

Marine Navigation Bill [HL]

CONTENTS

Pilotage

- 1 Competent harbour authorities

Harbour authorities

- 2 Closure orders

Miscellaneous

- 3 Manning requirements

General

- 4 Commencement
- 5 Short title

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B I L L

TO

Make provision about marine navigation.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Pilotage

1 Competent harbour authorities

- (1) Section 1 of the Pilotage Act 1987 (competent harbour authorities) is amended as follows.
- (2) After subsection (4) insert— 5
 - “(4A) A harbour authority in England or Wales is not a competent harbour authority while it is specified in an order of the Secretary of State under this subsection.
 - (4B) A harbour authority in Scotland is not a competent harbour authority while it is specified in an order of the Scottish Ministers under this subsection.” 10
- (3) For subsection (5) (power to revoke or amend where circumstances change) substitute—
 - “(5) An order under this section may be amended or revoked by further order.” 15
- (4) In subsection (7) (procedure for certain orders) for “this section” substitute “subsection (3) or (4)”.
- (5) After subsection (8) insert—
 - “(8A) Before making an order under subsection (4A) or (4B) the person making the order shall consult— 20
 - (a) any harbour authority to which the order would apply, and
 - (b) anyone else who the person making the order thinks appropriate.

- (8B) An order under this section may include transitional, consequential, incidental or supplemental provision.”
- (6) In section 1A(1) (procedure for certain orders: Scotland) after “other than subsection (4)” insert “or (4B)”.

Harbour authorities

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2 Closure orders

- (1) After section 17 of the Harbours Act 1964 (harbour revision and empowerment orders: procedure) insert –

“Harbour closure orders

17A Power to make order

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- (1) In this section –
- (a) “the underlying purpose” means the purpose of permitting or requiring harbour authorities to cease to maintain harbours which are no longer commercially viable or necessary,
 - (b) “closure order” means an order made by the Secretary of State under this section in respect of a harbour, and
 - (c) “the harbour authority” in relation to a harbour means any harbour authority which has statutory duties to manage, maintain or improve the harbour.
- (2) The Secretary of State may make a closure order, but only –
- (a) on the application of the harbour authority,
 - (b) with the consent of the harbour authority, or
 - (c) if the Secretary of State has consulted the harbour authority and is satisfied that they are unlikely to object.
- (3) The Secretary of State shall publish guidance about the circumstances in which a closure order will be made; the guidance –
- (a) must require the Secretary of State to have regard to the underlying purpose, and
 - (b) must be reviewed and (if appropriate) revised from time to time.

17B Content of order

- (1) A closure order must relieve the harbour authority of –
- (a) all statutory functions in respect of the harbour, or
 - (b) specified statutory functions in respect of the harbour.
- (2) A closure order may transfer specified functions of the harbour authority to a specified body (with the body’s consent).
- (3) A closure order must include transitional provision about the cessation of the harbour authorities’ functions (including provision about rights and liabilities in relation to the performance of functions before the closure order takes effect).
- (4) A closure order may –

- (a) permit or require the harbour authority to carry out works in respect of the harbour;
- (b) permit the Secretary of State to carry out works in respect of the harbour;
- (c) require a harbour authority to pay for works carried out under paragraph (b); 5
- (d) confer on the harbour authority or the Secretary of State power to acquire (whether by agreement or compulsorily) land described in the order as the site of works to be carried out under paragraph (a) or (b). 10

