approval of the Minister given with the consent of the Minister for Finance;

(h) the aggregate amount standing invested (whether by the purchase of shares or the provision of loans or guarantees of loans) by the company in undertakings (other than

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subsidiaries) shall not exceed £1,000,000, without the approval of the Minister given with the consent of the Minister for Finance. Pr.II S.17

(4) In addition to the matters provided for in *subsection (3)*, the articles of association of Dún Laoghaire Harbour Company shall provide that the company shall, in consultation with any recognised trade union or staff association concerned, set up machinery for the purposes of negotiations in relation to the pay and conditions of service of members of its staff.

(5) (a) Subject to *paragraph (b)*, a harbour master may attend formal meetings of directors of the company by whom he or she is employed and may, if the directors, in their discretion, permit him or her to do so, take part in the deliberations by those directors of any matter arising at such a meeting.

(b) The directors of a company may, where they are of the opinion that the attendance by the harbour master at a particular meeting aforesaid or at a part of such a meeting would not be in the best interests of the proper and orderly conduct by them of business at that meeting or the administration of the company's affairs generally, require the harbour master not to exercise his or her right to attend that meeting or a specified part of that meeting and the harbour master shall comply with such a requirement.

(c) Nothing in this subsection shall be construed as conferring on a harbour master a right to cast a vote in respect of any matter arising at a meeting aforesaid.

18.—Notwithstanding anything contained in the Companies Acts, no alteration in the memorandum of association or articles of association of a company or of any subsidiary shall be valid or effectual unless made with the prior approval of the Minister given with the consent of the Minister for Finance. Restriction on alteration of memorandum or articles of association.

19.—(1) (a) The Minister, with the consent of the Minister for Finance and following consultation with the company concerned, shall issue, as soon as possible after the relevant vesting day, to a company a certificate certifying the sum which in the opinion of the Minister represents the value of the property transferred under *section 96* to the company. Issue of shares to Minister and Minister for Finance, etc.

(b) A company shall, after receipt by it of a certificate as aforesaid, issue to the Minister, without payment by him or her, fully paid-up shares in the share capital of the company equal in nominal value to the sum certified in the certificate.

(c) A company shall issue to the Minister for Finance one share of one pound in the share capital of the company.

(d) The Minister for Finance may exercise in respect of his or her share in the share capital of a company all the rights and powers of a holder of such shares and,

where a right or power is exercisable by attorney, exercise it by his or her attorney.

(e) The cost of a share issued to the Minister for Finance as aforesaid shall be advanced to him or her out of the Central Fund or the growing produce thereof.

(f) The Minister for Finance shall not transfer or alienate his or her share in the share capital of a company.

(2) The Minister may, subject to this Act, exercise in respect of the shares of a company held by him or her all the rights and powers of a holder of such shares and, where a right or power is exercisable by attorney, exercise it by his or her attorney.

(3) (a) The Minister may, from time to time as occasion requires for the purposes of compliance with so much of the Companies Acts as requires that there shall always be a minimum number of members of a company, transfer to any person one of his or her shares in the share capital of a company.

(b) Save as authorised by *paragraph (a)*, the Minister shall not transfer or alienate his or her shares in the share capital of a company.

Issue of shares to subscribers to memorandum of association.

20.—(1) One share in the share capital of a company shall be issued to each of the subscribers to the memorandum of association of the company.

(2) The cost of such shares shall be advanced to the subscribers out of the Central Fund or the growing produce thereof.

Obligation of certain shareholders to hold shares in trust.

21.—(1) A member of a company to whom a share in the share capital of a company is issued under *section 20* or transferred under *section 19 (3) (a)* shall hold that share in the company in trust for the Minister and shall accordingly be bound to pay all dividends and other money which he or she receives in respect of the share to the Minister for the benefit of the Exchequer and to transfer, as and when required by the Minister, the share to the Minister or a person nominated in that behalf by the Minister.

(2) Save when required pursuant to *subsection (1)*, such member shall not transfer or alienate his or her share in the share capital of a company.

(3) Upon the death of a member of a company referred to in *subsection (1)*, the share in the share capital of the company held by such member shall, without the necessity for a transfer, vest in the Minister.

Payment of dividends, etc., into Exchequer.

22.—(1) All amounts representing dividends or other money received by the Minister in respect of shares held by him or her in the share capital of a company shall be paid into or disposed of for the benefit of the Exchequer in such manner as he or she may direct.

(2) All amounts representing dividends or other money received by the Minister for Finance in respect of a share held by him or her in the share capital of a company and all amounts representing

repayment of or interest on repayable advances received or recovered by him or her from a company shall be paid into or disposed of for the benefit of the Exchequer in such manner as he or she may direct. Pt.II S.22

23.—(1) (a) Subject to the consent of the Minister and the Minister for Finance, a company or a subsidiary may, by means of the issue of debentures or otherwise, borrow money (including money in a currency other than the currency of the State) for capital purposes including working capital from persons other than the Minister for Finance. Power to borrow.

(b) The aggregate at any one time of borrowings under *paragraph (a)* by a company and a subsidiary or either of them shall not exceed 50 per cent. of the value of so much of the company's assets as are treated as fixed assets for the purposes of its accounts.

(2) The Minister may, with the consent of the Minister for Finance, by order vary the percentage standing specified for the time being in *subsection (1) (b)*.

(3) A company or a subsidiary may borrow money (including money in a currency other than the currency of the State) temporarily but the aggregate standing unrepaid at any time of such borrowings by a company and a subsidiary or either of them shall not exceed such amount as may stand approved for the time being by the Minister with the consent of the Minister for Finance.

(4) For the purposes of this section moneys borrowed in a currency other than the currency of the State shall be deemed to be the equivalent in the currency of the State of the actual moneys borrowed, such equivalent being calculated according to the rate of exchange at the time of the borrowing for that currency and the currency of the State.

24.—(1) In relation to borrowings by a company under *section 23*, the Minister for Finance, after consultation with the Minister, may guarantee, in such form and manner and in such money (including money in a currency other than the currency of the State) and on such terms and conditions as he or she thinks fit, the due repayment by the company of the principal of any money borrowed by the company or the due payment of instalments or other amounts of money owed by the company under a contract entered into by the company or the payment of interest on any money, instalment or amount or both the repayment of principal or payment of such instalments or amounts, as the case may be, and payment of the interest, and any such guarantee may include a guarantee of payment of commission and incidental expenses arising in connection with such borrowings or such contract. Guaranteeing by the Minister for Finance of borrowings.

(2) Where a guarantee under this section is or has been given, the company concerned shall, if the Minister for Finance so requires, give to him or her such security (including, in particular, debentures) as may be specified in the requirement for the purpose of securing to the Minister for Finance the repayment of any money which he or she may be liable to pay or has paid under the guarantee.

(3) The Minister for Finance shall, as soon as may be after the expiration of every financial year, lay before each House of the Oireachtas a statement setting out with respect to each guarantee under this section given during that year or given at any time before, and in force at, the commencement of that year—

- (a) particulars of the guarantee,
- (b) in case any payment has been made by him or her under the guarantee before the end of that year, the amount of the payment and the amount (if any) repaid to him or her on foot of the payment, and
- (c) the amount of money covered by the guarantee which was outstanding at the end of that year.

(4) Money paid by the Minister for Finance under a guarantee under this section shall be repaid to the Minister for Finance (with interest thereon at such rate or rates as he or she appoints) by the company concerned within such period from the date of payment by the Minister for Finance as may be specified by him or her after consultation with the company.

(5) Where the whole or any part of the money required by *subsection (4)* to be repaid to the Minister for Finance has not been repaid in accordance with that subsection, the amount so remaining outstanding shall be repaid to the Central Fund out of moneys provided by the Oireachtas.

(6) Notwithstanding the provision of money under *subsection (5)* to repay an amount to the Central Fund, the company concerned shall remain liable to the Minister for Finance in respect of that amount and that amount (together with interest thereon at such rate or rates as the Minister for Finance appoints) shall be repaid to the Minister for Finance by the company at such times and in such instalments as he or she appoints and, in default of repayment as aforesaid and without prejudice to any other method of recovery, shall be recoverable by him or her from the company as a simple contract debt in any court of competent jurisdiction.

(7) In relation to a guarantee under this section in money in a currency other than the currency of the State—

- (a) each of the references to principal, each of the references to instalments or other amounts of money, each of the references to interest and the reference to commission and incidental expenses in *subsection (1)* shall be taken as referring to the equivalent in the currency of the State of the actual principal, the actual instalments or other amounts of money, the actual interest or the actual commission and incidental expenses, as may be appropriate,
- (b) the reference to the amount of money in *subsection (3) (c)* shall be taken as referring to the equivalent in the currency of the State of the actual amount of money, such equivalent being calculated according to the rate of exchange for the time being for that currency and the currency of the State,
- (c) each of the references to money in *subsections (4) to (6)* shall be taken as referring to the cost in the currency of the State of the actual money.

25.—(1) The Minister for Finance, after consultation with the Minister, may make available to a company moneys to finance capital works. The aggregate amount of moneys that may be made available to a company or companies under this section shall not exceed £50 million.

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Financing of capital works.

(2) Such moneys may be made available either—

- (a) by way of loans to the company concerned on such terms as to repayment, interest and other matters as may be determined by the Minister for Finance after consultation with the company,
- (b) by way of purchase of shares in the company concerned (such shares to be issued to the Minister), or
- (c) by way of both such loans and purchase of shares.

(3) If a company fails to make a repayment of moneys lent to it under *subsection (2)*, the company shall remain liable to the Minister for Finance in respect of the unpaid amount and that amount (with interest thereon at such rate or rates as the Minister for Finance appoints) shall be repaid to the Minister for Finance by the company at such times and in such instalments as he or she appoints and, in default of payment as aforesaid and without prejudice to any other method of recovery, shall be recoverable by him or her from the company as a simple contract debt in any court of competent jurisdiction.

26.—(1) All money from time to time required by the Minister for Finance to meet sums which may become payable by him or her under *section 24* or *25* shall be advanced out of the Central Fund or the growing produce thereof.

Provision of money for payments out of Central Fund.

(2) The Minister for Finance may, for the purpose of providing for advances out of the Central Fund under this section, borrow on the security of the Central Fund or the growing produce thereof any sums required for the purpose and, for the purpose of such borrowing, he or she may create and issue securities bearing interest at such rate and subject to such conditions as to repayment, redemption or any other matter as he or she thinks fit, and shall pay all sums so borrowed into the Exchequer.

(3) The principal of and interest on all securities issued under this section and the expenses incurred in connection with the issue of the securities shall be charged on and payable out of the Central Fund or the growing produce thereof.

27.—(1) Without prejudice to the requirements of the Companies Acts in relation to balance sheets and accounts, a company shall keep, in such form as may be approved of by the Minister with the consent of the Minister for Finance, all proper and usual accounts of all money received by or expended by it, including a profit and loss account, an account showing the derivation of the funds of the company and the purposes to which they are applied (referred to in *subsection (2)* as “the cash flow statement”) and a balance sheet, and, in particular, shall keep in such form as aforesaid all such special accounts as the Minister may from time to time direct.

Accounts and audits.

(2) Accounts kept in pursuance of this section by a company shall be submitted annually by it to an auditor for audit and, immediately

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after the audit, a copy of the profit and loss account, the cash flow statement, the balance sheet and such other (if any) of the accounts as the Minister may direct and a copy of the auditor's report on the accounts shall be presented by the company to the Minister.

Annual report, chairperson's report and furnishing of information to Minister.

28.—(1) A company shall, not later than 6 months after the end of each accounting year of the company, make a report to the Minister of its activities and those of any subsidiaries during that year and the Minister shall cause copies of the report, together with the accounts in respect of that year and the auditor's report thereon presented to him or her by the company under *section 27*, to be laid before each House of the Oireachtas.

(2) A report referred to in *subsection (1)* shall include information, in such form as the Minister may direct after consultation with the company and with the consent of the Minister for Finance, regarding the operations and cost-effectiveness of the company and any subsidiaries and the financial targets over the next 5 years following the preparation of the report of the company and any subsidiaries.

(3) A company shall, if so required by the Minister, furnish to the Minister such information as he or she may require in respect of any balance sheet or other account or any report of the company or any subsidiaries or in relation to the policy and operations (other than day-to-day operations) of the company or any subsidiaries.

(4) The chairperson of a company shall, not later than 6 months after the end of each accounting year of the company, make a report to the Minister which shall contain—

- (a) a statement of all significant developments involving the company which occurred in that year (including the acquisition of shares or establishment of subsidiaries by the company) and, so far as such a description is not included in such a statement, a description of any acquisitions or disposals of land made by the company during that year, a description of which had not been included in a report under this subsection for the preceding accounting year,
- (b) a description of each of the following things the chairperson anticipates will occur in the accounting year next following the said year, namely—
 - (i) acquisitions of land by the company,
 - (ii) disposals by the company of any of its land (whether by sale or the grant of a lease),
- (c) a description of the matters (other than those referred to in *paragraph (b)*) the chairperson anticipates will arise in the accounting year next following the said year (or, where the chairperson considers it appropriate in any particular case, any subsequent accounting year) which may affect the company to any significant extent,
- (d) a statement, to the best of the chairperson's knowledge or belief, as to whether each of the following, as respects the company, has been complied with or adhered to in the said year, namely—

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- (i) the requirements of this Act or any other enactment in relation to the accounts of a company and statements as to the financial affairs of a company,
 - (ii) guidelines issued by the Government or the Minister for Finance in relation to the accounts of State enterprises or statements in respect of their financial affairs,
 - (iii) *section 32*,
 - (iv) any code of conduct for the directors and members of staff of State enterprises issued by the Government or the Minister for Finance,
 - (v) *section 15*,
 - (vi) regulations for the time being in force under the European Communities Act, 1972, or guidelines issued by the Government or the Minister for Finance, in relation to the entering by a public authority into a contract with any person for the provision of goods or services by that person to the authority,
 - (vii) any guidelines issued by the Government or the Minister for Finance in relation to the remuneration to be paid by State enterprises to their chief executives,
- (e) where any thing referred to in *paragraph (d)* is stated not to have been complied with or adhered to, an explanation (so far as the chairperson is in a position to give one) as to why the thing was not complied with or adhered to.

(5) In this section “State enterprises” has the same meaning as it has in *section 15 (4)*.

29.—(1) The Minister may at the end of—

Performance audits.

- (a) the period of 3 years beginning on the commencement of this section, and
- (b) each subsequent period of 3 years beginning on the expiration of the last previous period,

appoint a suitably qualified person to carry out an examination as to the efficiency and cost-effectiveness of the performance by a company or companies of its or their functions and to report in writing to the Minister the results of the examination; such an examination and a report shall be completed by the said person within the period of 6 months from the date of his or her appointment.

(2) The Minister shall submit a copy of a report under *subsection (1)* to the Government and the company or companies to which the report relates.

(3) The costs of an examination and report under *subsection (1)* shall be paid to the Minister by the company or companies to which the examination and report relate.

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Employee, local
authority and other
directors.

30.—(1) (a) The Minister shall as respects a company, the employees of which are more than 50 in number, appoint to be each a director of the company 2 employees of the company who are elected in accordance with the *Fifth Schedule*.

(b) The Minister shall as respects a company, the employees of which are more than 30 but not more than 50 in number, appoint to be a director of the company an employee of the company who is elected in accordance with the *Fifth Schedule*.

(c) The Minister shall as respects a company (other than a company referred to in *paragraph (a)* or *(b)*), appoint to be a director of the company a person who, in the opinion of the Minister, is representative of the interests of the employees of the company.

(d) Before making any appointment under *paragraph (c)* the Minister shall consult with any recognised trade union or staff association concerned which, following such consultation, may recommend to the Minister that a particular person be appointed under the said *paragraph* and the Minister shall consider such a recommendation.

(2) Without prejudice to the provisions of this Act as respects the term of office of directors of a company and their removal or disqualification from office, the term of office of a director of a company who is appointed under *subsection (1)* and who is an employee of the company shall terminate on his or her resigning or retiring from employment with the company or on his or her being dismissed from such employment.

(3) The Minister shall, if the person is willing to act as such a director, appoint an employee of a company selected in accordance with *paragraph 8* of the *Fifth Schedule* to fill a casual vacancy arising in the office of a director of the company appointed under *paragraph (a)* or *(b)* of *subsection (1)* for the remainder of the term of office for which that director had been appointed.

(4) A director of a company appointed under *subsection (1)* shall, subject to this section, be eligible for nomination as a candidate and for election at an election under the *Fifth Schedule*.

(5) An election under the *Fifth Schedule* shall be held within 12 months after the relevant vesting day or such longer period as may be agreed between the company and any recognised trade union or staff association concerned and in each fifth year thereafter.

(6) The Minister shall appoint 3 members of a prescribed local authority or local authorities (each of whom has been nominated for the purposes of this subsection in the prescribed manner by a prescribed local authority or local authorities) to be each a director of a company.

(7) The Minister shall, in selecting one or more persons to be appointed as a director or directors of a company (not being a director or directors to whom a preceding provision of this section applies), consult with—

- (a) the Chamber of Commerce of Ireland (or any successor of it),
- (b) the Irish Business and Employers Confederation (or any successor of it), and
- (c) such other persons as the Minister considers appropriate,

and each of the said persons may, following such consultation, recommend to the Minister that a particular person or persons be appointed as such a director or directors and the Minister shall consider such a recommendation.

31.—(1) Where any allowance payable to a director of a company is being determined by the company, the company shall not have regard to the fact that the director was, or was not, as the case may be, appointed under *section 30*.

Remuneration, etc., of directors appointed under *section 30*.

(2) An employee of a company who is appointed under *section 30 (1)* to be a director of a company and whose duties as such a director are not whole time shall not suffer any reduction in the remuneration which as an employee of the company, he or she would, if he or she were not such a director, normally expect to receive.

32.—(1) Where at a meeting of the directors of a company or a subsidiary any of the following matters arises, namely—

Disclosure by directors of certain interests.

- (a) an arrangement to which the company or any subsidiary is a party or a proposed such arrangement, or
- (b) a contract or other agreement with the company or any subsidiary or a proposed such contract or other agreement,
- (c) the giving, grant or renewal by the company or any subsidiary of a certificate, licence, authorisation or instrument of approval,

then any director of the company or the first-mentioned subsidiary present at the meeting who otherwise than in his or her capacity as such a director is in any way, whether directly or indirectly, interested in the matter—

- (i) shall at the meeting disclose to the company or the first-mentioned subsidiary the fact of such interest and the nature thereof,
- (ii) shall absent himself or herself from the meeting or that part of the meeting during which the matter is discussed,
- (iii) shall take no part in any deliberations of the directors relating to the matter, and
- (iv) shall not vote on a decision relating to the matter.

(2) Where an interest is disclosed pursuant to this section, the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being dealt with by the meeting, the director by whom the disclosure is made shall not be counted in the quorum for the meeting.

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(3) Where at a meeting of the directors of a company or a subsidiary a question arises as to whether or not a course of conduct, if pursued by a director of the company or the subsidiary would constitute a failure by him or her to comply with the requirements of *subsection (1)*, the question may be determined by the chairperson of the meeting whose decision shall be final and where such a question is so determined particulars of the determination shall be recorded in the minutes of the meeting.

(4) Where the Minister is satisfied that a director has contravened *subsection (1)*, the Minister may, if he or she thinks fit, and with the consent of the Minister for Finance, remove that director from office, and, in case a person is removed from office pursuant to this subsection, he or she shall henceforth be disqualified from being a director of the company concerned or a subsidiary.

(5) Section 194 of the Companies Act, 1963, shall not apply to a director of a company or a subsidiary.

(6) A person who contravenes this section shall be guilty of an offence.

(7) Nothing in this section shall be taken to prejudice the operation of any rule of law restricting directors of a company from having any interest in contracts with the company.

Prohibition on unauthorised disclosure of information.

33.—(1) A person shall not disclose confidential information obtained by him or her while performing duties as a director or member of staff of, or an advisor or consultant to, a company unless he or she is duly authorised to do so.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence.

(3) In this section—

“confidential” means that which is expressed to be confidential either as regards particular information or as regards information of a particular class or description;

“duly authorised” means authorised by the company or by some person authorised in that behalf by the company.

Membership of either House of the Oireachtas or European Parliament.

34.—(1) Where a director of a company is—

- (a) nominated as a member of Seanad Éireann, or
- (b) elected as a member of either House of the Oireachtas or to the European Parliament, or
- (c) regarded pursuant to section 15 (inserted by the European Parliament Elections Act, 1993) of the European Assembly Elections Act, 1977, as having been elected to such Parliament to fill a vacancy,

he or she shall thereupon cease to be a director of the company.

(2) Where a person employed by a company is—

- (a) nominated as a member of Seanad Éireann, or

- (b) elected as a member of either House of the Oireachtas or to the European Parliament, or Pt.II S.34
- (c) regarded pursuant to section 15 (inserted by the European Parliament Elections Act, 1993) of the European Assembly Elections Act, 1977, as having been elected to such Parliament to fill a vacancy,

he or she shall thereupon stand seconded from employment by the company and shall not be paid by, or be entitled to receive from, the company any remuneration or allowances in respect of the period commencing on such nomination or election, or when he or she is so regarded as having been elected (as the case may be), and ending when he or she ceases to be a member of either such House or such Parliament.