17C Property

- (1) A closure order may include provision for the transfer of property, rights and liabilities of the harbour authority.
- (2) In particular, a closure order may include provision—
 - (a) transferring things that would otherwise not be capable of being transferred; 15
 - (b) creating interests, rights or liabilities in relation to things transferred or in connection with a transfer;
 - (c) for enforcement of rights or liabilities (whether transferred or created by the order); 20
 - (d) about the transfer of rights and liabilities in relation to employment (including provision for deemed continuity);
 - (e) about pension schemes (including provision for amending schemes, winding them up, transferring their administration, and saving rights existing before a transfer takes effect); 25
 - (f) terminating appointments;
 - (g) for compensation for loss of employment (or office).
- (3) A closure order may include provision—
 - (a) extinguishing liabilities to the Secretary of State;
 - (b) about the winding up of the harbour authority's affairs; 30
 - (c) about the winding up of any company wholly owned by the harbour authority;
 - (d) about the dissolution of the harbour authority.
- (4) A provision of a closure order transferring property, rights or liabilities may—
 - (a) make the transfer subject to a condition (such as the grant of an interest in favour of a third party), and
 - (b) include provision about the effect of failure to comply with the condition. 35
- (5) Provision under this section may confer a function on the Secretary of State. 40

17D Procedure

- (1) Part 1 of Schedule 3 has effect in relation to closure orders as in relation to harbour revision orders.

- (2) In relation to closure orders made otherwise than on the application of the harbour authority Part 1 of Schedule 3 has effect with any necessary modifications; in particular –
- (a) ignore paragraphs 3, 5, 6, 7, 9, 13 and 14,
 - (b) treat a reference to the applicant as a reference to the Secretary of State, 5
 - (c) treat a reference to the application for an order as a reference to the proposal to make an order,
 - (d) treat a reference to being notified of a proposed application as a reference to proposing to make an order, and 10
 - (e) paragraph 8 applies if the Secretary of State decides that the order would relate to a project which falls within Annex I or II to the Directive and is a relevant project; in which case –
 - (i) the Secretary of State must prepare the environmental statement, having consulted bodies with environmental responsibilities, and 15
 - (ii) the statement must include the information specified in sub-paragraph (2) (and may include other information).
- (3) Section 44 applies in relation to closure orders as in relation to harbour revision orders. 20
- 17E Devolution**
- (1) In relation to fishery harbours in Wales –
- (a) the power to make closure orders vests in the Welsh Ministers, and
 - (b) a reference in this group of sections to the Secretary of State is to be treated as a reference to the Welsh Ministers. 25
- (2) In relation to harbours in Scotland –
- (a) the power to make closure orders vests in the Scottish Ministers,
 - (b) a reference in this group of sections to the Secretary of State is to be treated as a reference to the Scottish Ministers, and 30
 - (c) the reference in section 17D(1) to Schedule 3 is a reference to that Schedule as it has effect in relation to Scotland.
- 17F Supplemental**
- (1) A closure order may include incidental, consequential, transitional or saving provisions. 35
- (2) In particular, a closure order –
- (a) may amend, repeal or revoke an enactment of local application, and
 - (b) may disapply or modify the application of any other enactment.
- (3) A closure order – 40
- (a) may make provision generally or only for specified purposes, and
 - (b) may make different provision for different purposes.”
- (2) At the end of section 44 of the Harbours Act 1964 (limitation of right to challenge orders) add – 45
- “(9) Section 17D(3) applies this section to closure orders.”

- (3) In section 57(1) of the Harbours Act 1964 (interpretation) insert at the appropriate point –
 ““closure order” has the meaning given by section 17A;”.

Miscellaneous

3 Manning requirements 5

In section 47 of the Merchant Shipping Act 1995 (manning requirements) after subsection (4) insert –

“(4A) Standards of competence or other conditions prescribed or specified by the Secretary of State under subsection (1)(b) may be expressed by reference to other documents. 10

(4B) A reference to a document in reliance on subsection (4A) may include a reference to amendments of the document which are –

- (a) made after the conditions are prescribed or specified, and
- (b) approved for the purposes of the regulations by the Secretary of State.” 15

General

4 Commencement

(1) This Act comes into force in accordance with provision made by the Secretary of State by order made by statutory instrument.

- (2) An order – 20
- (a) may make provision generally or only for specified purposes,
 - (b) may make different provision for different purposes, and
 - (c) may include incidental or transitional provision (including savings).

5 Short title

This Act may be cited as the Marine Navigation Act 2012. 25

Marine Navigation Bill [HL]

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B I L L

To make provision about marine navigation.

Lord Berkeley

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