(3) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament shall, while he or she is so entitled or is such a member, be disqualified from becoming a director of a company or from employment in any capacity by a company.

(4) Without prejudice to the generality of *subsection (2)*, that subsection shall be construed as prohibiting the reckoning of a period therein mentioned as service with a company for the purpose of any superannuation benefits.

35.—(1) There shall be a chief executive of a company. Chief executive.

(2) (a) The first chief executive of a company (other than Dún Laoghaire Harbour Company) shall be—

- (i) if functions in relation to the company's harbour stood vested before the relevant vesting day in a harbour authority specified in Part I of the First Schedule to the Act of 1946, the person who was on the day prior to the said day the General Manager of that harbour authority, or
- (ii) if functions in relation to the company's harbour stood vested before the relevant vesting day in a harbour authority specified in Part II of the said Schedule, the person who was on the day prior to the said day the secretary of that harbour authority.

(b) The first chief executive of Dún Laoghaire Harbour Company shall be a person nominated and appointed by that company after consultation with the Minister.

(3) Each subsequent chief executive of a company shall be appointed and may be removed from office by the other directors of the company after consultation with the Minister.

(4) The functions of the chief executive of a company shall be to carry on, manage and control generally the administration of the company, subject to the lawful directions of the directors of the company.

(5) Save in the case of the first chief executive of a company (other than Dún Laoghaire Harbour Company), the chief executive of a company shall hold office upon and subject to such terms and conditions (including terms and conditions relating to remuneration and

Pr.II S.35 allowances) as may be determined by the directors of the company with the consent of the Minister given with the approval of the Minister for Finance.

Chief executive to be a director. **36.**—The chief executive of a company shall be *ex officio* a director of the company.

Provisions with respect to staff of a company (including harbour master). **37.**—(1) (a) Without prejudice to any other provision of this Act, a company shall be required to employ—

(i) a harbour master,

(ii) such and so many other employees as it considers to be necessary for the due performance of its functions.

(b) A harbour master may from time to time authorise one or more other suitably qualified members of the staff of the company by whom he or she is employed to perform a function conferred on him or her by a provision of this Act or an instrument made thereunder and for so long as such member or members is or are so authorised references in the provision concerned and *section 50* to the harbour master shall be construed as including references to such member or members.

(2) Without prejudice to the requirements of *section 39*, a company, in determining the remuneration or allowances for expenses to be paid to members of its staff, including the chief executive, or the terms or conditions subject to which such members hold or are to hold their employment, shall have regard to Government or nationally agreed guidelines which are for the time being extant, or to Government policy concerning remuneration and conditions of employment which is so extant and, in addition to the foregoing, a company shall comply with any directives with regard to such remuneration, allowances, terms or conditions which the Minister may give to the company with the consent of the Minister for Finance.

Transfer of staff from former harbour authority or Department of the Marine to a company. **38.**—Every person who is on the day immediately before the relevant vesting day a member of staff of—

(a) the harbour authority of a harbour, or

(b) in the case of Dún Laoghaire Harbour, the Department of the Marine and is designated by the Minister for employment by Dún Laoghaire Harbour Company,

shall, on the said vesting day, be transferred to and become a member of the staff of the company established pursuant to *section 7* in respect of the said harbour.

Provisions applicable to staff transferred under *section 38*. **39.**—(1) Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned or an agreement negotiated with the person concerned, a person transferred to a company under *section 38* shall not, while in the service of the company, be brought to less beneficial conditions of service

or of remuneration than the conditions of service or of remuneration to which he or she was subject immediately before the relevant vesting day. Pr.II S.39

(2) Until such time as the scales of pay and conditions of service of persons transferred to a company under *section 38* are varied by the company, following consultation with any recognised trade union or staff association concerned or one or more of the said persons, the scales of pay to which the said persons were entitled and the conditions of service, restrictions, requirements and obligations to which they were subject immediately before their transfer shall continue to apply to them and may be applied or imposed by the company while they are in its service.

(3) The conditions in regard to tenure of office which are granted by the company in relation to a person transferred to it under *section 38* and who, immediately before the relevant vesting day, held office under the Local Authorities (Officers and Employees) Acts, 1926 to 1983, or was a member of the staff of the Department of the Marine, shall not, while he or she is in the service of the company, be less favourable to him or her than those applicable for the time being to persons holding office under the said Acts or, in case he or she was a member of the staff of the Department of the Marine, persons who are civil servants; any alteration in the conditions in regard to tenure of office of the said person shall not be less favourable to him or her than the conditions applicable at the time of such alteration to persons holding office under the aforesaid Acts or, as appropriate, persons who are civil servants, save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned or an agreement negotiated with the said person. If a dispute arises between the company and any such person as to what conditions are applicable for the time being to persons holding office under the aforesaid Acts or who are civil servants, the matter shall be determined by the Minister for Finance after consultation with the Minister.

(4) (a) In relation to a person transferred to a company under *section 38*, previous service by the person in the employment of the former harbour authority of the company's harbour or in the civil service, as the case may be, shall be reckonable for the purposes of, but subject to any exceptions or exclusions in, the Redundancy Payments Acts, 1967 to 1991, the Holidays (Employees) Acts, 1973 and 1991, the Minimum Notice and Terms of Employment Acts, 1973 to 1991, and the Unfair Dismissals Acts, 1977 to 1993.

(b) The reference in this subsection to previous service by a person in the employment of a former harbour authority includes a reference to previous service by the person otherwise than in the employment of the harbour authority that was treated by the harbour authority as service by him or her in their employment.

(5) In this section "civil servant" and "civil service" have the same meaning as they have in the Civil Service Regulation Act, 1956.

40.—(1) Subject to *subsection (8)*, a company shall, or, in the case of a company referred to in *section 41 (1)*, may, prepare and submit to the Minister a scheme or schemes for the granting of superannuation benefits to or in respect of such members of the staff of the company (including the chief executive) as it may think fit. Superannuation schemes.

(2) (a) Every such scheme shall fix the time and conditions of retirement for all persons to or in respect of whom superannuation benefits are payable under the scheme, and different times and conditions may be fixed in respect of different classes of persons.

(b) Every such scheme may, where it is appropriate so to provide, provide for the matters referred to in *subsections (3) (b) (ii) and (6) (ii) of section 41*.

(3) Every such scheme may be amended or revoked by a subsequent scheme prepared, submitted and approved under this section.

(4) Superannuation benefits granted under schemes under this section to persons who, immediately before the relevant vesting day, were members of the staff of a harbour authority or the Department of the Marine, as the case may be, and the terms and conditions relating to those benefits shall not be less favourable to those persons than those to which they were entitled immediately before that day.

(5) In the case of members of staff of Dún Laoghaire Harbour Company disbursement of superannuation benefits which may be granted to or in respect of such of those members who, immediately before the relevant vesting day, were members of the staff of the Department of the Marine shall be on conditions no less favourable to such members than those that would apply if those benefits had continued to be paid out of moneys provided by the Oireachtas.

(6) A scheme submitted by a company under this section shall, if approved by the Minister with the consent of the Minister for Finance, be carried out by the company in accordance with its terms.

(7) No superannuation benefit shall be granted by a company nor shall any other arrangements be entered into by the company for the provision of such a benefit to or in respect of a member of the staff of the company otherwise than in accordance with a scheme under this section, a scheme referred to in *subsection (1) of section 41* or pursuant to the company's obligations under *subsections (6) and (7) of that section*.

(8) (a) The Minister may by order exempt a company, the employees of which are less than 30 in number, from the requirements of *subsection (1)*.

(b) Such an order shall include a provision requiring the company to which the exemption concerned relates to enter into such arrangements with the holder of an authorisation as will secure the payment by that holder, on such terms and conditions as the company determines with the consent of the Minister and the Minister for Finance, of superannuation benefits to or in respect of members of the company's staff.

(c) In this subsection "authorisation" has the same meaning as it has in the European Communities (Life Assurance) Framework Regulations, 1994 (S.I. No. 360 of 1994).

41.—(1) (a) A superannuation scheme made under—

- (i) section 151 of the Act of 1946, or
- (ii) any other enactment (other than one referred to in *subsection (6)*),

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Existing
superannuation
schemes,
establishment of
pension funds,
arrangements for
pilots, etc.

by the former harbour authority of a company's harbour and which is in force immediately before the relevant vesting day shall (notwithstanding the repeal by, or, as the case may be, any cesser effected by, *section 5* of the said section 151 or other enactment aforesaid) continue in force and to apply to each person to whom it applied immediately before that day.

(b) A person who—

- (i) immediately before the relevant vesting day was a member of the staff of the former harbour authority of the harbour of a company (being a company in relation to which a scheme referred to in *subparagraph (i)* of *paragraph (a)* is continued in force under that paragraph) but was not participating in such a scheme, or
- (ii) becomes a member of the staff of such a company after the relevant vesting day,

may, after the relevant vesting day, participate in such a scheme in accordance with the provisions thereof.

(c) For the purposes of this subsection—

- (i) references in a scheme continued in force under *paragraph (a)* to the harbour authority which made the scheme shall be construed as references to the company in relation to which the scheme is so continued in force and the provisions of the scheme shall otherwise be construed so as to have effect in relation to that company and the members of its staff and other persons concerned,
- (ii) any fund established by the said harbour authority for the purposes of a scheme as aforesaid and in existence immediately before the relevant vesting day shall continue in existence for the purposes of the scheme and any persons who were appointed before the said day by the harbour authority as trustees to administer the said fund and whose appointment stands unrevoked immediately before the said day shall continue to have and enjoy (subject to the terms of the instrument referred to in *subparagraph (iii)* and the provisions of any enactment or instrument thereunder) the powers, rights and duties as such trustees,
- (iii) any instrument by or under which the said trustees were appointed shall, subject to the provisions of any enactment or instrument

thereunder, continue to have effect for the purposes of the fund aforesaid and for this purpose the provisions of the instrument shall be construed in like manner to the manner which *sub-paragraph (i)* provides that the provisions of the scheme concerned shall be construed.

- (d) A company in relation to which a scheme is continued in force under this subsection may amend or revoke, or, if directed by the Minister to do so, shall, in the manner specified in the direction, amend or revoke, the scheme as if it were a scheme made under *section 40 (1)* but no amendment shall be made to the scheme that would result in the superannuation benefits that may be granted under the scheme or the terms and conditions in relation thereto being less favourable to the members of the company's staff and other persons concerned than those to which they were entitled under the scheme before the making of the amendment.

(2) Without prejudice to *subsection (1)*, where a superannuation benefit falls due for payment to or in respect of a person to whom *subsection (4)* of *section 40* applies in the period beginning on the relevant vesting day and ending immediately before the coming into operation of a scheme submitted by a company and approved of under that section, the benefit shall be calculated and paid by the company in accordance with such superannuation scheme or such enactments in relation to superannuation, as applied to such person immediately before the said vesting day and, for that purpose, his or her pensionable service with the company shall be aggregated with his or her previous pensionable service.

(3) (a) Subject to *paragraph (b)*, a company which makes a scheme under *section 40 (1)* shall, as soon as may be after the making of the scheme—

- (i) establish a fund from which superannuation benefits payable under the scheme may be paid,
- (ii) make such arrangements as it considers to be necessary for the administration of such a fund (including the appointment of trustees for the purpose).

(b) *Paragraph (a)* shall not apply if—

- (i) there is in existence immediately before the making of a scheme as aforesaid (“the subsequent scheme”) a fund in respect of a superannuation scheme continued in force under *subsection (1)* in relation to the company concerned (“the prior scheme”), being a fund the existence of which is continued by virtue of *subsection (1) (c) (ii)* or which is established under *paragraph (c)*, and

(ii) the subsequent scheme provides—

- (I) that the said fund shall continue in existence for the purposes of the subsequent scheme, or

- (II) if the prior scheme is not revoked by the subsequent scheme, that the said fund shall have effect for the purposes of both the prior scheme and the subsequent scheme. Pr.II S.41
- (c) If in respect of a superannuation scheme continued in force under *subsection (1)* no fund was established by the former harbour authority which made the scheme the company in relation to which the scheme is so continued in force shall, as soon as may be after the relevant vesting day—
- (i) establish a fund from which superannuation benefits payable under the scheme after the said day may be paid,
 - (ii) make such arrangements as it considers to be necessary for the administration of such a fund (including the appointment of trustees for the purpose).
- (d) (i) A company shall take all reasonable steps to ensure that on and from the appropriate date a fund established by it under *paragraph (a)* or *(c)* or continued in existence in relation to it by virtue of *subsection (1) (c) (ii)* comprises sufficient moneys as will enable the payment from that fund, as distinct from the revenues of the company, of superannuation benefits under the scheme or schemes concerned as and when those benefits fall due for payment.
- (ii) In this paragraph “appropriate date” means the date specified by the Minister for the purposes of this paragraph in relation to the company concerned after consultation with that company.
- (4) (a) In relation to a scheme or schemes made by a company under *section 40 (1)*, previous service by a member of the staff of the company in the employment of the former harbour authority of the company’s harbour or the Department of the Marine, as the case may be, shall be reckonable as service with the company for the purposes of the scheme or schemes.
- (b) The reference in this paragraph to previous service by a person in the employment of a harbour authority or the Department of the Marine includes a reference to previous service by the person otherwise than in the employment of the harbour authority or the Department of the Marine, as the case may be, that was treated by the harbour authority or the said Department of State, as the case may be, as service by him or her in their or its employment for superannuation purposes.
- (5) (a) The Minister for Finance shall determine an appropriate contribution, related to reckonable service given before the relevant vesting day, towards the superannuation benefits which may be granted to or in respect of persons who are transferred to the staff of Dún Laoghaire Harbour Company under *section 38* and shall, subject to *paragraph (c)*, pay such contribution to the trustees appointed under *subsection (3)* in respect of the fund concerned at such times and in such manner as he or she shall determine.

(b) Where any part of the contribution under *paragraph (a)* remains unpaid for any period after the relevant vesting day, interest shall be payable by the Minister for Finance to the trustees referred to in that paragraph at such rate as the Minister for Finance may determine in respect of that period on the amount so unpaid.

(c) Payments under *paragraph (a)* or *(b)* shall be made not later than 5 years after the relevant vesting day.

(6) Notwithstanding the repeal of the Pilotage Act, 1913, by *section 5*—

(a) any pilots' benefit fund established under *section 17 (1) (j)* of that Act by the former pilotage authority for a company's pilotage district and in existence immediately before the commencement of *section 56* in relation to that company, or

(b) any superannuation scheme or arrangements made or entered into by that pilotage authority for the purpose of granting superannuation benefits to or in respect of pilots licensed under that Act in respect of that pilotage district and which is or are in force immediately before such commencement,

shall continue in existence or force and may, as appropriate—

(i) be dealt with in accordance with a pilotage agreement under *section 59*, or

(ii) be otherwise dealt with or administered by that company in such manner as it thinks just and equitable (which may include the replacement of the fund, scheme or arrangements by a scheme under *section 40 (1)* or by provisions inserted in a scheme continued in force in relation to that company under *subsection (1)* by an amendment thereof under that subsection),

but not so as to prejudice the operation of the provisions of *subsection (7)*.

(7) (a) In this subsection—

“benefits” includes superannuation benefits;

“company concerned” means the company referred to in *subsection (6)*;

“relevant pilot” means a pilot referred to in *subsection (6) (b)* who was such a pilot immediately before the commencement of *section 56* in relation to the company concerned.

(b) A relevant pilot who is employed by the company concerned under *section 56 (1) (a)* immediately after the commencement of that provision in relation to the company may opt not to participate in a scheme referred to in *section 40 (1)* or *subsection (1)* and may require the company to enter into such arrangements with him or her as will enable him or her to continue to enjoy the benefits (whether preserved or not) of or under the fund, scheme

or arrangements referred to in *subsection (6)* which he or she enjoyed before such commencement but subject to the same terms and conditions to which the said fund, scheme or arrangements provided that the enjoyment of the said benefits was to be subject.

- (c) The company concerned shall ensure that a person who is in receipt of benefits under a fund, scheme or arrangements referred to in *subsection (6)* immediately before the commencement of *section 56* in relation to the company shall continue to receive the said benefits after such commencement and that such receipt is subject to the same terms and conditions to which the said fund, scheme or arrangements provided that the receipt of the said benefits was to be subject.

(8) *Subsections (6) and (7)* shall be construed as one with *Part IV*.

(9) Where the Minister is satisfied, after consultation with the company and trustees concerned, that—

- (a) a fund established by a company under *paragraph (a) or (c) of subsection (3)* or continued in existence in relation to it by virtue of *subsection (1) (c) (ii)* does not comprise sufficient moneys as will enable the payment from that fund of superannuation benefits under the scheme or schemes concerned as and when those benefits fall due for payment, and
- (b) the said company does not have resources from which there could be paid the said benefits as and when they fall due for payment,

then the Minister may, with the consent of the Minister for Finance, pay to the trustees concerned such amount in respect of liabilities of the said scheme or schemes that have arisen prior to the relevant vesting day as he or she may determine.

(10) All money from time to time required by the Minister or the Minister for Finance to meet sums which are, or may become, payable by him or her under this section shall be advanced out of the Central Fund or the growing produce thereof.

(11) If any dispute arises as to the claim of any person to, or to the amount of, any superannuation benefit payable in pursuance of a scheme referred to in *section 40* or this section, such dispute shall be submitted to the Minister who shall refer it to the Minister for Finance, whose decision shall be final.

(12) Every scheme made under *section 40*, or under *paragraph (d) of subsection (1)* amending or revoking a scheme continued in force under that subsection, shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next subsequent 21 days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Pt. II
Harbour bye-laws.

42.—(1) (a) Without prejudice to *section 71*, (which concerns pilotage bye-laws), a company may make bye-laws with respect to the use of, and the safety of navigation within, its harbour and generally with respect to the regulation of its harbour and property.

(b) Without prejudice to the generality of *paragraph (a)*, a company may, in relation to its harbour, make bye-laws for all or any of the purposes mentioned in *Part I* of the *Sixth Schedule*.

(2) A person who contravenes a provision of bye-laws made under this section shall be guilty of an offence.

(3) A bye-law made under—

(a) section 60 of the Act of 1946, or

(b) any enactment relating to Dún Laoghaire Harbour,

that is in force immediately before the relevant vesting day and relates to a company's harbour shall continue in force in relation to that harbour as if made under this section and may be amended or revoked accordingly by the said company.

Transfer of
functions from one
company to another
company.

43.—(1) If on an application being made to the Minister by one or more of the companies referred to in this subsection requesting the making of an order under this section, the Minister is of the opinion that the functions conferred on a company or companies by or under this Act in respect of a harbour or harbours could in a more cost-effective and efficient manner be performed by another company, being a company established pursuant to *section 7*, he or she may by order transfer the said functions of the company or companies (which or each of which is referred to in this section as a "transferor company") to that other company (which is referred to in this section as the "transferee company").

(2) An order under this section shall only be made with the consent of each of the companies to which the order relates.

(3) An order under this section shall provide for such of the following matters as the circumstances require:

(a) the transfer to the transferee company of the whole or any part of the undertaking and of the property or liabilities of any transferor company,

(b) the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company,

(c) the transfer into the employment of the transferee company of members of the staff of any transferor company and the scales of pay and conditions of service to apply to such staff,

(d) an alteration in the name of the transferee company,

(e) the dissolution, without winding up, of any transferor company and the disposal for the benefit of the Exchequer of any of its property which is surplus to the requirements of the transferee company,

- (f) such incidental, consequential and supplementary matters as are necessary to secure that the transfer of functions shall be fully and effectively carried out. Pr.II S.43

(4) As respects a member of the staff of a transferor company transferred into the employment of a transferee company by an order under this section, the provisions of *sections 39, 40 and 41* shall, to the extent that they applied to that member before such transfer, continue to apply to him or her after such transfer and while he or she remains in the employment of the transferee company and for this purpose references in the said provisions to a company shall be construed as references to the transferee company and the said provisions shall otherwise be construed so as to have effect in relation to the said person while he or she remains in such employment.

44.—(1) The Minister may, after consultation with the company, give a direction in writing to a company requiring it to comply with policy decisions of a general kind made by the Minister in relation to— General ministerial powers.

- (a) the development of harbours,
- (b) the safety of ships, navigation and operations generally in harbours,
- (c) the levels of harbour charges imposed by a company or companies,
- (d) the acquisition or disposal of lands by a company or companies (including by way of the grant of a lease), or
- (e) any other matters affecting the functions of a company or companies.

(2) A company shall comply with a direction given to it under *subsection (1)*.

(3) *Subsection (1)* shall not be construed as enabling the Minister to exercise any power or control in relation to the performance in particular circumstances by a company of a function conferred on it by or under this Act.

- (4) (a) The Minister may stipulate, in consultation with the company and with the consent of the Minister for Finance, financial or other targets to be achieved by a company. In stipulating such targets the Minister shall have due regard to any direction he or she has given to the company concerned under *subsection (1)*.
- (b) The Minister may having due regard to the capacity of the company concerned to achieve the financial targets that have been stipulated under *paragraph (a)* in respect of it and after consultation with the Minister for Finance, stipulate the dividends to be paid by a company in respect of the shares held in its share capital.

PART III

PROVISIONS IN RELATION TO SAFETY OF NAVIGATION AND SECURITY IN HARBOUR

Buoys, etc.

45.—A company shall place and maintain buoys and lights of such kinds and at such points in its harbour as from time to time it considers, after consultation with the Commissioners of Irish Lights, to be necessary.

Power of harbour master to give certain directions.

46.—(1) The harbour master of a harbour may, subject to any bye-laws in force in relation to the harbour, give to the master of a ship using the harbour, such directions in connection with the user of the harbour as the harbour master thinks proper for the purpose of protecting persons and property or regulating traffic and, in particular, for the following purposes:

- (a) regulating the time at which and the manner in which the ship may approach, enter into, go out of or lie in or at any part of the harbour and regulating the position, mooring, unmooring, placing or removing of the ship,
- (b) regulating the dismantling of the ship,
- (c) regulating the take and discharge of ballast in the ship,
- (d) regulating the loading or discharging of cargo from the ship,
- (e) preventing the ship navigating within the harbour if the harbour master is of the opinion that it is or may become a danger to navigation.

(2) A direction given under this section shall not be repugnant to or inconsistent with any instrument made by the Revenue Commissioners under any enactment, a direction given by them under such an instrument or any enactment, or the law relating to customs.

(3) If the master of a ship refuses or fails to comply with a direction of a harbour master under this section or if a harbour master cannot find the master of a ship in relation to which he or she wishes to give a direction under this section—

- (a) the harbour master may carry out the direction and do all things necessary for or incidental to that purpose, and
- (b) the expenses incurred in so carrying out the direction shall be paid by the master of the ship to the company by whom the harbour master is employed and, in default of payment, shall be recoverable by the company from the master as a simple contract debt in any court of competent jurisdiction.

(4) If the master of a ship refuses or fails to comply with a direction under this section he or she shall be guilty of an offence.

Power to require removal of ship.

47.—(1) For the purpose of carrying out any repairs or cleansing operations or for any other purpose arising in relation to a harbour, the harbour master of the harbour may, subject to any bye-laws in force in relation to the harbour, require the master of a ship which

is at a place within the harbour to remove the ship therefrom and, when so removed, to place the ship at such place or anchorage as the harbour master may direct. Pt. III S.47

(2) If the master of a ship refuses or fails to comply with a requirement of a harbour master under this section or if a harbour master cannot find the master of a ship in relation to which the harbour master wishes to make a requirement under this section—

- (a) the harbour master may carry out the requirement and do all things necessary for or incidental to that purpose, and
- (b) the expenses incurred in so carrying out the requirement shall be paid by the master of the ship to the company by whom the harbour master is employed and, in default of payment, shall be recoverable by the company from the master as a simple contract debt in any court of competent jurisdiction.

(3) If the master of a ship refuses or fails to comply with a requirement of a harbour master under this section he or she shall be guilty of an offence.

48.—(1) (a) The harbour master of a harbour may at any time (including a time which is prior to the arrival of the ship within the harbour) require the master of a ship to give to him or her a statement of the draught of the ship. Statement of ship's draught and cargo.

(b) If the master of a ship refuses or fails to comply with a requirement of a harbour master under this subsection he or she shall be guilty of an offence.

(2) (a) Before a ship enters within a harbour, the master of the ship shall—

- (i) furnish the harbour master of the harbour with a statement of the take of any cargo on board the ship (howsoever contained) and the name or names of the person or persons entitled to take delivery thereof, and
- (ii) bring to the notice of that harbour master any defects in, and any matter peculiar to, the ship and its machinery and equipment of which the master knows and which might materially affect the navigation of the ship or its ability to be manoeuvred.

(b) If the master of a ship fails to comply with this subsection he or she shall be guilty of an offence.

49.—(1) The harbour master of a harbour may at any time enter a ship which is within the harbour where he or she considers it necessary for the purpose of exercising any power conferred on him or her by a provision of this Act (including *subsection (3)*) or an instrument made thereunder. Power to enter ship and inspection of ship, goods and documents.

(2) *Subsection (1)* is without prejudice to *section 14 (5)*.

(3) The harbour master of a harbour may—

(a) at any time require the master of a ship which is within the harbour to produce for inspection by him or her documents kept in relation to the ship and its crew, including insurance documents, certificates of competency, manifests, bills of lading and other documents relating to goods on board the ship,

(b) inspect such a ship and such goods for the purpose of ascertaining whether any provision of this Act or bye-laws made thereunder in relation to the ship or goods is being complied with.

(4) A master of a ship who refuses or fails to comply with a requirement of a harbour master under *subsection (3) (a)* shall be guilty of an offence.

(5) (a) The Minister may by order exempt a specified class or classes of ship that is engaged exclusively in the service of the State from the application of this section and for so long as such an order is in force this section shall be construed and have effect in accordance with the order.

(b) The reference in *paragraph (a)* to an order in force shall, as respects such an order that is amended by an order in force under *section 3 (4)*, be construed as a reference to the first-mentioned order as so amended.

Obstruction of harbour master.

50.—A person who obstructs or impedes the exercise of a power conferred on the harbour master of a harbour by this Act or an instrument made thereunder shall be guilty of an offence.

Saver for responsibilities of master of ship.

51.—A direction given to or a requirement made of the master of a ship by a harbour master under this Act or an instrument made thereunder shall not extend or diminish any responsibility of the master of the ship in relation to the ship or the cargo thereof.

Prohibition on bringing certain ships, vehicles and articles within harbour.

52.—(1) Subject to this section, the harbour master of a harbour may refuse entry into the harbour of a ship, vehicle or other conveyance if by reason of its nature or the condition of any of the goods being carried on it such entry or its presence in the harbour thereafter would, in the opinion of the harbour master, pose a danger to persons or property.

(2) Subject to this section, the harbour master of a harbour may only permit the entry into the harbour of radioactive material (within the meaning of the International Maritime Dangerous Goods Code of the International Maritime Organisation) with the consent of the Radiological Protection Institute of Ireland.

(3) Subject to this section, the following are prohibited from entering a harbour—

- (a) a nuclear powered ship, vehicle or conveyance,
- (b) a ship, vehicle or other conveyance that is carrying any nuclear weapons,
- (c) a ship, vehicle or other conveyance that is carrying nuclear material (within the meaning of section 2 of the Radiological Protection Act, 1991), or ores or other substances destined for the production of nuclear materials.

(4) The Minister may, with the consent of the Minister for Transport, Energy and Communications on the advice of the Radiological Protection Institute of Ireland, exempt a ship, vehicle or other conveyance of a specified class or classes carrying nuclear material from the application of *subsection (3) (c)* and for so long as such an exemption is in force *subsection (3)* shall be construed and have effect in accordance with the exemption.

(5) *Subsections (1), (2) and (3)* shall only apply to a ship of the naval service of a state (other than the State) with the prior consent of the Government.

(6) *Subsections (1), (2) and (3)* shall not apply to a ship in distress or where there is imminent danger to persons.

(7) Where a ship, vehicle or other conveyance having been refused entry to a harbour under *subsection (1)* or in contravention of *subsection (3)* enters a harbour, the owner and master of the ship or the owner of the vehicle or conveyance or the person to whom the conveyance is hired at the time of the entry shall each be guilty of an offence.

(8) The harbour master of a harbour may at any time, by notice affixed in a prominent place at the harbour, prohibit the bringing within the harbour, or any specified part of the harbour, of any article of a kind or class which is specified in the notice as being, in the opinion of the harbour master, likely to endanger persons or property.

(9) When and so long as a notice is affixed under *subsection (8)* at a harbour, the notice shall have effect according to the terms thereof and—

- (a) a person who contravenes the notice shall be guilty of an offence,
- (b) the harbour master of the harbour may remove any article brought by such person, in contravention of the notice, and place or store it elsewhere (whether within or outside the harbour) or have the article destroyed, and
- (c) the expenses of such removal and placing, storage or destruction, as the case may be, shall be paid by such person to the company whose harbour the notice aforesaid relates to and, in default of payment, shall be recoverable by that company from such person as a simple contract debt in any court of competent jurisdiction.

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(10) This section shall not prejudice the provisions of the Sea Pollution Act, 1991, in so far as they relate to harbours.

Interference with a thing placed in harbour for purpose of safety.

53.—(1) It shall not be lawful for a person to interfere in any way with anything provided by a company for the purpose of safety within its harbour.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence.

Appointment of harbour police, functions of harbour police, etc.

54.—(1) Each of the following companies, namely, Dublin Port Company and Dún Laoghaire Harbour Company shall appoint the members of its staff referred to in *subsection (2)* and may, if it thinks fit, appoint such other members of its staff as it determines, to police its harbour and exercise the powers referred to in *subsection (3)* and references in this section to a company's harbour police shall be construed as references to persons appointed by the company under this subsection.

(2) The members of staff mentioned in *subsection (1)* are persons who on the relevant vesting day are transferred under *section 38* to Dublin Port Company or Dún Laoghaire Harbour Company, as the case may be, and who immediately before the said day were employed as constables under any enactment by the Dublin Port and Docks Board or the Minister for the Marine in the case of Dún Laoghaire Harbour.

(3) (a) Subject to *paragraph (b)*, a member of a company's harbour police may, within the company's harbour, arrest without warrant a person who the member reasonably suspects has committed or is committing an offence under this Act specified in *section 6 (1)*.

(b) A member of a company's harbour police shall not be entitled to exercise the power referred to in *paragraph (a)* unless he or she has received (whether before or after the commencement of this section) training and instruction which, in the opinion of the company concerned, after consultation with the Minister, is such as will provide guidance to him or her in the exercise of the said power.

(c) A company concerned shall endorse on the warrant it furnishes to a member of its harbour police under *subsection (4)* a statement to the effect that the member has received the training and instruction referred to in *paragraph (b)*.

(d) Where a member of a company's harbour police arrests a person under *paragraph (a)* he or she shall, forthwith, deliver the person into the custody of a member of the Garda Síochána to be dealt with according to law.

(e) The arrest of a person under *paragraph (a)* shall not prejudice the re-arrest under statute or otherwise of that per-

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son by a member of the Garda Síochána, an officer of Customs and Excise or any other person. Pr.III S.54

(f) A member of a company's harbour police may accompany the harbour master of the company's harbour in the entry by him or her (or a person authorised by him or her under *section 37 (1) (b)* to make such an entry) into a ship under *section 14 (5)* or *49 (1)*.

(g) A person who obstructs or impedes a member of a company's harbour police in making an arrest under *paragraph (a)* or while such a member is accompanying a harbour master or another person under *paragraph (f)* shall be guilty of an offence.

(4) A person who is appointed by a company as a member of its harbour police shall, on his or her appointment, be furnished by the company with a warrant of his or her appointment as such a member.

(5) The appointment of a person as a member of a company's harbour police may be revoked at any time by the company if it appears to it that the person has been guilty of any misconduct or neglect of duty.

PART IV

PILOTAGE

55.—(1) In this Part and *Part II* of the *Sixth Schedule*, unless the context otherwise requires— Interpretation (*Part IV*).

“company's pilotage district” shall be construed in accordance with *subsection (2)*;

“employed pilot” means a pilot employed by a company under *section 56* in respect of its pilotage district and “employed pilot for a pilotage district” and cognate expressions shall be construed accordingly;

“former pilotage authority” means a pilotage authority referred to in *section 81*;

“harbour master for a pilotage district” means the harbour master of the company on which the function of organising and ensuring the provision of pilotage services in the pilotage district is conferred by *section 56*;

“licensed pilot” means a person to whom a company has granted under *section 58 (1)* a licence to act as a pilot in its pilotage district and “licensed pilot for a pilotage district” and cognate expressions shall be construed accordingly;

“pilot” means an employed or a licensed pilot;

“pilotage agreement” has the meaning assigned to it by *section 59 (1)*;

“pilot boat” means a boat or ship employed in the rendering of pilotage services;

“pilotage exemption certificate” has the meaning assigned to it by *section 72 (1)*;

“pilot for a pilotage district” means an employed or licensed pilot for a pilotage district;

“pilot’s licence” means a licence granted under *section 58 (1)*;

“warrant of appointment” means a warrant referred to in *section 58 (6)*.

(2) References in this Part to a company’s pilotage district shall be construed as references to the pilotage district referred to in *section 56 (1)*, the function of organising and ensuring the provision of pilotage services in which is conferred on the company by that section.

(3) References in this Part to the circumstances in which pilotage is compulsory for a ship while it is navigating in a pilotage district shall be construed as references to such circumstances as are specified in bye-laws under *section 71*.

Organisation of pilotage.

56.—(1) A company the harbour of which is situate in the pilotage district of a pilotage authority shall organise and ensure the provision of pilotage services in that pilotage district by one of the following means, namely—

- (a) by employing pilots as members of its staff, or
- (b) by licensing persons under *section 58* to perform acts of pilotage within that pilotage district:

Provided that pilotage services in Dún Laoghaire Harbour and Foynes Harbour shall (whether or not a company stands established pursuant to *section 7* in respect of either such harbour) be organised and the provision of such services ensured—

- (i) in the case of the first-mentioned harbour, by Dublin Port Company,
- (ii) in the case of the second-mentioned harbour, by Shannon Estuary Ports Company,

and by the same means as Dublin Port Company or Shannon Estuary Ports Company, as the case may be, otherwise organises and ensures the provision of pilotage services in the pilotage district aforesaid and, accordingly, save where an order under *section 79 (1)* specifies otherwise, this subsection shall not apply to Dún Laoghaire Harbour Company or Foynes Port Company and references in this Part to a company shall not be construed as including either of the said companies.

(2) If a company decides to organise and ensure the provision of pilotage services in its pilotage district by the means specified in *paragraph (a)* of *subsection (1)*, the company may make provision for the payment of compensation by it to any holder of a pilot’s

licence granted under the Pilotage Act, 1913, by the former pilotage authority for the company's pilotage district, and which was in force immediately before the commencement of *subsection (1)* in relation to the company, as respects the financial loss (if any) that, in the opinion of the company, the said holder will incur in consequence of the company carrying into effect the said decision. Pr.IV S.56

(3) For the purposes of *subsection (1)*, a company may organise and operate a pilot boat service for its pilotage district, and such other means of conveying pilots to or from a place within, or in the vicinity of, its pilotage district as it considers appropriate.

(4) The harbour master for a pilotage district shall superintend the carrying out by the pilots for that pilotage district of their duties as such pilots.

57.—(1) (a) The limits of a company's pilotage district shall be those set out in *Part II* of the *Third Schedule*. Limits of a company's pilotage district.

(b) A reference in this Act to a company's pilotage district shall be construed as including a reference to any point within the limits of its pilotage district as aforesaid.

(2) (a) For so long as an order under *section 79* is in force that alters the limits of a company's pilotage district, *Part II* of the *Third Schedule* shall, in so far as it relates to the said limits, be construed and have effect in accordance with the order.

(b) The reference in *paragraph (a)* to an order in force shall, as respects such an order that is amended by an order in force under *section 3 (4)*, be construed as a reference to the first-mentioned order as so amended.

58.—(1) For the purposes of *paragraph (b)* of *section 56 (1)* and subject to the provisions of any bye-laws made by it under *section 71*, a company may, on application being made to it by a person, grant to that person a licence to act as a pilot in its pilotage district and may, subject to the provisions of any bye-laws as aforesaid and *subsection (3)*, renew that licence as required. Pilots' licences and warrants of appointment.

(2) (a) A company may in granting a licence under *subsection (1)* attach such conditions to the licence as it thinks fit and such conditions may include conditions as to the area within the company's pilotage district in respect of which the holder of the licence may act as a pilot and the type of ship in respect of which he or she may act as a pilot.

(b) For the purposes of this subsection a company may divide the licences that it may grant under *subsection (1)* into licences of different classes by reference to the different conditions that it may attach to them and may style each such class of licence as it considers appropriate.

(3) (a) The grant or renewal of a licence under *subsection (1)* by a company shall not render the company liable for any act or default of the holder of the licence.

(b) A company shall not refuse to renew a pilot's licence on grounds that would constitute the grounds referred to in

section 73 for the suspension or revocation by it of such a licence unless, in the particular case, the gravity of the conduct that would constitute the said grounds is, in the opinion of the company, such as to warrant the company not renewing the licence in the interests of the safety of navigation in its pilotage district.

(4) Notwithstanding the repeal of the Pilotage Act, 1913, by *section 5*, a pilot's licence granted by the former pilotage authority for a company's pilotage district under that Act and which is in force immediately before the commencement of *section 56 (1)* in relation to the said company shall, if immediately after such commencement the said company organises and ensures the provision of pilotage services in its pilotage district by the means specified in *paragraph (b)* of *section 56 (1)*, continue in force in accordance with its terms and be deemed to be a licence granted by the said company under *subsection (1)*.

(5) A company may suspend or revoke a pilot's licence granted by it—

- (a) on the grounds referred to in, and subject to the provisions of, *section 73*, or
- (b) on such grounds (not related to the conduct of the holder of the licence) as may be specified in bye-laws made by it under *section 71*,

and such a licence, if so revoked, shall cease to have effect, and, if so suspended, shall cease to have effect for the period for which it is suspended.

(6) (a) Each person employed as a pilot by a company for its pilotage district shall, on his or her appointment to the duties of such a person, be furnished by the company with a warrant of his or her appointment as such a pilot.

(b) A company may specify in a warrant as aforesaid conditions under which the holder of the warrant may act as a pilot for its pilotage district, including conditions as to the area within the company's pilotage district in respect of which the holder may act as a pilot and the type of ship in respect of which he or she may act as a pilot, and may vary those conditions from time to time.

Pilotage agreement
between company
and licensed pilots.

59.—(1) If a company decides to organise and ensure the provision of pilotage services in its pilotage district by the means specified in *paragraph (b)* of *section 56 (1)* it shall enter into an agreement (in this Part referred to as a "pilotage agreement") with one or more persons whom the persons proposing to act as licensed pilots in the company's pilotage district nominate for the purpose of concluding such an agreement.

(2) A pilotage agreement may be varied or replaced by another pilotage agreement by agreement between the company concerned and the person or persons nominated under *subsection (1)* or such other person or persons as the licensed pilots for the company's pilotage district nominate for that purpose and references hereafter in this Part to a pilotage agreement shall, unless the context otherwise requires, be construed as including references to a pilotage agree-

ment so varied and a pilotage agreement that so replaces a pilotage agreement (including a pilotage agreement that has itself so replaced such an agreement). Pr.IV S.59

- (3) (a) In this subsection “relevant representatives” means the person or persons nominated under *subsection (1) or (2)* to enter into—
- (i) a pilotage agreement with the company referred to in this subsection, or
 - (ii) an agreement providing for the variation of a pilotage agreement to which the said company is a party, or
 - (iii) a pilotage agreement which will replace a pilotage agreement referred to in *subparagraph (ii)*,

and references in this subsection to a pilotage agreement shall be construed as references to a pilotage agreement referred to in *subparagraph (i), (ii) or (iii)*, as may be appropriate.

- (b) If a company and the relevant representatives cannot agree as to whether a particular term or terms ought to be included in a pilotage agreement, they may refer the matter to a person who shall be nominated by them or, in the event of them being unable to agree as to the person to be nominated for that purpose, to a person who shall be nominated by the Minister.
- (c) The person nominated under *paragraph (b)* shall, having considered the matter referred to him or her under that paragraph and any submissions which the company concerned and the relevant representatives have made to him or her in relation thereto (being submissions made to the person within such reasonable period of time as he or she shall specify for the purposes of the matter), decide whether the particular term or terms ought to be included in the pilotage agreement and his or her decision shall be binding on the company concerned and the relevant representatives.

(4) A pilotage agreement shall provide for—

- (a) the number of licensed pilots who shall from time to time provide pilotage services in the pilotage district of the company concerned and an increase or reduction in, as the case may be, the number of such pilots in the event of an increase or reduction in traffic requiring pilotage in that pilotage district,
- (b) the carrying out of the following duties by the company concerned or the licensed pilots for its pilotage district, namely—
 - (i) the collection and recovery of pilotage charges and the disbursement of those charges, after the making therefrom of all lawful deductions and disbursements on account of administrative expenses, to each of the licensed pilots,
 - (ii) the making, subject to the approval of the Minister given with the consent of the Minister for Finance, of a scheme for the grant of superannuation benefits

to or in respect of the licensed pilots and the provision of such other benefits for those pilots as are considered desirable by the company concerned or those pilots, as the case may be,

- (iii) such administrative duties the carrying out of which are necessary for or consequent upon the carrying out of a duty referred to in *subparagraph (i) or (ii)*,
 - (c) the payment to the company concerned out of pilotage charges collected or recovered in its pilotage district of the expenses incurred by it in carrying out a duty referred to in *paragraph (b)*,
 - (d) the transfer of the contributions, if any, that have been made by a licensed pilot for the pilotage district of the company concerned to any superannuation scheme administered by the former pilotage authority for that pilotage district to a scheme referred to in *paragraph (b) (ii)*,
 - (e) the transfer of any balance in a pilots' benefit fund established under section 17 (1) (j) of the Pilotage Act, 1913, by the former pilotage authority for the pilotage district of the company concerned to a scheme referred to in *paragraph (b) (ii)* or to such other fund that the company concerned or the licensed pilots carrying out the duties referred to in *paragraph (b) (ii)* establish for the purpose of providing benefits for licensed pilots,
 - (f) such supplementary, incidental or consequential matters as respects the matters referred to in *paragraphs (a) to (e)*,
 - (g) such other matters as may be required for the proper and efficient organisation and provision of pilotage services in the pilotage district of the company concerned,
 - (h) where it is thought desirable that effect should be given to a provision of the pilotage agreement by means of bye-laws made by the company concerned under *section 71*, the giving of effect to the provision by such means.
- (5) (a) Where a pilotage agreement is in force in respect of a company's pilotage district and the company proposes that the agreement should stand cancelled from a specified date and from that date that pilotage services in its pilotage district should be organised and their provision ensured by the means specified in *paragraph (a) of section 56 (1)* it shall conduct a secret ballot of the licensed pilots for its pilotage district with respect to that proposal.
- (b) If a majority of the licensed pilots for the pilotage district concerned who have cast valid votes in a ballot conducted under *paragraph (a)* vote in favour of the proposal to which the ballot relates—
- (i) the pilotage agreement concerned shall stand cancelled from the date specified in the said proposal, and
 - (ii) the company concerned may make all administrative arrangements and adjustments with respect to the

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organisation and provision of pilotage services in its pilotage district as are necessary to give effect to the said proposal and may provide for any thing consequential on the said proposal being carried into effect (including any financial loss that may be incurred by persons who were licensed pilots for its pilotage district). Pr.IV S.59

60.—(1) Subject to *subsection (3)*, a ship which is being navigated in a pilotage district in circumstances in which pilotage is compulsory for it shall be under the pilotage of— Compulsory pilotage.

- (a) a pilot for the pilotage district the terms of whose pilot's licence or warrant of appointment, as the case may be, entitles him or her to pilot the ship in the circumstances concerned (hereafter in this section referred to as an "appropriately qualified pilot"), or
- (b) a person who is *bona fide* acting as the person in charge of the ship and who holds a pilotage exemption certificate entitling him or her to pilot the ship in the circumstances concerned.

(2) If any ship is not under pilotage as required by *subsection (1)* after an appropriately qualified pilot has offered to take charge of the ship, the master of the ship shall be guilty of an offence.

(3) (a) If the master of a ship cannot comply with *paragraph (a)* of *subsection (1)* because the services of appropriately qualified pilots are, for whatever reason, unavailable he or she may, notwithstanding that subsection, navigate the ship in the pilotage district provided the harbour master for the pilotage district, being satisfied that it is safe in all the circumstances for the ship to be so navigated, authorises such navigation.

(b) If in circumstances to which *paragraph (a)* applies the master of a ship navigates it in a pilotage district without such navigation being authorised under that paragraph, he or she shall be guilty of an offence.

(4) If the master of a ship navigates it in a pilotage district in circumstances in which pilotage is compulsory for it without notifying the harbour master for the pilotage district that he or she proposes to do so, he or she shall be guilty of an offence.

(5) In this section "ship" does not include a class of ship that, as respects the pilotage district concerned, is exempted from the requirements of this section by bye-laws under *section 71*.

61.—(1) A pilot for a pilotage district may supersede as the pilot of a ship which is being navigated in the pilotage district any unauthorised person who has been engaged to pilot it. Right of a pilot to supersede unauthorised person.

(2) If the master of a ship navigates it in a pilotage district under the pilotage of an unauthorised person without first notifying the harbour master for the pilotage district that he or she proposes to do so, he or she shall be guilty of an offence.

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(3) If an unauthorised person pilots a ship in a pilotage district knowing that a pilot for the pilotage district has offered to pilot it, he or she shall be guilty of an offence.

(4) If the master of a ship which is navigating in a pilotage district knowingly engages or continues to engage an unauthorised person to pilot the ship after a pilot for the pilotage district has offered to pilot it, he or she shall be guilty of an offence.

(5) For the purposes of this section—

(a) a person is an unauthorised person if he or she is neither a pilot for the pilotage district concerned nor the holder of a pilotage exemption certificate, the terms of whose pilot's licence, warrant of appointment or certificate as aforesaid, as the case may be, entitles him or her to act as a pilot in the circumstances concerned,

(b) any person (other than the master or one of the crew of a ship) who is on the bridge of the ship or in any other position from which the ship is navigated (whether on board or elsewhere) shall be deemed to be piloting the ship unless he or she proves otherwise.

(6) In this section "ship" does not include a class of ship that, as respects the pilotage district concerned, is exempted from the requirements of this section by bye-laws under *section 71*.

Provision as to ships moving within harbour.

62.—A ship which is being moved within a harbour situated in a pilotage district shall, while it is being so moved, be deemed for the purposes of this Part to be navigating in that pilotage district save in so far as bye-laws under *section 71* provide otherwise.

Liability for ships under compulsory pilotage.

63.—The fact that a ship is being navigated in a pilotage district in circumstances in which pilotage is compulsory for it shall not affect any liability of the owner or master of the ship for any loss or damage caused by the ship or by the manner in which it is navigated.

Pilotage charges.

64.—(1) A company may, in respect of pilotage services that are provided by pilots in its pilotage district, impose charges (in this Part referred to as "pilotage charges") at such rates as are from time to time determined by it.

(2) Without prejudice to the generality of *subsection (1)*, the pilotage charges that may be imposed under this section shall include—

(a) pilotage charges by way of penalties payable in cases where the estimated time of arrival or departure of a ship is not notified as required by bye-laws made by the company under *section 71* or where a ship does not arrive or depart at the time notified in accordance with such bye-laws, and

(b) pilotage charges in respect of the cost of providing, maintaining and operating pilot boats for the pilotage district.

(3) Different rates of pilotage charges may be imposed by a company in different circumstances.

(4) Pilotage charges shall be recoverable by—

(a) the company concerned, or

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(b) if a pilotage agreement provides that the licensed pilots for its pilotage district shall recover pilotage charges in that pilotage district, those licensed pilots,

from the person on whom they are imposed as a simple contract debt in any court of competent jurisdiction.

65.—(1) As respects the services of a pilot that are obtained for any ship in a pilotage district pilotage charges may be imposed on any of the following persons, namely—

Liability for pilotage charges in respect of certain pilotage services.

(a) the owner or master of the ship;

(b) a consignee or agent who has paid or made himself or herself liable to pay any other charge on account of the ship in the harbour of its arrival, discharge or departure.

(2) A consignee or agent (not being the owner or master of the ship concerned) referred to in *subsection (1)* may, out of any moneys received by him or her on account of the ship concerned or belonging to the owner thereof, retain the amount of all pilotage charges paid by him or her in respect of that ship, together with any reasonable expenses he or she may have incurred by reason of the payment of the pilotage charges or his or her liability to pay the pilotage charges.

(3) A company may require a person referred to in *subsection (1)* to give a bond of a specified amount in favour of the company to recover pilotage charges.

66.—(1) A pilot shall not demand or receive, and a person referred to in *section 65 (1)* shall not offer to pay or pay to any pilot, pilotage charges in respect of services provided for a ship at any other rates, whether greater or less, than the rates which for the time being are determined under *section 64 (1)* in respect thereof.

Receiving or offering improper rates of pilotage charges.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence.

67.—If a dispute or disagreement arises as to whether a particular thing done or to be done in relation to the navigation of a ship or anything connected with the navigation of a ship is a pilotage service for the purposes of this Part the dispute or disagreement shall be referred to the harbour master for the pilotage district concerned for his or her determination and the decision of that harbour master in the matter shall be final.

Reference of disputes or disagreements to harbour master.

68.—(1) If a pilotage agreement provides that the licensed pilots for a pilotage district shall collect and recover pilotage charges in that pilotage district and disburse such charges when collected or recovered, the said pilots shall cause to be kept all proper and usual accounts of all moneys received, expended and disbursed by them in each financial year in the performance of those functions.

Accounts to be kept by licensed pilots.

(2) The licensed pilots referred to in *subsection (1)* shall, within 3 months after the end of each financial year, cause—

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- (a) the accounts kept by them under that subsection in respect of that year to be audited by an auditor approved by the company by whom they are licensed, and
- (b) copies of such of those accounts, when so audited, as the company aforesaid specifies, to be furnished to that company and the Minister.

Retirement age for pilots.

69.—(1) Subject to *subsection (2)*—

- (a) an employed pilot shall retire from such employment on his or her reaching 60 years of age,
- (b) a pilot's licence shall not be granted or renewed in respect of a person who has reached 60 years of age,
- (c) a pilot's licence shall not be granted or renewed for a period that will expire on a date subsequent to the date on which the person in respect of whom the licence is granted or renewed will reach 60 years of age.

(2) *Subsection (1)* shall not apply to a person who is the holder of a pilot's licence referred to in *section 58 (4)*.

Limitation of liability in respect of pilots.

70.—(1) A pilot for a pilotage district who has given a bond (the penalty of which shall not exceed £100) in the form prescribed by bye-laws made under *section 71* in relation to that pilotage district shall not be liable for damages as respects any neglect or want of skill on his or her part in rendering a pilotage service beyond an amount equal to the penalty of the bond and the pilotage charges that may be imposed in respect of the said service.

(2) A bond given by a pilot under *subsection (1)* shall not be liable to stamp duty and the pilot shall not be required to pay any expense in relation to the bond other than the actual expense of preparing the same.

(3) Where any loss or damage to any ship, to any property on board any ship or to any property or rights of any kind is caused by an employed pilot for a pilotage district in rendering a pilotage service and the loss or damage is not attributable to any act or omission of the company which employs that pilot committed with the intent to cause the loss or damage, or recklessly and with knowledge that the loss or damage would probably result, the company shall not be liable for damages beyond the amount of £100 multiplied by the number of employed pilots for its pilotage district at the date when the loss or damage occurs.

(4) The limitation of liability under this section shall apply to the whole of any losses and damages which may arise upon any one distinct occasion although such losses and damages may be sustained by more than one person.

(5) Where any proceedings are taken against a person (hereafter in this section referred to as "the defendant") for any act or omission in respect of which his or her liability is limited under this section and other claims are or appear likely to be made in respect of the same act or omission, the court in which the proceedings are taken may—

- (a) determine the amount of the liability of the defendant, Pt.IV S.70
- (b) upon payment by the defendant of that amount into court, distribute that amount rateably among the claimants,
- (c) stay any proceedings pending in any other court of equal or lower jurisdiction to it in relation to the same matter or request a court of higher jurisdiction to it in which such proceedings are pending to stay those proceedings,
- (d) proceed in such manner as the court thinks just—
- (i) as to making interested persons parties to the proceedings,
 - (ii) as to the exclusion of any claimants whose claims are not made within a specified period,
 - (iii) as to requiring security from the defendant, and
 - (iv) as to payment of any costs.

71.—(1) Subject to the provisions of this section, a company may, Pilotage bye-laws. in relation to pilotage in its pilotage district, make bye-laws for all or any of the purposes mentioned in *Part II* of the *Sixth Schedule*.

- (2) (a) If a company proposes to make bye-laws under *subsection (1)* it shall—
- (i) serve a notice of the proposal on each pilot for its pilotage district, and
 - (ii) publish a notice of the proposal in one or more newspapers circulating in the vicinity of its pilotage district.
- (b) A notice under *paragraph (a)* shall contain a statement, in general terms, of the purposes for which the proposed bye-laws are to be made and an intimation—
- (i) that the company concerned shall furnish, on request, to a person, free of charge, a draft of the proposed bye-laws, and
 - (ii) that a person may, within the appropriate periods specified in *subsection (4)*—
 - (I) request the company concerned to submit a draft of the proposed bye-laws to the Minister for his or her approval, and
 - (II) if a request as aforesaid is made by him or her or any other person, submit to the Minister objections in writing to the approval of the bye-laws.
- (3) A company shall furnish, on request, to a person, free of charge, a draft of bye-laws that it proposes to make under *subsection (1)*.
- (4) (a) A person may within the period mentioned in *paragraph (b)* request a company to submit to the Minister for his

or her approval a draft of bye-laws that it proposes to make under *subsection (1)*.

(b) The period referred to in *paragraph (a)* is—

(i) in case the person making the request is a pilot for the pilotage district concerned, the period of 21 days beginning on the date of service on him or her of a notice under *paragraph (a) (i)* of *subsection (2)* with respect to the bye-laws concerned, or

(ii) in any other case, the period of 21 days beginning on the date of the publication of a notice under *paragraph (a) (ii)* of *subsection (2)* with respect to the bye-laws concerned, or, in case more than one such notice is published, of the last such notice.

(c) If a request referred to in *paragraph (a)* is made of a company the company shall (unless it has already complied with such a request made of it by another person in relation to the same bye-laws) submit to the Minister for his or her approval a draft of the bye-laws to which the request relates.

(d) Any person may, within the period of one month beginning on the date of the submission of a draft of bye-laws under *paragraph (c)* to the Minister for his or her approval, submit to the Minister objections in writing to the approval of the bye-laws.

(5) Where under *paragraph (c)* of *subsection (4)* a draft of bye-laws is submitted to the Minister for his or her approval, the Minister, having considered any objections in writing to the approval of the bye-laws submitted in accordance with *paragraph (d)* of that subsection, shall, as he or she may think proper, refuse to approve of the bye-laws or approve thereof without modifications or make such modifications therein as he or she may think proper and approve of the bye-laws as so modified and the company concerned shall, accordingly, not make the bye-laws or, as the case may be, make them in the terms as so approved of.

(6) (a) *Subsections (2) to (5)* shall not apply to a company that organises and ensures the provision of pilotage services in its pilotage district by the means specified in *paragraph (a)* of *section 56 (1)*.

(b) *Subsections (2) to (5)* are subject to *paragraph (b)* of *section 80 (1)*.

(7) Notwithstanding the repeal of the Pilotage Act, 1913, by *section 5*, bye-laws made by the former pilotage authority for a company's pilotage district under that Act and which are in force immediately before the commencement of this section shall, save to the extent that they are inconsistent with a provision of this Act, continue in force as if made by the said company under *subsection (1)* and may be amended or revoked by it accordingly.

(8) A person who contravenes a provision of bye-laws made under this section shall be guilty of an offence.

72.—(1) A company may, on application being made to it by a person who is *bona fide* acting as the person in charge of any ship, grant to that person a certificate (in this Part referred to as “a pilotage exemption certificate”) if—

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Pilotage exemption
certificates.

- (a) it is satisfied that the person has the skill, experience and local knowledge sufficient to enable him or her to pilot the ship of which he or she is in charge (or that and any other ship in relation to which the certificate is to have effect in accordance with *subsection (2)*) within the company’s pilotage district or such part or parts thereof as is or are specified in the certificate,
- (b) the person is—
 - (i) an Irish citizen,
 - (ii) a national of another Member State of the European Communities (within the meaning of the European Communities Act, 1972), or
 - (iii) a national of a state with which the State has reciprocal arrangements for the grant by that state to an Irish citizen of a certificate that, under the law of that state, has the equivalent effect to a pilotage exemption certificate,
- (c) the person is the holder of a certificate referred to in Regulation I/2 of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 done at London on the 7th day of July, 1978, and which is in force,
- (d) it is satisfied that such other requirements relating to the grant of a pilotage exemption certificate as may be prescribed by bye-laws made by it under *section 71* are complied with by or in respect of that person.

(2) A pilotage exemption certificate may be granted subject to such conditions as the company concerned thinks fit, including conditions so that the certificate may have effect—

- (a) in relation to the whole of the pilotage district concerned or such part or parts thereof as is or are specified in the certificate,
- (b) in relation to more than one ship of substantially the same class and belonging to the same owner in circumstances where the person to whom it is granted is *bona fide* acting as the person in charge of any such ship.

(3) A pilotage exemption certificate shall specify the period for which it shall have effect which shall not be more than 1 year from the date on which it is granted or renewed under *subsection (4)*.

- (4) (a) Subject to the provisions of any bye-laws made by it under *section 71* relating to the renewal of a pilotage exemption certificate and *paragraph (b)*, a company which has granted a pilotage exemption certificate may renew it annually or at shorter intervals, as may be required.
- (b) A company shall not refuse to renew a pilotage exemption certificate on grounds that would constitute the grounds

referred to in *section 73* for the suspension or revocation by it of such a certificate unless, in the particular case, the gravity of the conduct that would constitute the said grounds is, in the opinion of the company, such as to warrant the company not renewing the certificate in the interests of the safety of navigation in its pilotage district.

(5) A company may, on the application of the holder of a pilotage exemption certificate which has been granted by it, amend the certificate so that it shall have effect in relation to any other ship or ships to which the holder may be transferred, being a ship or ships—

- (a) of a not substantially greater draught of water or tonnage than the ship or ships in relation to which the certificate already has effect, or
- (b) of substantially the same class and belonging to the same owner as the said ship or ships.

(6) If two or more ships are shown to the satisfaction of a company to be *bona fide* under the management of any one or more of the following persons, namely—

- (a) a body corporate,
- (b) any holding company of that body corporate,
- (c) any subsidiary of that body corporate,
- (d) any subsidiary of a holding company of that body corporate,

as manager, managing owner, demisee or time charterer the company may, for the purposes of this section, treat the said ships as being owned by the said body corporate or, as the case may be, either (as it thinks appropriate) the said body corporate or any holding company or subsidiary as aforesaid.

(7) If it is proposed to carry dangerous goods or harmful substances on board any ship or ships in relation to which an application for the grant of a pilotage exemption certificate or the renewal or amendment thereof is made the company concerned, in deciding whether to grant, renew or amend (as the case may be) the certificate, shall, without prejudice to the requirements specified in *subsection (1)*, have regard to the hazards that may be involved in the carriage of the said goods or substances on board the ship or ships.

(8) Where a ship in relation to which a pilotage exemption certificate has effect is being navigated in the pilotage district of the company which granted the certificate in circumstances in which pilotage is compulsory for it, the company shall ensure, in so far as is practicable, that—

- (a) a qualified officer is on the bridge of the ship with the holder of the certificate at all times (other than a time referred to in *paragraph (b)*) whilst the ship is being so navigated,
- (b) if the said officer is required elsewhere on the ship for anchoring or mooring duties at a time when the ship is anchoring, berthing or leaving a berth, a qualified navigational watch rating is on the bridge of the ship with the holder of the certificate at such a time.

(9) Notwithstanding the repeal of the Pilotage Act, 1913, by section 5, a pilotage certificate granted by the former pilotage authority for a company's pilotage district under section 23 of that Act and which is in force immediately before the commencement of this section shall continue in force in accordance with its terms and be deemed to be a pilotage exemption certificate granted by the said company under subsection (1).

(10) A company may suspend or revoke a pilotage exemption certificate granted by it—

- (a) on the grounds referred to in, and subject to the provisions of, section 73, or
- (b) on such grounds (not being grounds related to the conduct of the holder of the certificate) as may be specified in bye-laws made by it under section 71,

and such a certificate, if so revoked, shall cease to have effect, and, if so suspended, shall cease to have effect for the period for which it is so suspended.

(11) (a) The reference in subsection (1) (c) to Regulation I/2 of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers includes a reference to that Regulation as amended or replaced for the time being by any international agreement or convention to which the State is a party.

(b) In subsection (6) "subsidiary" means, in relation to a body corporate, a subsidiary within the meaning of section 155 of the Companies Act, 1963.

73.—(1) In this section "the Board of Inquiry" has the meaning assigned to it by subsection (5).

Suspension, revocation or non-renewal of pilot's licence or pilotage exemption certificate in certain circumstances.

(2) This section shall have effect in relation to the suspension or revocation of a pilot's licence or a pilotage exemption certificate on the grounds referred to in subsection (3) and to a refusal to renew such a licence or certificate in accordance with section 58 (3) (b) or 72 (4) (b).

(3) The grounds mentioned in subsection (2) are that the holder of the pilot's licence or pilotage certificate concerned has conducted himself or herself (whether by act or omission) in a manner that amounts to a contravention of a provision of this Act or otherwise to misconduct, incompetence or neglect of duty by him or her (whether in relation to his or her duties generally as a holder of such a licence or certificate or in relation to a specific incident or matter).

(4) (a) Subject to paragraph (b), a company shall not suspend or revoke a pilot's licence or a pilotage exemption certificate on the grounds referred to in subsection (3) otherwise than in accordance with a direction given to it in that behalf by the Board of Inquiry under this section.

(b) Notwithstanding paragraph (a) but without prejudice to subsection (5), a company may suspend a pilot's licence or a pilotage exemption certificate without a direction as aforesaid being given to it if in its opinion there exist the grounds referred to in subsection (3) for the suspension or revocation of the licence or certificate and the gravity

of the particular conduct constituting those grounds is such as to warrant the immediate suspension of the licence or certificate in the interests of the safety of navigation in its pilotage district.

(5) (a) Where a company—

- (i) becomes of the opinion that the grounds referred to in *subsection (3)* exist for the suspension or revocation of a pilot's licence or a pilotage exemption certificate (whether or not it has exercised the powers under *subsection (4) (b)* in relation to the licence or certificate or has renewed the licence or certificate subsequent to its becoming of that opinion), or
- (ii) decides, in accordance with *section 58 (3) (b)* or *72 (4) (b)*, not to renew such a licence or certificate on grounds that would constitute grounds aforesaid for the suspension or revocation of such a licence or certificate,

it shall, as soon as may be after it becomes of that opinion or reaches that decision, establish a board (in this section referred to as "the Board of Inquiry") to conduct an inquiry into the matter, to find as a fact whether or not the said grounds exist and, consequent on such a finding, to exercise the appropriate powers conferred on such a board by this section.

- (b) Particulars of the conduct alleged to constitute the said grounds shall be furnished by the company in writing to the Board of Inquiry and the holder or former holder of the licence or certificate concerned.
- (c) (i) The members of the Board of Inquiry shall consist of the chief executive of the company establishing it or some other person nominated by that chief executive (other than the harbour master for the company's pilotage district or a person authorised for the time being by that harbour master under *section 37 (1) (b)* to perform any of his or her functions), a person nominated by the Minister and a person nominated by the holder or former holder of the licence or certificate concerned or, if the said holder fails or refuses to nominate a person, a person also nominated by the Minister.
- (ii) The chairperson of the Board of Inquiry shall be the said chief executive or the person nominated by him or her to be a member of the Board.
- (d) (i) The Board of Inquiry shall conduct an inquiry into the matter concerned by way of an oral hearing at which the holder or former holder of the licence or certificate concerned shall be entitled to be heard and represented.
- (ii) Subject to the provisions of any bye-laws made under *section 71* by the company which has established it, the Board of Inquiry shall determine the procedure to be followed at an oral hearing under this paragraph.

(iii) The Board of Inquiry may obtain the assistance of one or more assessors in determining any matter of a technical nature that arises during the course of an oral hearing under this paragraph. Pt.IV S.73

(e) If, after an oral hearing under *paragraph (d)*, the Board of Inquiry finds as a fact that the grounds, as specified in the particulars furnished to it under *paragraph (b)*, exist for the suspension or revocation of the licence or certificate concerned or, as the case may be, for the company concerned having refused to renew that licence or certificate, it may decide to—

(i) give a direction to the company concerned requiring that company to revoke the licence or certificate concerned or to suspend or, as the case may be, continue to suspend, for such period as it specifies in the decision, that licence or certificate,

(ii) confirm the refusal by the company concerned to renew the licence or certificate concerned, or

(iii) notwithstanding that it has found as a fact that the said grounds exist, reprimand the holder of the licence or certificate concerned and, if that licence or certificate stands suspended under *subsection (4) (b)* or the renewal of it has been refused by the company concerned in accordance with *section 58 (3) (b)* or *72 (4) (b)*, direct that company to discontinue the suspension of that licence or certificate or, as the case may be, to renew that licence or certificate, subject, if it thinks fit so to provide, to such conditions as it specifies in the decision,

and the provisions of *subsections (6), (7) and (8)* shall apply to such a decision.

(f) If a licence or certificate stands suspended under *subsection (4) (b)* or the renewal of it has been refused by the company concerned in accordance with *section 58 (3) (b)* or *72 (4) (b)* and the Board of Inquiry after an oral hearing under *paragraph (d)* finds as a fact that the grounds, as specified in the particulars furnished to it under *paragraph (b)*, do not exist for the suspension or revocation of the licence or certificate or, as the case may be, for that company having refused to renew the licence or certificate it shall give a direction to that company requiring it to discontinue the suspension of the licence or certificate or, as the case may be, to renew the licence or certificate.

(6) The holder or former holder of the licence or certificate concerned may, within the period of 21 days beginning on the date of a decision referred to in *subsection (5) (e)*, apply to the Circuit Court for an order cancelling or varying that decision and if he or she so applies—

(a) the Circuit Court, on the hearing of the application, may make an order—

(i) cancelling that decision,

- (ii) affirming that decision, or
 - (iii) varying that decision in such manner as it thinks just and, without prejudice to the generality of this subparagraph, an order under this subparagraph may—
 - (I) provide that in lieu of the company concerned being directed to revoke the licence or certificate concerned, it shall be directed to suspend or, as the case may be, to continue to suspend that licence or certificate for such period as the Court specifies,
 - (II) provide that in lieu of the company concerned being directed to revoke or suspend or to continue to suspend the licence or certificate concerned, the Board of Inquiry shall reprimand the applicant and, where appropriate, direct the company concerned to discontinue the suspension of that licence or certificate or, as the case may be, to renew that licence or certificate subject to such conditions (if any) as the Court specifies,
 - (III) specify a lesser period than the period specified in the decision for which the company concerned is to be directed to suspend or continue to suspend the licence or certificate concerned,
 - (b) if at any time the Board of Inquiry satisfies the Circuit Court that the applicant has delayed unduly in proceeding with the application, the Circuit Court shall, unless it sees good reason to the contrary, make an order affirming that decision,
 - (c) the Circuit Court may direct how the costs of the application are to be borne.
- (7) (a) Where the holder or former holder of the licence or certificate concerned does not, within the period of 21 days beginning on the date of a decision referred to in *subsection (5) (e)*, apply to the Circuit Court for an order cancelling or varying that decision, the Board of Inquiry may apply *ex parte* to the Circuit Court for an order affirming that decision and, if the Board so applies, the Circuit Court shall, unless it sees good reason to the contrary, make an order affirming that decision.
- (b) An application to the Circuit Court under this subsection or *subsection (6)* shall be made to the judge of the Circuit Court for the circuit in which the registered office of the company which granted the licence or certificate concerned is situated.
- (8) (a) Where a decision of the Board of Inquiry has been affirmed or varied by the Circuit Court under this section, the Board may proceed to carry out that decision as so affirmed or varied and for that purpose may give to the company concerned any direction provided for in the decision.

- (b) A company shall comply with a direction given to it by the Board of Inquiry under *paragraph (a) or subsection (5) (f)*. Pr.IV S.73

(9) The Board of Inquiry shall for the purpose of an oral hearing under *subsection (5)* have the powers, rights and privileges vested in the High Court or a judge thereof on the hearing of an action in respect of—

- (a) the enforcement of the attendance of witnesses and their examination on oath or otherwise, and
(b) the compelling of the production of documents,

and a summons signed by the chairperson of the Board of Inquiry may be substituted for and shall be equivalent to any formal procedure capable of being issued in an action for enforcing the attendance of witnesses and compelling the production of documents.

(10) If a person—

- (a) on being duly summoned as a witness before the Board of Inquiry, without just cause or excuse disobeys the summons, or
(b) being in attendance as a witness before the Board of Inquiry refuses to take an oath or to make an affirmation when legally required by the Board to do so, or to produce any documents (which word shall be construed in this subsection and in *subsection (9)* as including things) in his or her power or control legally required by the Board to be produced by him or her, or to answer any question to which the Board may legally require an answer, or
(c) wilfully gives evidence to the Board of Inquiry which is material to the matter being inquired into by the Board and which he or she knows to be false or does not believe to be true, or
(d) by act or omission, obstructs or hinders the Board of Inquiry in the performance of its functions,

the person shall be guilty of an offence.

74.—(1) If a complaint is made by a person to the Minister that a company has—

- (a) without reasonable cause refused or failed to examine that person for a pilot's licence or a pilotage exemption certificate, or to grant to that person such a licence or certificate after he or she has undergone an examination conducted by the company therefor; or
(b) conducted any examination of that person for a pilot's licence or a pilotage exemption certificate improperly or unfairly; or
(c) attached conditions to a pilot's licence or included terms in a pilotage exemption certificate which it has granted to that person that it has no power to attach or include or that are unreasonable; or

Appeal to Minister against conduct of company with respect to pilot's licence or pilotage exemption certificate.

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- (d) in any other manner to the prejudice of that person failed properly to perform any of its functions under this Part with respect to a pilot's licence or a pilotage exemption certificate (and the complaint is not one cognisable by a Board of Inquiry under *section 73 (5)*),

the Minister shall consider the complaint and, if the Minister is of opinion that the complaint is well founded, shall make such order as he or she shall think fit for the purpose of redressing the matter complained of, and the company shall give effect to any order so made by the Minister.

- (2) If a company refuses or fails to give effect to any such order of the Minister, the Minister may, for the purpose of giving effect to the order, exercise any powers of the company and anything done by the Minister in the exercise of those powers shall have the same effect as if it had been done by the company.

Obligation of master to furnish information to a pilot.

75.—(1) A pilot may request the master of a ship which the pilot is piloting to declare to him or her its draught of water, air draught, length and beam, and to provide him or her with such other information relating to the ship as the pilot specifies and is reasonably necessary to enable the pilot to carry out his or her duties as the pilot of the ship.

(2) The master of a ship shall bring to the notice of any person who pilots the ship any defects in, and any matter peculiar to, the ship and its machinery and equipment of which the master knows and which might materially affect the navigation of the ship.

(3) A master of a ship who—

- (a) refuses or fails to comply with a request made under *subsection (1)*, or
- (b) makes a statement which is false in a material particular in purported compliance with such a request, knowing it to be so false or being reckless as to whether it is so false, or
- (c) without reasonable cause contravenes *subsection (2)*,

shall be guilty of an offence.

Facilities to be given for pilot getting on board ship.

76.—(1) Where—

- (a) the master of a ship that is navigating in a pilotage district in circumstances in which pilotage is compulsory for it but is not under the pilotage of a pilot or other person, the terms of whose licence, warrant of appointment or pilotage exemption certificate, as the case may be, entitles him or her to pilot the ship in the circumstances concerned, is offered the services of a pilot, or
- (b) the master of a ship accepts the services of a pilot in any other circumstances,

he or she shall facilitate the pilot safely boarding and subsequently safely leaving the ship.

(2) A master of a ship who without reasonable cause contravenes this section shall be guilty of an offence. Pt.IV S.76

77.—(1) If a pilot in the course of piloting a ship—

Conduct of pilot endangering ship or safety of persons.

- (a) does any act which causes or is likely to cause—
- (i) the loss or destruction of or serious damage to the ship or its machinery, navigation equipment or safety equipment,
 - (ii) the loss or destruction of or serious damage to any other ship or any structure, or
 - (iii) the death of or serious injury to any person,
- or
- (b) omits to do anything required—
- (i) to preserve the ship or its machinery, navigation equipment or safety equipment from being lost, destroyed or seriously damaged,
 - (ii) to preserve any person on board the ship from death or serious injury, or
 - (iii) to prevent the ship from causing the loss or destruction of or serious damage to any other ship or any structure, or the death of or serious injury to any person not on board the ship,

and the act or omission was deliberate or amounted to a breach or neglect of duty or the pilot was under the influence of alcohol or any controlled drug (within the meaning of the Misuse of Drugs Acts, 1977 and 1984) at the time of the act or omission, he or she shall, subject to *subsection (2)*, be guilty of an offence.

(2) In proceedings for an offence under this section it shall be a defence to prove—

- (a) that in all circumstances the loss, destruction, damage, death or injury in question or, as the case may be, the likelihood of its being caused either could not reasonably have been foreseen by the accused person or could not reasonably have been avoided by him or her, or
- (b) if the act or omission alleged against the accused person constituted a breach or neglect of duty, the accused person took all reasonable steps to discharge that duty.

(3) In this section “structure” means any fixed or movable structure (of whatever description) other than a ship.

78.—If a pilot—

Miscellaneous offences with respect to pilots.

- (a) lends his or her pilot’s licence or warrant of appointment to another person for the use by that other person;
- (b) being a licensed pilot, acts as a pilot whilst his or her licence stands suspended under this Part;

- (c) acts as a pilot while under the influence of alcohol or any controlled drug (within the meaning of the Misuse of Drugs Acts, 1977 and 1984);
- (d) employs, or causes to be employed, on board or otherwise in relation to any ship which he or she is piloting, any boat, anchor, cable, or other store, matter, or thing beyond what is necessary for the service of that ship, with intent to enhance the amount of pilotage charges imposed in relation to the pilotage of the ship for his or her own gain or for the gain of any other person;
- (e) fails or refuses to comply with a lawful direction given to him or her by the harbour master for the pilotage district for which he or she is licensed or employed;
- (f) fails, refuses or wilfully delays, when not prevented by illness or other reasonable cause, to pilot any ship within the pilotage district for which he or she is licensed or employed upon being required to do so by the master of the ship or the company by whom he or she is licensed or employed; or
- (g) quits the ship, which he or she is piloting, before the service for which he or she was engaged has been performed and without the consent of the master of the ship;

he or she shall be guilty of an offence.

Power of Minister to re-organise provision of pilotage services.

79.—(1) The Minister may by order—

- (a) establish one or more additional pilotage districts (that is to say, districts in which pilotage shall be regulated in the like manner to that provided by this Part in relation to a pilotage district mentioned in *section 56*) and define the limits of such a district or of such districts,
- (b) specify the circumstances in which pilotage shall be compulsory in a pilotage district established under *paragraph (a)*,
- (c) abolish a pilotage district (being a pilotage district mentioned in *section 56* or established under *paragraph (a)*) or alter the limits of such a district,

and nothing in *section 56* shall be construed as restricting or limiting the exercise by the Minister of his or her powers under this section in relation to a pilotage district mentioned in that section.

- (2) (a) An order under *paragraph (a)* of *subsection (1)* shall confer on a specified person the function of organising and ensuring the provision of pilotage services in the pilotage district to which the order relates; the said person shall perform that function by one of the means specified in *section 56 (1)* and the provisions of this Part shall otherwise apply to the said pilotage district with the substitution for references to “company”, in each place where it occurs, of references to the said person and any other necessary modifications.
- (b) An order under *subsection (1)* may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient.

(3) The powers of the Minister under this section are in addition Pr.IV S.79 to his or her powers under *section 43*.

80.—(1) (a) The Minister may give a direction in writing to a company to do or refrain from doing anything specified in the direction the doing, or the refraining from the doing, of which is, in the opinion of the Minister, necessary to ensure the safety of pilotage operations in its pilotage district and the company shall comply with any such direction.

Miscellaneous powers of Minister with respect to pilotage.

(b) Without prejudice to the generality of *paragraph (a)*, the Minister may give a direction under that paragraph to a company requiring it to amend, in a manner specified in the direction, so much of bye-laws made by it under *section 71* that specify the circumstances in which pilotage shall be compulsory for a ship while it is navigating in the company's pilotage district and *subsections (2) to (5)* of that section shall not apply to an amendment by the company of those bye-laws in compliance with such a direction.

(2) The Minister may, after consultation with the company, give a direction in writing to a company requiring it to comply with policy decisions of a general kind made by the Minister in relation to the levels of pilotage charges imposed by a company or companies and the company shall comply with any such direction.

(3) The Minister may from time to time request one or more persons having a knowledge of the organisation and provision of pilotage services in the State to carry out a review of Government policy for the time being in relation thereto and to make such recommendations to the Minister as to the maintenance of or change in that policy as the person or persons thinks or think appropriate.

(4) The Minister may by order authorise a person specified in the order to grant a certificate (hereafter in this section referred to as a "deep sea pilotage certificate") to a person certifying that he or she is qualified to act as a pilot of a ship in respect of such part of the sea falling outside a pilotage district as the Minister specifies in the order.

(5) A person for the time being authorised by an order under *subsection (4)* to grant a deep sea pilotage certificate may grant such a certificate to any person on application by the person if he or she is satisfied (by examination or by reference to such other criteria as he or she may reasonably impose) that the applicant is qualified to act as a pilot of a ship for the area in respect of which the first-mentioned person is authorised to grant such a certificate.

PART V

MISCELLANEOUS

81.—(1) A harbour authority of a harbour in respect of which a company is established pursuant to *section 7* shall stand dissolved on the relevant vesting day and such dissolution shall, subject to *subsection (2)*, include the dissolution of the harbour authority in their capacity as a pilotage authority.

Dissolution of certain harbour authorities and pilotage authorities.

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(2) If the day on which *section 56* commences in relation to a company is subsequent to the relevant vesting day the harbour authority of the company's harbour shall, notwithstanding *subsection (1)*, continue in existence in their capacity as a pilotage authority on and from the relevant vesting day but shall stand dissolved in that capacity on the commencement of *section 56* in relation to the company.

(3) As respects a harbour authority that, by virtue of *subsection (2)*, is continued in existence in the capacity referred to in that subsection—

(a) the company established pursuant to *section 7* in respect of the harbour of the harbour authority may make such contributions, as with the consent of the Minister it may determine, towards the expenses which the harbour authority incurs, on and from the relevant vesting day, in acting in the said capacity,

(b) the Minister may appoint a person to fill a casual vacancy arising among the members of the harbour authority on or after the said vesting day and may, by order, make provision for any other matter in relation to the constitution or the administration generally of that authority where the making of such provision is necessary to enable them to act duly in the said capacity.

Construction of reference to Shannon Harbour for certain purposes.

82.—For the purposes of references in this Act to the former harbour authority of a company's harbour, in so far as the references relate to Shannon Estuary Ports Company, references in this Act to Shannon Harbour shall be construed as references to, or (as may be appropriate) as including references to, Limerick Harbour.

Adaptation of references in enactments to harbour authorities and pilotage authorities.

83.—(1) References in any enactment or instrument made thereunder to a harbour authority shall, unless the context otherwise requires, be construed as including references to a company established pursuant to *section 7* in respect of the harbour of a harbour authority or, as the case may be, to a local authority to which the harbour of a harbour authority is transferred by an order under *subsection (2)* of *section 88* or under *subsection (4)* or *(5)* of that section and references in any enactment or instrument made thereunder to a particular harbour authority shall, unless the context otherwise requires, be construed as references to the particular company (if any) so established or, as the case may be, to the particular local authority (if any) to which a transfer as aforesaid is made.

(2) References in any enactment or instrument made thereunder to a pilotage authority shall, unless the context otherwise requires, be construed as including references to a company on which the function of organising and ensuring the provision of pilotage services in the pilotage district of a pilotage authority is conferred by *section 56* and references in any enactment or instrument made thereunder to a particular pilotage authority shall, unless the context otherwise requires, be construed as references to the particular company (if any) on which the aforesaid function in relation to the pilotage district of that pilotage authority is so conferred.

(3) References in any enactment or instrument made thereunder to the Minister for the Marine shall, in so far as the references relate

to a matter to which a function of Dún Laoghaire Harbour Company relates and unless the context otherwise requires, be construed as references to that company. Pr.V S.83

84.—A document which purports to be a copy of bye-laws made under *section 42 or 71*, and which has endorsed thereon a certificate (purporting to be signed by an officer of the company by which such bye-laws were made) stating that the document is a true copy of the bye-laws and that the bye-laws were in force on a specified date, shall, without proof of the signature of such officer or that he or she was in fact such officer, be evidence (until the contrary is proved) in every court and in all legal proceedings of the bye-laws and of the fact that they were in force on that date. Proof of bye-laws.

85.—(1) Where a notice, direction or other document is authorised or required by this Act or an instrument made thereunder to be served on or given to a person, it shall, unless otherwise specified in this Act or the instrument, be addressed to him or her and shall be served on or given to him or her in one of the following ways— Service of notices.

- (a) by addressing it to the person by name and delivering it to him or her;
- (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address; or
- (c) by sending it by ordinary prepaid post addressed to the person at the address at which he or she ordinarily resides, or in a case in which an address for service has been furnished, at that address.

(2) For the purposes of this section, a company registered under the Companies Acts shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

86.—(1) In this section “the Act of 1968” means the Fishery Harbour Centres Act, 1968. Amendment of Fishery Harbour Centres Act, 1968.

- (2) (a) The Schedule to the Act of 1968 is hereby amended by the addition thereto of “Dingle.”.
- (b) If the Minister makes an order under section 2 (1) of the Act of 1968 in relation to Dingle Harbour and all the property, rights and liabilities of the Dingle Harbour Commissioners are transferred to the Minister by the order, the Dingle Harbour Commissioners shall, on the commencement of the order, stand dissolved.

87.—(1) The Minister may by order provide for the formation and registration under the Companies Acts of a private company in respect of the harbour of each harbour authority mentioned in the Table to this section and for the application to a company aforesaid, subject to such adaptations and modifications as the Minister may consider necessary or expedient and specifies in the order, of so much of the provisions of this Act that, in his or her opinion, it is appropriate to apply to the company. Power to establish companies in respect of harbours not mentioned in First Schedule.

(2) An order under this section may relate to all or one or more of the said harbours.

TABLE

Annagassan Pier Commissioners
 Bantry Bay Harbour Commissioners
 Ballyshannon Harbour Commissioners
 Baltimore and Skibbereen Harbour Commissioners
 Buncrana Harbour Commissioners
 The Council of the urban district of Kilrush
 Kinsale Harbour Commissioners
 River Moy Commissioners
 Sligo Harbour Commissioners
 Tralee and Fenit Pier and Harbour Commissioners
 Westport Port and Harbour Commissioners
 Wexford Harbour Commissioners
 The Council of the urban district of Youghal

Provisions with respect to transfer of certain harbours to local authorities.

88.—(1) In this section—

“council” means the council of a county;

“Dublin Corporation” means the Right Honourable the Lord Mayor, Aldermen and Burgesses of Dublin;

“Dun Laoghaire-Rathdown County Council” and “Fingal County Council” have the same meaning as they have in the Local Government (Dublin) Act, 1993;

“harbour authority”, where the context admits, includes Dublin Port Company;

“property”, where the context admits, includes a harbour and the quay walls and bridges mentioned in *subsection (6)*;

“the relevant local authority” means the local authority to which an order under *subsection (2)* or, as the case may be, *subsection (4), (5) or (6)*, provides that property, rights and liabilities and, in the case of an order under *subsection (2)*, members of staff, of a harbour authority specified in the order or in *subsection (4), (5) or (6)*, as the case may be, shall be transferred and “relevant harbour authority” means the harbour authority so specified.

(2) (a) The Minister may, in lieu of making an order under *section 87* in respect of the harbour of a harbour authority mentioned in the Table to that section, with the consent of the Minister for the Environment, by order transfer all the property, rights and liabilities of such a harbour authority and every member of their staff to whichever of the following the Minister considers appropriate, namely—

(i) the council in whose functional area the harbour of the harbour authority is situate, or

(ii) any other local authority in whose functional area the said harbour is situate.

(b) The reference in this subsection to the property, rights and liabilities and members of staff of an aforesaid harbour authority includes a reference to any property, rights and liabilities of the harbour authority in their capacity as a

pilottage authority but where a local authority constitutes an aforesaid harbour authority the first-mentioned reference does not include a reference to the property, rights and liabilities and members of staff of the local authority in its capacity as a local authority.

(3) An order under *subsection (2)* may relate to one or more than one of the harbour authorities mentioned in the Table to *section 87*.

(4) On the commencement of this subsection there shall stand transferred to Fingal County Council from the Dublin Port and Docks Board, or, if the relevant vesting day is prior to such commencement, from Dublin Port Company, the following harbours, namely, Skerries Harbour and Balbriggan Harbour together with all the property, rights and liabilities of the said Board or company, as the case may be, connected with each of the said harbours.

(5) On the commencement of this subsection there shall stand transferred to Dun Laoghaire-Rathdown County Council from the Dublin Port and Docks Board, or, if the relevant vesting day is prior to such commencement, from Dublin Port Company, the following harbours, namely, Bulloch Harbour and Sandycove Harbour together with all the property, rights and liabilities of the said Board or company, as the case may be, connected with each of the said harbours.

(6) On the commencement of this subsection there shall stand transferred to Dublin Corporation from the Dublin Port and Docks Board or, if the relevant vesting day is prior to such commencement, from Dublin Port Company, the quay walls and bridges of the River Liffey from and including the Rory O'More Bridge at Heuston Station up to and including the Matt Talbot Memorial Bridge together with all the property, rights and liabilities of the said Board or company, as the case may be, connected with the said quay walls and bridges.

(7) As respects property, rights and liabilities of a harbour authority transferred by an order under *subsection (2)* or under *subsection (4), (5) or (6)*, the following provisions shall have effect:

- (a) on and from the commencement of the order or *subsection (4), (5) or (6)*, as the case may be, without any further conveyance, transfer or assignment—
 - (i) the property concerned shall vest in the relevant local authority for all the estate and interest therein of the relevant harbour authority,
 - (ii) the rights concerned shall be enjoyed by the relevant local authority,
 - (iii) the liabilities concerned shall be the liabilities of the relevant local authority,
- (b) if, immediately before the commencement of the order or *subsection (4), (5) or (6)*, as the case may be, any legal proceedings are pending to which the relevant harbour authority is a party and, in the case of the Dublin Port and Docks Board or Dublin Port Company, the proceedings have reference to property, rights or liabilities transferred under *subsection (4), (5) or (6)*, as the case may be, the name of the relevant local authority shall, on and from such commencement, be substituted in the

proceedings for that of the relevant harbour authority and the proceedings shall not abate by reason of such substitution.

(8) On the commencement of an order under *subsection (2)*, the relevant harbour authority shall stand dissolved and such dissolution shall include the dissolution of the relevant harbour authority in their capacity as a pilotage authority:

Provided that where a local authority constitutes the relevant harbour authority such dissolution shall not affect the local authority in its capacity as a local authority.

(9) (a) Where a local authority constitutes a harbour authority to which an order under *subsection (2)* relates, the Minister may on his or her own initiative and shall on the application of the relevant local authority issue a certificate in respect of specified property, rights or liabilities certifying, as he or she thinks proper, that the property, rights or liabilities were or were not property, rights or liabilities of the first-mentioned local authority in its capacity as the said harbour authority and, where appropriate, as a pilotage authority and the certificate shall be conclusive evidence of the facts so certified.

(b) For the purposes of *subsections (4), (5) and (6)*, the Minister may on his or her own initiative and shall on the application of Fingal County Council, Dun Laoghaire-Rathdown County Council or Dublin Corporation issue a certificate in respect of specified property, rights or liabilities certifying, as he or she thinks proper, that the property, rights or liabilities were or were not connected with a harbour mentioned in *subsection (4) or (5)* or the quay walls and bridges mentioned in *subsection (6)* and the certificate shall be conclusive evidence of the facts so certified.

(10) On and from the commencement of an order under *subsection (2)* that relates to the Bantry Bay Harbour Commissioners, references in section 2 of the Fishery Harbour Centres (Amendment) Act, 1992, to those commissioners shall be construed as references to the relevant local authority.

(11) Section 12 of the Finance Act, 1895, shall not apply to the vesting in a local authority of any property or rights transferred by an order under *subsection (2) or under subsection (4), (5) or (6)*, as the case may be.

Regulation of harbours under the control or management of local authorities.

89.—(1) In this section “the Act of 1994” means the Local Government Act, 1994.

(2) (a) The Minister may make regulations with respect to the safety of navigation in harbours under the control or management of local authorities or a specified class or classes of harbours under such control or management.

(b) A person who contravenes a provision of regulations under this subsection shall be guilty of an offence.

(3) (a) Without prejudice to the generality of subsections (1), (2) and (7) of section 37 of the Act of 1994, but subject to

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Harbours Act, 1996.

[No. 11.]

subsection (8) of that section, the power of a local authority to make bye-laws under Part VII of the Act of 1994 includes the power to make bye-laws, in relation to a harbour under its control or management—

- (i) for all the purposes that a company may make bye-laws under *section 42* in relation to its harbour, and
- (ii) for the purpose of enabling it to impose charges in like circumstances to those in which a company may impose charges under *section 13*.

- (b) Notwithstanding *subsection (2)* and *section 37 (2) (b)* of the Act of 1994, the power aforesaid of a local authority includes a power to make bye-laws with respect to the safety of navigation in a harbour under its control or management:

Provided that any provision of bye-laws made by a local authority with respect to that matter shall, to the extent that the provision is inconsistent with regulations under *subsection (2)*, not have effect for so long as such regulations remain in force.

90.—On the relevant vesting day (as respects Dún Laoghaire Harbour Company), the Dún Laoghaire Harbour (Finance) Board shall stand dissolved and the provisions of *Part VI* shall, with any necessary modifications, apply to the property, rights and liabilities of that Board and any proceedings pending against the Board immediately before the said day as they apply to the property, rights and liabilities of the Minister and any proceedings pending against him or her immediately before the said day.

Dissolution of Dún Laoghaire Harbour (Finance) Board.

91.—(1) The Minister may, after consultation with the local authority concerned, by order define the limits of a harbour that is under the control or management of a local authority and for so long as such an order is in force the limits of such a harbour shall, notwithstanding the provisions of any enactment in force immediately before the commencement of the order, be those defined in the order.

Limits of harbours under the control or management of local authorities.

(2) The reference in *subsection (1)* to an order in force shall, as respects such an order that is amended by an order in force under *section 3 (4)*, be construed as a reference to the first-mentioned order as so amended.

92.—(1) Each of the following, namely, a company and a harbour authority, shall, subject to the provisions of this section, make arrangements for—

Records and archives of companies and harbour authorities.

- (a) the proper management, custody, care and conservation of its or their records and archives, and
- (b) the inspection by the public of its or their archives.

(2) A company or harbour authority may—

- (a) co-operate with one or more local authorities or other persons in establishing and operating a local archives service, and may reimburse those authorities or persons for expenditure incurred by them in establishing and

operating such a service in so far as it relates to the company's or harbour authority's records and archives; and

- (b) with the consent of any local authority or other person which or who is operating a local archives service, delegate to that authority or person any of the functions conferred on the company or harbour authority by this section in so far as they relate to archives.

(3) The Minister may, after consultation with the Minister for the Environment and the Director of the National Archives, give advice, or, as the Minister thinks appropriate, directions, to a company or a harbour authority in relation to any matter relating to its or their records and archives and, in particular and without prejudice to the foregoing, in relation to the doing of any of the following things by the company or harbour authority as respects its or their records and archives (which each company and harbour authority is hereby empowered to do), namely—

- (a) the retention, management, preservation, restoration and reproduction of records and archives,
- (b) the certification of records to be unsuitable for classification as archives, and the review of such certification at specified intervals,
- (c) the availability of archives for public inspection,
- (d) the making and provision of copies and extracts from archives,
- (e) circumstances in which archives, or particular classes of archives, may be withheld from public inspection,
- (f) the preparation of guides, lists, indexes and finding aids to archives,
- (g) the lending of archives to appropriate institutions, bodies and societies, whether in the State or elsewhere, and
- (h) the disposal of records and harbour archives,

and the company or harbour authority shall have regard to any such advice and shall comply with any such directions.

(4) (a) In this section, "records" in relation to a company or harbour authority, includes books, maps, plans, drawings, papers, files, photographs, films, microfilms and other micrographic records, sound recordings, pictorial records, magnetic tapes, magnetic discs, optical or video discs, other machine-readable records, and other documentary or processed material, made or received, and held in the course of its or their business or as successor to any other body, by the company or harbour authority, and includes copies of any such records duly made, but does not include—

- (i) grants, deeds or other documents of title relating to property for the time being vested in the company or harbour authority, and
- (ii) any part of the permanent collection of a library, museum or gallery.

(b) In this section “archives”, in relation to a company or harbour authority, includes all records as aforesaid which are more than 30 years old, except such records as are certified by the company or harbour authority under *subsection (3)* to be unsuitable for classification as archives. Pr.V S.92

(5) Section 13 of the National Archives Act, 1986, shall cease to have effect in relation to records or documents of a company or harbour authority.

(6) Without prejudice to *subsection (3)*, the National Archives Advisory Council may advise the Minister on any matter affecting archives of companies and harbour authorities and their use by the public.

(7) Nothing in this section shall affect any rights of a person claiming to be the owner of a document to recover the document.

(8) The making or supplying of reproductions by or under the direction of a company or harbour authority of archives which are held in accordance with this section and are open to public inspection shall not constitute an infringement of the copyright of such archives.

(9) A person shall not conceal, damage or destroy archives held in accordance with this section and shall not remove, publish or reproduce the whole or any part of any such archives without the written consent of the relevant company or harbour authority.

(10) A person who contravenes *subsection (9)* shall be guilty of an offence.

93.—(1) Section 47 of the Act of 1946 is hereby amended by the addition of the following subsections after subsection (3): Amendment of Act of 1946.

“(4) A harbour authority may engage in any business activity, either alone or in conjunction with other persons, that they consider to be advantageous to the development of their harbour.

(5) Without prejudice to the generality of subsections (1) to (4) of this section, a harbour authority shall have power to do anything which appears to them to be requisite, advantageous or incidental to, or which appears to them to facilitate, either directly or indirectly, the performance by them of their functions as specified in this Act or any other enactment and is not inconsistent with any enactment for the time being in force.”.

(2) The Act of 1946 is hereby amended by the insertion after section 87 of the following section:

“Prohibition on certain vessels, etc., from entering harbour.

87A(1).—Subject to this section, the harbour master of a harbour may refuse entry into the harbour of a vessel, vehicle or other conveyance if by reason of its nature or the condition of any of the goods being carried on it such entry or its presence in the harbour thereafter would, in the opinion of the harbour master, pose a danger to persons or property.

(2) Subject to this section, the harbour master of a harbour may only permit the entry into the harbour of radioactive material (within the meaning of the International Maritime Dangerous Goods Code of the International Maritime

Organisation) with the consent of the Radiological Protection Institute of Ireland.

(3) Subject to this section, the following are prohibited from entering a harbour—

- (a) a nuclear powered vessel, vehicle or conveyance,
- (b) a vessel, vehicle or other conveyance that is carrying any nuclear weapons,
- (c) a vessel, vehicle or other conveyance that is carrying nuclear material (within the meaning of section 2 of the Radiological Protection Act, 1991), or ores or other substances destined for the production of nuclear materials.

(4) The Minister may, with the consent of the Minister for Transport, Energy and Communications on the advice of the Radiological Protection Institute of Ireland, exempt a vessel, vehicle or other conveyance of a specified class or classes carrying nuclear material from the application of subsection (3) (c) and for so long as such an exemption is in force subsection (3) shall be construed and have effect in accordance with the exemption.

(5) Subsections (1), (2) and (3) shall only apply to a vessel of the naval service of a state (other than the State) with the prior consent of the Government.

(6) Subsections (1), (2) and (3) shall not apply to a vessel in distress or where there is imminent danger to persons.

(7) Where a vessel, vehicle or other conveyance having been refused entry to a harbour under subsection (1) or in contravention of subsection (3) enters a harbour, the owner and master of the vessel or the owner of the vehicle or conveyance or the person to whom the conveyance is hired at the time of the entry shall each be guilty of an offence.

(8) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months, or to both,
- (b) on conviction on indictment, to a fine not exceeding £100,000 or to imprisonment for a term not exceeding 2 years, or to both.”.

95.—(1) Where the Minister is satisfied, after consultation with the harbour authority and the trustees (if any) concerned, that as respects a superannuation scheme made by a harbour authority under section 151 of the Act of 1946—

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Provision with respect to superannuation schemes under Act of 1946.

- (a) the fund (if any) established in respect of the scheme does not comprise sufficient moneys as will enable the payment therefrom of superannuation benefits under the scheme that fall due for payment within the period of 12 months following any particular date, and
- (b) the said harbour authority do not have resources from which there could be paid the said benefits,

then the Minister may, with the consent of the Minister for Finance, make available to the said harbour authority or, as the case may be, the trustees of a fund aforesaid, such amount of moneys (whether by way of grants or loans) as he or she may determine for the purpose of enabling the payment of the said benefits.

(2) No moneys shall be made available under *subsection (1)* more than 5 years after the commencement of this section.

(3) All money from time to time required by the Minister to meet sums which may become payable by him or her under this section shall be advanced out of the Central Fund or the growing produce thereof.

PART VI

TRANSITIONAL PROVISIONS WITH RESPECT TO A COMPANY ESTABLISHED PURSUANT TO *Section 7*

96.—(1) On the relevant vesting day all land which, immediately before that day, was vested in—

Transfer of land and other property.

- (a) the harbour authority of a harbour, or
- (b) in the case of Dún Laoghaire Harbour, the Minister and was used or had been acquired by the Minister for the purposes of his or her functions in relation to Dún Laoghaire Harbour,

and all rights, powers and privileges relating to or connected with such land shall, without any conveyance or assignment, but subject to *subsection (2)*, stand vested in the company established pursuant to *section 7* in respect of the said harbour for all the estate or interest for which immediately before the said day it was vested in the harbour authority or the Minister, as the case may be, but subject to all trusts and equities affecting the land subsisting and capable of being performed.

(2) *Subsection (1)* shall not operate to vest in a company any minerals or any right of mining or taking minerals.

(3) On the relevant vesting day all property, other than land, including choses-in-action, which immediately before that day was—

- (a) the property of the harbour authority of a harbour, or

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(b) in the case of Dún Laoghaire Harbour, the property of the Minister and was used or had been acquired by the Minister in connection with his or her functions in relation to Dún Laoghaire Harbour,

shall stand vested in the company established pursuant to *section 7* in respect of the said harbour without any assignment.

(4) Every chose-in-action transferred by *subsection (3)* to a company may, after the relevant vesting day, be sued on, recovered or enforced by the company in its own name and it shall not be necessary for the company, the harbour authority or the Minister to give notice to the person bound by the chose-in-action of the transfer effected by that subsection.

(5) The Minister may on his or her own initiative and shall on the application of Dún Laoghaire Harbour Company issue a certificate in respect of specified land certifying, as he or she thinks proper, that the land vested in that company under *subsection (1)* or did not so vest and the certificate shall be conclusive evidence of the facts so certified.

(6) The Minister may on his or her own initiative and shall on the application of Dún Laoghaire Harbour Company issue a certificate in respect of specified property certifying, as he or she thinks proper, that the property vested in that company under *subsection (3)* or did not so vest and the certificate shall be conclusive evidence of the facts so certified.

Transfer of rights
and liabilities.

97.—(1) All rights and liabilities of the harbour authority of a harbour or, in the case of Dún Laoghaire Harbour, of the Minister arising by virtue of any contract or commitment (expressed or implied) entered into by the harbour authority or the Minister, as the case may be, before the relevant vesting day and which, in the case of the Minister, were connected with his or her functions in relation to Dún Laoghaire Harbour shall on that day stand transferred to the company established pursuant to *section 7* in respect of the harbour concerned.

(2) The Minister may on his or her own initiative and shall on the application of Dún Laoghaire Harbour Company issue a certificate in respect of a specified contract or commitment certifying, as he or she thinks proper, that the rights and liabilities of the Minister thereunder were transferred on the relevant vesting day to that company under *subsection (1)* or were not so transferred and the certificate shall be conclusive evidence of the facts so certified.

(3) Every right and liability transferred by *subsection (1)* to a company may, on and after the relevant vesting day, be sued on, recovered or enforced by or against the company in its own name and it shall not be necessary for the company, the harbour authority or the Minister, as the case may be, to give notice to the person whose right or liability is transferred by that subsection of such transfer.

(4) Dún Laoghaire Harbour Company shall comply with such obligations (excluding repayment of principal or interest payments) as may be specified by the Minister for Finance in relation to his or her contractual obligations under foreign loan contracts, entered into before the relevant vesting day, in connection with functions of the Minister in relation to Dún Laoghaire Harbour.

98.—Section 12 of the Finance Act, 1895, shall not apply to the vesting in a company of any property or rights transferred by this Act.

Pt. VI
Exemption from stamp duty.

99.—(1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the relevant vesting day by a harbour authority of their functions in relation to their harbour, or by the Minister of his or her functions in relation to Dún Laoghaire Harbour, shall, after that day, lie against the company established pursuant to *section 7* in respect of the said harbour (in *subsection (2)* referred to as the “relevant company”) whether or not any claim in respect thereof was made before that day and subject to *section 101*, not against the harbour authority, the Minister, any other State authority or the State.

Liability for loss occurring before vesting day.

(2) Where, before the relevant vesting day in a claim to which *subsection (1)* relates, agreement in settlement of the claim has been reached between the parties and the terms of the agreement have not been implemented or judgment has been given in favour of the injured person and the judgment has not been enforced, the terms of the agreement or the judgment, as the case may be, shall be enforceable against the relevant company and, subject to *section 101*, not against the harbour authority concerned, the Minister, any other State authority or the State.

(3) Any claim made or proper to be made by a harbour authority, the Minister, any other State authority or the State in respect of any loss or injury arising from the act or default of any person before the relevant vesting day and, in the case of a claim by any of the said persons (other than a harbour authority), the claim relates to the performance by the Minister of his or her functions in relation to Dún Laoghaire Harbour shall be regarded as made by or proper to be made by the company established pursuant to *section 7* in respect of the harbour of the harbour authority or Dún Laoghaire Harbour, as the case may be, (in *subsection (4)* referred to as the “relevant company”) and may be pursued and sued for by that company as if the loss or injury had been suffered by it.

(4) Where, before the relevant vesting day, in a claim to which *subsection (3)* relates, agreement in settlement of the claim has been reached between the parties and the terms of the agreement have not been implemented or judgment has been given in favour of the harbour authority concerned, the Minister, any other State authority or the State and the judgment has not been enforced, the terms of the agreement or the judgment, as the case may be, shall, in so far as enforceable by the harbour authority concerned, the Minister, any other State authority or the State, be enforceable by the relevant company.

(5) This section does not apply to a claim by one State authority against another.

100.—All legal proceedings relating to a matter to which a function of a company relates and pending immediately before the relevant vesting day to which the former harbour authority of its harbour, the Minister, any other State authority or the State is a party shall be continued with the substitution in the proceedings, in so far as they so relate, for any such party of the said company.

Continuance of pending legal proceedings.

101.—(1) Where judgment is given against Dún Laoghaire Harbour Company in any proceedings in pursuance of a claim to which *section 99 (1)* relates or in proceedings continued under *section 100*

Enforcement of judgments.

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and the person in whose favour the judgment is given has been unable to enforce the judgment, in whole or in part, against the company, he or she shall be entitled to enter judgment against the Minister for Finance in any court of competent jurisdiction for any amount not recovered on foot of the judgment as a debt due to him or her by the said Minister.

(2) The Minister for Finance shall be entitled to recover from Dún Laoghaire Harbour Company any payment made by him or her to a person in satisfaction of a judgment entered against him or her under *subsection (1)*.

(3) Moneys required by the Minister for Finance to meet payments required by him or her under this section shall be advanced to him or her out of the Central Fund or the growing produce thereof, and shall be repaid to the Central Fund out of moneys provided by the Oireachtas.

Continuance of certain notices, certificates, declarations and bonds.

102.—(1) From the relevant vesting day—

- (a) every notice, certificate and declaration made by, or given by or to, a harbour authority or the Minister in the case of Dún Laoghaire Harbour,
- (b) every court order directed to any person, and
- (c) every bond given by any person to a harbour authority or to the Minister in the case of Dún Laoghaire Harbour,

which relates to matters to which functions of the company established pursuant to *section 7* in respect of the harbour of the said harbour authority or Dún Laoghaire Harbour, as the case may be, relate shall, where its operation, effect or term has not ceased or expired before the said day, continue in force and have effect as if the functions of the said harbour authority or of the Minister, as the case may be, were on that day performable by the said company.

(2) This section shall not have effect in relation to anything provision for the continuance in force of which is made by any other provision of this Act.

Continuance of licences and permissions granted by a harbour authority or the Minister.

103.—Every licence or permission granted by a harbour authority or by the Minister, in the case of Dún Laoghaire Harbour, in relation to land or other property vested in a company by or under this Act, and in force immediately before the relevant vesting day, shall continue in force as if granted by the said company.

Transitional financial provisions in relation to Dún Laoghaire Harbour.

104.—(1) Dún Laoghaire Harbour Company shall pay to or in respect of every member of the staff of the Department of the Marine transferred under *section 38* to the staff of the company any amount due to or in respect of that member in respect of service as such member and unpaid on the relevant vesting day and the company shall, with the concurrence of the Minister for Finance, be reimbursed by the Minister in respect of any such payments (other than payments made in respect of untaken leave).

(2) The Minister shall, with the concurrence of the Minister for Finance, pay to the Dún Laoghaire Harbour Company an amount equal to advance payments received by the Minister before the relevant vesting day in respect of goods or services to be provided by the company on or after the said day less the amount of any costs incurred by the Minister in collecting such payments.

(3) Dún Laoghaire Harbour Company shall pay to the Minister an amount equal to sums collected by it on or after the relevant vesting day in respect of goods or services provided by the Minister before the said day in the performance of a function of the Minister in relation to Dún Laoghaire Harbour corresponding to a function of the company. Pr.VI S.104

(4) All sums required to be paid under this section shall become due and payable on such date as the Minister, in consultation with the Dún Laoghaire Harbour Company and with the concurrence of the Minister for Finance, may determine.

(5) Dún Laoghaire Harbour Company shall supply the Minister with such information, records and documents as the Minister may require for the purposes of this section and the Minister and his or her officers shall have the right to inspect and take copies of all relevant records and documents of the company.

(6) In the event of a disagreement as to any amount to be paid by the Minister to Dún Laoghaire Harbour Company or by Dún Laoghaire Harbour Company to the Minister under this section, the decision of the Minister, given with the concurrence of the Minister for Finance, shall be final.

105.—(1) Subject to *subsection (2)*, the provisions of this Part shall, with any necessary modifications, apply to the property, rights and liabilities of a harbour authority, and every other matter in relation to the harbour authority that is mentioned in this Part, in their capacity as a pilotage authority as those provisions apply to them in their capacity otherwise. Application of Part VI as respects harbour authorities which are pilotage authorities.

(2) As respects a harbour authority that *section 81 (2)* provides shall continue in existence in their capacity as a pilotage authority on and from a relevant vesting day, the application, by virtue of this section, of the provisions of this Part to the harbour authority in that capacity shall not have effect until the day on which the harbour authority stands dissolved in that capacity under *section 81 (2)* (“the date of dissolution”) and, accordingly, for the purposes of the said application of the provisions of this Part to such a harbour authority, references in those provisions to the relevant vesting day shall be construed as references to the date of dissolution.

FIRST SCHEDULE

Sections 7 and 8.

HARBOURS IN RESPECT OF WHICH COMPANIES MAY BE ESTABLISHED PURSUANT TO *Section 7* AND THE NAMES OF THE COMPANIES THAT MAY BE SO ESTABLISHED

Harbour (1)	Name of company (2)
Arklow Harbour	Arklow Harbour Company
Cork Harbour	Port of Cork Company
Drogheda Harbour	Drogheda Port Company
Dublin Harbour	Dublin Port Company
Dundalk Harbour	Dundalk Port Company
Dún Laoghaire Harbour	Dún Laoghaire Harbour Company
Foynes Harbour	Foynes Port Company
Galway Harbour	Galway Harbour Company
New Ross Harbour	New Ross Port Company
Shannon Harbour	Shannon Estuary Ports Company
Waterford Harbour	Port of Waterford Company
Wicklow Harbour	Wicklow Port Company

Section 5(2).

SECOND SCHEDULE

ENACTMENTS REPEALED

Session and Chapter or Number and Year (1)	Subject Matter or Short Title (2)	Extent of Repeal (3)
55 Geo. 3, c. 191	Erection of harbour at Dunleary	The whole Act
56 Geo. 3, c. 62	Erection of harbour at Dunleary	The whole Act
1 Geo. 4, c. 69	Erection of harbour at Dunleary	The whole Act
6 & 7 Will. 4, c. 117	Kingstown Harbour	The whole Act
1 & 2 Vict., c. 36	Kingstown Harbour and Dublin Port and Harbour Fisheries (Ireland) Act, 1846	The whole Act
9 Vict., c. 3	Fisheries (Ireland) Act, 1846	Section 70
28 & 29 Vict., c. 67	Kingstown Harbour	The whole Act
32 & 33 Vict., c. c	Dublin Port and Docks Act, 1869	Section 214
39 & 40 Vict., c. xciv	Kingstown Harbour Act, 1876	The whole Act
2 & 3 Geo. 5, c. 31	Pilotage Act, 1913	The whole Act
No. 49 of 1924	State Harbours Act, 1924	The whole Act in so far as it relates to Dún Laoghaire Harbour
No. 2 (Private) of 1929	Dublin Port and Docks (Bridges) Act, 1929	The whole Act
No. 2 of 1934	Harbours (Regulation of Rates) Act, 1934	The whole Act
No. 2 of 1962	Pilotage (Amendment) Act, 1962	The whole Act
No. 7 of 1990	Dún Laoghaire Harbour Act, 1990	The whole Act
No. 19 of 1994	Dún Laoghaire Harbour Act, 1994	The whole Act

Sections 9 and 57.

THIRD SCHEDULE

LIMITS OF HARBOURS AND PILOTAGE DISTRICTS

PART I

Limits of Harbours

The limits of the harbour of a company are set out in whichever of the following paragraphs of this Part is headed with the name of the company.

Arklow Harbour Company

1. Limits extending from the Nineteen Arches Bridge in the town of Arklow to an imaginary point 805 metres east from the tip of the South Pier and in a radius 805 metres south and 805 metres north from the said point, and including the Avoca River, Arklow Harbour and its dock and all lands and other property belonging to Arklow Harbour Company.

Port of Cork Company

2. Limits extending seaward to an imaginary straight line drawn between Power Head on the eastern approach to Cork Harbour and Cork Head on the western approach and extending landward to the Eamonn de Valera Bridge and the Michael Collins Bridge in the City of Cork.

Drogheda Port Company

3. Limits comprising the following two limits, viz—

- (a) the northern limit commencing at the north east angle of the bridge at Shop Street and running in an easterly direction along the North Quays to the eastern extremity of

Donor's Green, from there along the Baltray Road to the village of Baltray, from there to Alieria Beacon and along the line of the high water mark bounding the eastern shores of the townland of Baltray and terminating at Duffs Farm; SCH.3 Pt.I

- (b) the southern limit commencing at the north east angle of the bridge at Shop Street and running in a southerly direction along the east side of the said bridge to its south east angle, from there in an easterly direction along the high water mark to the Maiden Tower, from there along the high water mark of the eastern shore of the townland of Mornington to the southern extremity of Bettystown.

Dublin Port Company

4. Limits consisting of and including—

- (a) the River Liffey and the quays and walls bounding the same,
- (b) the walls called the North Wall, the South Wall and the East Wall, respectively,
- (c) the piers, jetties, tidal basins and other works constructed by or belonging to the Dublin Port and Docks Board before the relevant vesting day,
- (d) the Harbour of Dublin and the strands, bays, creeks and harbours thereof and all waters inside that area,

commencing from but excluding the Matt Talbot Memorial Bridge in the City of Dublin, and extending to an imaginary straight line drawn from the Baily Lighthouse on the north in the County of Dublin and extending through the North Burford Bank Buoy and thence through the South Burford Bank Buoy and thence to Sorrento Point on the south but excepting the limits of the harbour of Dún Laoghaire Harbour Company and excepting also the harbours of Bulloch, Coliemore and Sutton.

Dundalk Port Company

5. Limits extending to and including the river, port and harbour of Dundalk between the Bridge of Dundalk and an imaginary straight line drawn from the seaward end of Dunany Point to the seaward end of Cooley Point excepting the area within the limits of the harbour of Annagassan.

Dún Laoghaire Harbour Company

6. Limits consisting of the areas contained within and including the East and West piers of Dún Laoghaire Harbour and within 600 metres of the entrance to that harbour, together with any adjoining land, banks, inlets and havens vested in Dún Laoghaire Harbour Company and the docks, piers, jetties, quays and other works vested in that company.

Foynes Port Company

7. Limits consisting of the lands and docks, piers, jetties, quays and other works vested in Foynes Port Company together with the waters of the sea and the River Shannon bounded on the east by an imaginary straight line drawn from Durnish Point to Gammarel Point, and bounded on the west by an imaginary line drawn from Battery Point on Foynes Island in a direction 264 degrees from true north for 4.0 cables, and thence in a direction 225 degrees from true north for 6.6 cables, and thence to a point 2.8 cables due north of Mount Trenchard Point, and thence to a point north of Loughill which

point is 7.4 cables south of the coast of the County of Clare on the meridian 9 degrees, 12 minutes west of Greenwich, and thence due south through the mouth of the White River at Lohill.

Galway Harbour Company

8. Limits consisting of all the waters with the bed and foreshore thereof lying within an imaginary straight line drawn from Barna Cliff to Kilcolgan Point, both in Galway Bay, and any adjoining lands, banks, inlets, havens, and landing places vested in Galway Harbour Company and the docks, piers, jetties, quays and other works vested in that company.

New Ross Port Company

9. Limits commencing at the junction of the River Barrow with the River Suir north of a line joining Drumdowney Point with Kilmokea Point and extending upriver to the entrance of the canal at St. Mullins on the River Barrow and to the Lock Quay of Innistioge on the River Nore.

Shannon Estuary Ports Company

10. Limits extending landward along the River Shannon up to and including Mallow Street Bridge in the City of Limerick and extending seaward to an imaginary straight line drawn from Loop Head in the County of Clare to Kerry Head in the County of Kerry excepting the limits of the harbour of Foynes Port Company and the piers at Kildysart, Glin, Tarbert and Cappa (Kilrush).

Port of Waterford Company

11. Limits comprising the following two limits, viz—

- (a) the outward limits consisting of the waters of the sea and River Suir within an imaginary arc with radius of 6.44 kilometres drawn seaward from a point midway between Falskirt Rock and Hook Point;
- (b) the inward limits are an imaginary straight line extending from a point 35 metres westward from the centre line of Killoteran Pill and due north west to a position in the townland of Licketstown on the Kilkenny side of the River Suir.

Wicklow Port Company

12. Limits comprising the following two limits, viz—

- (a) the downstream limits consisting of Wicklow Harbour from an imaginary straight line drawn from the outer or northern end of the east pier to the outer end of the new pier and also the area lying below the line of high-water mark of ordinary spring tides within 457 metres from any part of that harbour;
- (b) the upstream limits extending to the bridge known as the Railway or Metal Bridge across the River Leitrim.

PART II

Limits of Pilotage Districts

The limits of the pilotage district of a company are set out in whichever of the following paragraphs of this Part is headed with the name of the company.

Port of Cork Company

SCH.3 Pt.II

13. Limits comprising the following two limits, viz—

- (a) the outward limits consisting of the waters within an imaginary arc with radius of 9.65 kilometres drawn seawards from Roches Point;
- (b) the inward limits commencing at the Eamonn de Valera Bridge and Michael Collins Bridge in the City of Cork.

Drogheda Port Company

14. Limits consisting of the waters of the sea and River Boyne between St. Mary's Bridge in the town of Drogheda and an imaginary straight line drawn from Clogherhead in the County of Louth to Skerries in the County of Dublin.

Dublin Port Company

15. Limits consisting of the waters of the River Liffey below the Matt Talbot Memorial Bridge and so much of the sea westward of the sixth meridian as lies between the parallels of latitude passing through the Baily Lighthouse on the North and through Sorrento Point on the South including all bays, creeks, harbours and all tidal docks within such area.

Dundalk Port Company

16. Limits consisting of the waters of the Harbour and Bay of Dundalk between the Bridge of Dundalk and an imaginary straight line drawn from Gyles Quay to a position 270 degrees (true) distant 3.22 kilometres from Dunany Point.

Galway Harbour Company

17. Limits consisting of the waters of the Bay of Galway within an imaginary straight line drawn from Golan Head to the western point of the Aran Islands and thence to Hags Head, together with the docks and works of Galway Harbour Company.

New Ross Port Company

18. Limits consisting of the waters of the River Barrow from the junction of that river with the River Suir as high as the entrance to the canal at St. Mullins and of the River Nore as high as the Lock Quay of Innistioge.

Shannon Estuary Ports Company

19. Limits consisting of the waters of the sea and the River Shannon bound seawards by an imaginary straight line drawn from Loop Head in the County of Clare to Kerry Head in the County of Kerry and landwards by Mallow Street Bridge in the City of Limerick, together with the navigable waters of the tributaries connected with the said river and including all docks within this area.

Port of Waterford Company

20. Limits consisting of the waters of the sea and the River Suir within an imaginary arc with radius of 6.44 kilometres drawn seaward from a point midway between Falskirt Rock and Hook Point and an imaginary straight line drawn directly across the River Suir at Granny Castle.

FOURTH SCHEDULE

PROVISIONS RELATING TO COMPULSORY ACQUISITION

1. (1) Where a company (hereafter in this Schedule referred to as “the company”) proposes to acquire any land or any interest in or right over land under *section 16* the company shall apply to the Minister for an order under *paragraph 2* authorising the company to acquire the property compulsorily and the application shall be accompanied by such maps, plans and books of reference as are referred to in *paragraph 5*.

(2) The company shall publish a notice, in such form as the Minister approves, of the application in one or more newspapers circulating in the area of the property concerned and serve a copy of the notice on every person who appears to the company to have an estate or interest in the property, so far as it is reasonably practicable to ascertain such persons.

(3) The notice referred to in *subparagraph (2)* shall include a provision notifying persons having an estate or interest in the property concerned that they have a right to lodge with the Minister within 1 month of the making of the application by the company an objection to the making of an order under *paragraph 2* in relation to the property and shall specify the times and places where the maps, plans and books of reference deposited in accordance with *paragraph 5* may be inspected.

(4) The Minister shall consider and determine any objection to the application of the company lodged with him or her within the period referred to in *subparagraph (3)* and the Minister may, if he or she thinks fit, appoint an adviser to assist him or her in relation thereto.

2. The Minister shall, where no objection to the application of the company is lodged with him or her within the period referred to in *paragraph 1 (3)* or any such objection is rejected by him or her, make an order (hereafter in this Schedule referred to as an “acquisition order”) authorising the company to acquire the property concerned compulsorily in accordance with the terms of its application or subject to such modifications, if any, as he or she may determine and specifies in the acquisition order.

3. (1) At any time after the making of an acquisition order and before conveyance or ascertainment of price, the company may, subject to this paragraph, enter on and take possession of the land to be acquired or exercise the right to be acquired.

(2) The company shall not—

(a) enter on or take possession of any land under this paragraph without giving to the occupier of the land at least 1 month’s previous notice in writing of its intention so to do,

(b) exercise any right under this paragraph without giving the occupier of the land in respect of which the right is to be exercised at least 1 month’s previous notice in writing of its intention so to do.

4. (1) A notice under this Schedule may be served on any person by sending it by registered post in an envelope addressed to him or her at his or her usual or last known address.

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Harbours Act, 1996.

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(2) Where, for any reason, the envelope cannot be so addressed, Sch.4
it may be addressed to the person for whom it is intended in either of
the following ways—

(a) by the description “the occupier” without stating his or her
name,

(b) at the land to which the notice relates.

5. (1) The company shall cause maps, plans and books of reference
to be deposited in accordance with this paragraph.

(2) The maps and plans shall be sufficient in quantity and character
to show on adequate scales the land or right proposed to be acquired.

(3) The books of reference shall contain the names of the owners
or reputed owners, lessees or reputed lessees, and occupiers of the
land which is proposed to be acquired or in respect of which the
right is proposed to be exercised.

(4) The maps, plans and books of reference shall be deposited at
such place or places as the company, with the consent of the Minister,
considers suitable and shall remain so deposited for at least 1 month
and shall, while so deposited, be open to inspection by any person,
free of charge, between the hours of ten o'clock in the morning and
four o'clock in the afternoon on every day except Saturdays, Sundays
and public holidays.

6. (1) The amount of the price to be paid by the company for any
land acquired pursuant to an acquisition order to the several persons
entitled thereto or having estates or interests therein or for any right
acquired pursuant to an acquisition order to the several persons
entitled to or having estates or interests in the land in respect of
which the right is exercised, shall, in default of agreement, be fixed
under and in accordance with the Acquisition of Land (Assessment
of Compensation) Act, 1919.

(2) Sections 69 to 83 of the Lands Clauses Consolidation Act, 1845,
shall apply to the said price and, subject to *paragraphs 7 and 8*, to
the conveyance to the company of the land or right acquired, and
for the purpose of the application of the said provisions the company
shall be deemed to be the promoters of the undertaking.

7. (1) Where the company has entered on and taken possession
of land in accordance with *paragraph 3* and the Minister is satisfied
that—

(a) the several interests in the land have not been conveyed or
transferred to the company,

(b) it is urgently necessary, in connection with the purposes for
which the company has been authorised to acquire the
land compulsorily, that the acquisition of the land should
be completed, and

(c) the company has made a proper offer in writing to each
person having an interest in the land who has furnished
sufficient particulars of his or her interest to enable the
company to make a proper offer for such interest,

then the Minister may make an order (hereafter in this Schedule
referred to as a “vesting order”) vesting the land in the company.

SCH.4

(2) Where the Minister or the company, before the making of the vesting order, becomes aware that the land to be acquired by the order is subject (whether alone or in conjunction with other land) to any annuity or other payment to the Irish Land Commission or to the Commissioners of Public Works in Ireland, or to any charge for estate duty, succession duty or inheritance tax payable to the Revenue Commissioners on the death of any person, the Minister or the company, as the case may be, shall forthwith inform the Irish Land Commission, the Commissioners of Public Works in Ireland or the Revenue Commissioners, as the case may be, of the intention to make the order.

(3) When a vesting order has been made, the company shall within 7 days after having received notification by the Minister of the making of the order—

- (a) publish in one or more newspapers circulating in the area of the land to which the order relates a notice stating that the order has been made, describing the said land and naming a place where a copy of the order may be seen at all reasonable times, and
- (b) serve on every person appearing to it to have an interest in the land to which the order relates a notice stating the fact of such an order having been made and the effect of the order.

8. (1) A vesting order shall be in the prescribed form and shall have attached thereto a map of the land to which it relates and it shall be expressed and shall operate to vest the said land in the company in fee simple free from encumbrances and all estates, rights, titles and interests of whatsoever kind (other than any public right of way) on a specified date not earlier than 21 days after the making of the vesting order.

(2) Notwithstanding anything in *subparagraph (1)*, where the company has acquired by a vesting order land which is subject, either alone or in conjunction with other land, to a purchase annuity, payment in lieu of rent, or other annual sum (not being merely a rent under a contract of tenancy) payable to the Irish Land Commission or the Commissioners of Public Works in Ireland, the company shall become and be liable, as from the date on which the land is vested in it by the vesting order, for the payment to the Irish Land Commission or the Commissioners of Public Works in Ireland, as the case may be, of the annual sum or such portion thereof as may be apportioned by the Irish Land Commission or by the Commissioners of Public Works in Ireland, as the case may be, on the land as if the land had been transferred to the company by the owner thereof on that date.

(3) When the Minister makes a vesting order in relation to any land, he or she shall cause the order to be sent to the registering authority under the Registration of Title Act, 1964, and thereupon the registering authority shall cause the company to be registered as owner of the land in accordance with the order.

Section 30.

FIFTH SCHEDULE

ELECTION OF EMPLOYEE DIRECTORS

1. (1) The Secretary of the company (or a person selected by him or her after consultation with representatives of the employees) shall be the returning officer for an election of a person or persons for the purposes of *paragraph (a) or (b) of section 30 (1)* (hereafter in this Schedule referred to as “the election”).

(2) The returning officer shall not be entitled to be nominated as, or to nominate, act as agent for or promote the interests of, a candidate at the election. SCH.5

(3) The returning officer may delegate to a person such of his or her functions under this Schedule as he or she specifies and functions so delegated to a person shall be performable by that person. *Subparagraph (2)* shall apply to such a person.

2. (1) A poll shall be conducted for the purposes of the election where the number of candidates standing nominated in accordance with this Schedule exceeds the number of offices of director to be filled.

(2) Voting at the election shall be by secret ballot and on the basis of proportional representation by means of a single transferable vote.

(3) The election shall be held in accordance with such procedures (if any) as may be prescribed.

(4) The returning officer shall appoint such number of persons as he or she thinks appropriate to perform the functions of presiding officers and polling clerks at the poll conducted for the purposes of the election.

3. (1) The returning officer shall fix the nomination day for candidates at the election and give notice of the election not later than 10 weeks before that day.

(2) The day to be fixed under *subparagraph (1)* shall be not earlier than 6 weeks after the day on which eligibility of voters and candidates at the election is determined in accordance with *paragraphs 10 and 11*, respectively.

4. (1) The returning officer shall, where only one or two persons stand nominated as a candidate or candidates in accordance with this Schedule for election to an office of director referred to in *section 30 (1) (a)*, declare that person or, as the case may be, each of those persons to be elected to such an office.

(2) The returning officer shall, where only one person stands nominated as a candidate in accordance with this Schedule for election to the office of director referred to in *section 30 (1) (b)*, declare that person to be elected to that office.

5. If the nomination of candidates or the poll conducted for the purposes of the election is interrupted or cannot be proceeded with the returning officer may adjourn the nomination or poll for such period as he or she considers appropriate to enable him or her, on its expiration, to proceed with or complete the nomination or poll.

6. On receipt of a notification from the returning officer of the name of the candidate or candidates elected, or declared to be elected under *paragraph 4*, the Minister shall, in accordance with *section 30*, appoint the candidate or, as the case may be, each of the candidates to be a director of the company.

7. The returning officer shall for the purposes of *paragraph 8* prepare a list of the names of the other candidates at the election placed in order of the votes credited to each of them at the last count in which he or she was involved.

8. In choosing a person to fill a casual vacancy referred to in *section 30 (3)* the Minister shall select the candidate, if any, placed highest on the voting list under *paragraph 7* who is an employee of the company at the time the vacancy comes to be filled. Where two or more such candidates are credited with an equal number of votes on the said list the Minister shall select one of them by lot.

9. The company shall bear the costs of holding the election other than any costs incurred by candidates expressly on their own behalf.

10. Every employee of the company who, on the day specified by the returning officer and on the day on which the poll is taken—

(a) is not less than 18 years of age, and

(b) has been an employee of the company for—

(i) a continuous period of not less than 1 year, or

(ii) a continuous period of not less than 13 weeks and is normally expected to work not less than 8 hours a week for the company,

shall be entitled to vote at the election.

11. (1) Every employee of the company who, on the day specified by the returning officer under *paragraph 10*—

(a) is not less than 18 years of age, and

(b) has been an employee of the company for—

(i) a continuous period of not less than 1 year, or

(ii) a continuous period of not less than 13 weeks and is normally expected to work not less than 8 hours a week for the company,

shall be eligible to be nominated as a candidate at the election.

(2) Nominations shall be made in the manner specified by the returning officer.

(3) A candidate may be nominated by a recognised trade union or staff association or jointly by two or more such bodies but no such body shall be entitled both to nominate one or more candidates of its own accord and to nominate one or more candidates jointly with another such body or bodies.

(4) The returning officer shall rule on the validity of nominations. The decision of the returning officer shall be final.

12. Prior service (for a continuous period ending on the relevant vesting day) with a harbour authority or in the Department of the Marine (as the case may be) of staff transferred under *section 38* to the company on the said day shall be reckonable as service with the company for the purposes of *paragraphs 10* and *11*.

13. The returning officer shall prepare and maintain a list of eligible voters and candidates for the purposes of this Schedule. SCH.5

14. The returning officer shall prepare and maintain a list of recognised trade unions and staff associations for the purposes of this Schedule.

SIXTH SCHEDULE

Sections 42 and 71.

PURPOSES FOR WHICH BYE-LAWS MAY BE MADE UNDER *Sections 42 AND 71*

PART I

Harbour Bye-Laws

General

1. Regulating the use of the harbour or any docks, graving docks or quays within the harbour.

2. Regulating the exercise of the powers of the harbour master.

3. Regulating the admission of ships into the harbour or the vicinity thereof and their removal therefrom, and providing for the good order and government of ships while within the harbour.

4. Regulating the shipping and unshipping, loading, warehousing, stowing, depositing and removal of goods within the harbour.

5. Regulating the hours during which the gates of or entrances or outlets to any docks or quays within the harbour shall be open.

6. Regulating the duties and conduct of all persons (including the staff of the company but not members of the Garda Síochána or officers of any Minister of the Government acting in exercise of their duty) employed within the harbour.

7. Regulating the use of fires and lights within the harbour and in any ships lying within the harbour and preventing damage or injury to ships or goods within the harbour or in any premises of the company.

8. Regulating the use of cranes, weighbridges, weights and measures belonging to the company.

9. Preventing obstructions of any kind or interference with traffic within the harbour or on any of the property of the company.

Navigation

10. Providing that the master of a ship within the harbour shall regulate the ship according to the directions of the harbour master.

11. Providing that before a ship enters any docks or graving docks or approaches any quays within the harbour, the master of the ship shall cause the ship to be dismantled as directed by the harbour master.

12. Requiring ships entering into or departing from the harbour to keep to the proper and usual side of any navigable channel.

13. Regulating the rate of speed of ships within the harbour or within any specified portion of the harbour or in any special circumstances, requiring ships to stop or slow their engines at specified times or places and regulating the taking on board, landing or putting down of passengers.

14. Regulating the towing of ships within the harbour, the size and number of ships to be towed in one train by one or more than one tugboat, the speed at which the tugboats shall proceed (whether towing or not), the order and manner in which the towage shall be given and the duties and conduct of persons employed in or on the tugboats.

15. Regulating the berthing and removing of ships lying within any part of the harbour and regulating the conduct and behaviour of boatmen, stevedores and others employed at or resorting to the harbour, whether in the employment of the company or not.

16. Specifying the times and conditions under which ships may be swung or wound within the harbour and preventing other ships from casting loose or from passing up or down any navigable channel or other place within the harbour while any ship is in the act of swinging or winding.

17. Requiring ships that may happen to take the ground in a navigable channel within the harbour to adopt and exercise all reasonable precautions by the stationing of a lookout, the use of flags and otherwise to the satisfaction of the harbour master or as may be specified.

18. Requiring the master of a ship casting anchor within the harbour to cause a buoy to be fastened forthwith to the anchor in such manner that it may be plainly seen where the anchor has been cast.

Control of Harbour, etc.

19. Preventing and removing obstructions or impediments in or on docks, quays, works and roadways within the harbour.

20. Regulating the moving of persons, vehicular traffic and animals along any quays or docks within the harbour.

21. Requiring the master of a ship within the harbour to moor, unmoor, place or remove the ship according to the directions of the harbour master, or if there be no person on board the ship to attend to such directions, to authorise the harbour master to cause the ship to be moored, unmoored, placed or removed as he or she thinks fit.

22. Providing that a ship, except with the permission of the harbour master, shall not lie or be moored in the entrance to the harbour or any dock or graving dock within the harbour.

23. Providing that a ship within the harbour shall, when so required by the harbour master, have substantial towlines and fasts fixed to the dolphins, booms, buoys or mooring posts.

24. Requiring ships loading or discharging cargoes to be furnished with such gangways, planks, hand rails and other appliances as the harbour master may consider necessary.

25. Providing that the master of a ship entering within the harbour for the purpose of discharging cargo shall cause the ship to be discharged as soon as conveniently may be after entry and shall, after

[1996.]

Harbours Act, 1996.

[No. 11.]

discharging, remove the ship to such other part of the harbour as the harbour master may direct. SCH.6 Pt.I

26. Requiring the master of a ship within the harbour, upon request of the harbour master, to clear the deck of the ship of any articles which may impede the delivery or loading of cargo.

27. Specifying how goods shall be placed on any quays or docks within the harbour.

28. Specifying the time during which goods may remain upon any quays or other places within the harbour and providing for the removal or disposal of goods which are not removed therefrom after the expiration of such time.

29. Prohibiting goods from being so placed on any quays or docks within the harbour as to interfere with the mooring or berthing of ships or so as to impede traffic.

30. Preventing (except with the permission of the company) the exhibition or placing in or on any land or premises of the company of any goods for sale other than such goods as may be sold or exhibited for sale under the provisions of the Merchant Shipping Acts, 1894 to 1993, or by order of the Revenue Commissioners, and other than perishable goods sold within forty-eight hours of their being landed.

31. Preventing unauthorised cutting, breaking or destroying of the moorings or fastenings of ships within the harbour.

32. Preventing unauthorised opening or shutting of swing bridges, dock gates, sluices or clows within the harbour.

33. Prohibiting, without the previous consent of the harbour master, the building or repairing of any boat within the harbour.

34. Prohibiting the wilful damaging of any of the property of the company and the recovery from any person damaging such property of the cost of making good such damage.

35. Prohibiting improper interference with any machinery or equipment provided by the company.

36. Providing that the harbour master may remove nuisances from within the harbour and may also remove therefrom idle or disorderly persons.

37. Specifying conditions (to be in addition to and not in derogation of the provisions of any enactment for the time being in force relating to explosives) under which explosives shall be brought, shipped, handled, deposited, kept or transported within the harbour.

38. Specifying conditions under which any mineral hydrocarbon light oils within the meaning of the Finance (Customs Duties) (No. 4) Act, 1931, shall be brought, shipped, handled, deposited, kept or transported within the harbour.

39. Specifying conditions under which cargoes of dangerous goods, oils or other chemicals or gases (other than those referred to in *paragraphs 37 and 38*) shall be brought, shipped, handled, deposited, kept or transported within the harbour.

40. Regulating the use of tramways and sidings and works connected therewith within the harbour and preventing obstruction or interference with the traffic upon or passage along such tramways or injury thereto.

41. Regulating the ballasting of ships within the harbour and the order and manner in which such ships shall be supplied with ballast and the discharging, removal and disposal of ballast.

42. Preventing the smoking, lighting or burning of tobacco or any herb or substance whatsoever in or on any ship within the harbour or in any specified place within the harbour.

43. Providing for anything the making of provision for which is, in the opinion of the company, necessary to enable it to comply with a direction given to it by the Minister under *section 44*.

PART II

Pilotage Bye-laws

44. Exempting from the requirements of *sections 60* and *61* such class or classes of ship as may be defined in the bye-laws by reference to the ship's length, draught or other characteristics or the purpose for which it is being used.

45. Specifying the circumstances in which pilotage shall be compulsory for a ship while it is navigating in the company's pilotage district by reference to such matters as the company thinks proper.

46. Prescribing requirements that must be complied with by or in respect of a person who applies to the company to be employed as a pilot in its pilotage district or to be granted a pilot's licence, being requirements as to age, physical fitness, completion of an apprenticeship, length of previous service as a pilot or mariner, local knowledge, skill, character and such other matters that the company deems appropriate.

47. Specifying the period for which a pilot's licence granted or renewed by the company shall have effect and prescribing requirements (including requirements as to physical fitness) that must be complied with by or in respect of a person who applies to the company to have a pilot's licence renewed in his or her favour.

48. Requiring a person to satisfy the company that he or she complies with a requirement contained in bye-laws made by the company for the purposes specified in *paragraph 46* or *47* by passing an examination conducted by or on behalf of the company.

49. Providing that a fee of a specified amount shall be payable to the company by a person in respect of an application by him or her to the company for the grant or renewal of a pilot's licence or an examination conducted by or on behalf of the company in connection therewith.

50. Prescribing the form of a pilot's licence or a warrant of appointment.

51. Providing generally for the regulation of pilots licensed or employed by the company, and of their apprentices, and in particular

ensuring their good conduct and constant attendance to and effectual carrying out of their duties, whether at sea or on shore. SCH.6 Pt.II

52. Prescribing requirements in addition to those specified in *paragraphs (a), (b) and (c) of section 72 (1)* that must be complied with by or in respect of a person who applies to the company for the grant of a pilotage exemption certificate.

53. Requiring a person who applies to the company for the renewal of a pilotage exemption certificate—

(a) to have made during the period beginning on the date on which the certificate was granted to him or her or, if the certificate has already been renewed, the date on which it was last renewed, and ending on the date of the making of the said application, not less than a specified number of visits to the company's harbour in a ship in respect of which the renewal is sought and as the person in charge thereof or in a ship of a similar class to an aforesaid ship and as the person in charge thereof,

(b) to comply with such other requirements that the company deems appropriate.

54. Requiring a person to satisfy the company that he or she complies with a requirement contained in bye-laws made by the company for the purposes specified in *paragraph 52 or 53* by passing an examination conducted by or on behalf of the company.

55. Providing that a fee of a specified amount shall be payable to the company by a person in respect of an application by him or her to the company for the grant, renewal or amendment of a pilotage exemption certificate or an examination conducted by or on behalf of the company in connection therewith.

56. Prescribing the form of a pilotage exemption certificate.

57. Requiring the holder of a pilotage exemption certificate to comply with specified provisions of bye-laws made by the company for the purposes specified in *paragraph 51*.

58. Requiring the owner of a ship, the person acting in charge of which holds a pilotage exemption certificate in respect thereof, to make payments to the company or, if a pilotage agreement provides that the licensed pilots for its pilotage district shall collect and recover pilotage charges in its pilotage district and disburse such charges when collected or recovered, to the said pilots, towards the cost of defraying the expenses of ensuring the provision of pilotage services in the company's pilotage district; provided that the amount of such payments in any financial year shall not exceed such proportion as is specified by the company of the pilotage charges that would have been payable in respect of the ship to the company or the said pilots, as the case may be, in that financial year if the person in charge as aforesaid had not held a pilotage exemption certificate in respect of the ship.

59. Requiring the holder of a pilotage exemption certificate to make a periodical return to the company or, if the payments required by bye-laws made by the company for the purposes specified in *paragraph 58* are to be made to the licensed pilots for the company's pilotage district, to the said pilots, of the pilotage services rendered by him or her as holder of such a certificate.

60. Specifying grounds (not being grounds related to the conduct of the holder) on which the company may suspend or revoke a pilot's licence or a pilotage exemption certificate.

61. Specifying circumstances in which a ship which is being moved within a harbour situate in the company's pilotage district shall be deemed for the purposes of *Part IV* not to be navigating in the company's pilotage district.

62. Providing that a specified allowance shall be payable to a pilot by the owner or master of a ship where the pilot in the course of piloting the ship is taken beyond the pilotage district for which he or she is licensed or employed.

63. Requiring a pilot for the company's pilotage district to produce his or her pilot's licence or warrant of appointment to the master of a ship if requested by him or her.

64. Prohibiting the fraudulent use of a pilot's licence or warrant of appointment.

65. Providing for the approval by the company of pilot boats operated by the company in its pilotage district or for the licensing by it of pilot boats operated by the licensed pilots for its pilotage district.

66. Requiring pilot boats, so as to be capable of being readily distinguished from other vessels—

(a) to be coloured in a specified manner,

(b) to bear a flag of a specified colour and dimensions, and

(c) to bear such other characteristics that the company deems appropriate.

67. Requiring that a pilot flag be displayed on a ship while it is navigating in the company's pilotage district and has on board—

(a) a pilot for the pilotage district, the terms of whose pilot's licence or warrant of appointment, as the case may be, entitles him or her to pilot the ship in the circumstances concerned, or

(b) a person who is *bona fide* acting as the person in charge of the ship and who holds a pilotage exemption certificate entitling him or her to pilot the ship in the circumstances concerned.

68. Prohibiting the fraudulent display of pilot flags or flags resembling pilot flags.

69. Requiring the master of a ship navigating in the company's pilotage district (not being a ship to which bye-laws made by the company for the purposes specified in *paragraph 44* apply) to display a pilot signal on the ship and keep such a signal displayed until a pilot for the pilotage district comes on board the ship.

[1996.]

Harbours Act, 1996.

[No. 11.]

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70. Requiring the master of a ship who seeks in respect of the ship the services of a pilot for the company's pilotage district to give an adequate estimated time of arrival or departure of the ship to the company or a licensed pilot for its pilotage district, as appropriate.

71. Prescribing the form of a bond referred to in *section 70 (1)*.

72. Prescribing the procedures to be followed by any board that may be established by the company under *section 73 (5)* ("a Board of Inquiry") as respects the conduct by it of an oral hearing under that provision.

73. Providing for the payment to one or more members of a Board of Inquiry as respects an oral hearing conducted by it under *section 73 (5)*, or for the payment to one or more assessors as respects any assistance given to such a Board in that behalf by the assessor or assessors, of such expenses and allowances as are specified in, or are determined in accordance with, the bye-laws and enabling such a Board to make such order as it thinks just in relation to the payment of the legal costs and expenses of a party to a hearing aforesaid.

74. Enabling a taxing master of the High Court to tax any legal costs and expenses which a Board of Inquiry has ordered to be paid under bye-laws made for the purposes specified in *paragraph 73*.

75. Giving effect to a provision of a pilotage agreement in force in the company's pilotage district where the pilotage agreement provides for effect to be so given.

76. Providing for anything the making of provision for which is, in the opinion of the company, necessary to enable it to comply with a direction given to it by the Minister under *section 80*.

77. Purposes ancillary or incidental to any of the foregoing purposes.

ACTS REFERRED TO

Acquisition of Land (Assessment of Compensation) Act, 1919	1919, c. 57
British statute 55 Geo. 3, c. 191	1815, c. 191
British statute 56 Geo. 3, c. 62	1816, c. 62
British statute 1 Geo. 4, c. 69	1820, c. 69
British statute 6 & 7 Will. 4, c. 117	1836, c. 117
British statute 1 & 2 Vict., c. 36	1838, c. 36
British statute 28 & 29 Vict., c. 67	1865, c. 67
Civil Service Regulation Act, 1956	1956, No. 46
Companies Act, 1963	1963, No. 33
Dublin Port and Docks Act, 1869	1869, c. c
Dublin Port and Docks (Bridges) Act, 1929	1929, No. 2 (Private)
Dún Laoghaire Harbour Act, 1990	1990, No. 7
Dún Laoghaire Harbour Act, 1994	1994, No. 19
European Assembly Elections Act, 1977	1977, No. 30
European Parliament Elections Act, 1993	1993, No. 30
European Communities Act, 1972	1972, No. 27
Finance Act, 1895	1895, c. 16
Finance (Customs Duties) (No. 4) Act, 1931	1931, No. 43
Fisheries (Ireland) Act, 1846	1846, c. 3
Fishery Harbour Centres Act, 1968	1968, No. 18
Fishery Harbour Centres (Amendment) Act, 1992	1992, No. 10
Harbours Act, 1946	1946, No. 9
Harbours Acts, 1946 to 1976	
Harbours (Regulation of Rates) Act, 1934	1934, No. 2
Holidays (Employees) Acts, 1973 to 1991	
Kingstown Harbour Act, 1876	1876, c. xcvi
Lands Clauses Consolidation Act, 1845	1845, c. 18
Local Authorities (Officers and Employees) Acts, 1926 to 1983	
Local Government Act, 1941	1941, No. 23
Local Government Act, 1994	1994, No. 8
Local Government (Dublin) Act, 1993	1993, No. 31
Merchant Shipping Acts, 1894 to 1993	
Minimum Notice and Terms of Employment Acts, 1973 to 1991	
Misuse of Drugs Acts, 1977 and 1984	
National Archives Act, 1986	1986, No. 11
Petty Sessions (Ireland) Act, 1851	1851, c. 93
Pilotage Act, 1913	1913, c. 31
Pilotage (Amendment) Act, 1962	1962, No. 2
Radiological Protection Act, 1991	1991, No. 9
Redundancy Payments Acts, 1967 to 1991	
Registration of Title Act, 1964	1964, No. 16
Sea Pollution Act, 1991	1991, No. 27
State Harbours Act, 1924	1924, No. 49
Superannuation Acts, 1834 to 1963	
Superannuation and Pensions Act, 1976	1976, No. 22
Unfair Dismissals Acts, 1977 to 1993	