

FISHERY HARBOUR CENTRES ACT 1968

LONG TITLE

An Act to provide for the establishment and operation at certain harbours of centres in which to promote, develop and carry on sea fishing, the processing, packing and selling of fish, the manufacture of products derived from fish and related activities and to provide for matters connected with the matters aforesaid. [2nd July, 1968]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS

1 Definitions.

1.—In this Act— "the Commissioners" means the Commissioners of Public Works in Ireland; "fishery harbour centre" means any area defined by an Order for the time being in force under section 2 of this Act and declared by such order to be a fishery harbour centre; "managing authority", in relation to a harbour, means the authority responsible for the management, control, operation and maintenance of the harbour; "the Minister" means the Minister for Agriculture and Fisheries; "the Fund" means the Fishery Harbour Centres Fund established under section 9 of this Act.

2 Fishery harbour centre orders.

2.—(1) The Minister may, in relation to any harbour mentioned in the Schedule to this Act, by order— (a) declare such area of the harbour or the land adjoining the harbour or both the harbour and the land aforesaid, as is defined in the order to be a fishery harbour centre; (b) define the area (comprising such area of the harbour (whether the whole or a part thereof) or the land adjoining the harbour or both the harbour and the land as may be specified in the order) of the fishery harbour centre; (c) transfer to the Minister all the property (real or personal) in the fishery harbour centre of the managing authority for the harbour and all rights and liabilities in or relating to such centre of such managing authority; (d) provide that the managing authority for the harbour shall cease to exercise or carry out any powers, functions or duties in relation to the fishery harbour centre. (2) Where, in relation to a harbour, an order is made under this section— (a) on and from the commencement of the order without any further conveyance, transfer or assignment— (i) the property transferred by the order shall vest in the Minister for all the estate and interest therein of the managing authority for the harbour, (ii) the rights transferred by the order shall be enjoyed by the Minister, (iii) the liabilities transferred by the order shall be the liabilities of the Minister; (b) the managing authority for the harbour and the officers and servants of the authority shall, on and from the commencement of the order, cease to exercise or carry out any powers, functions or duties in relation to the fishery harbour centre to which the order relates; (c) if, immediately before the commencement of the order, any legal proceedings are pending to which the managing authority for the harbour is a party and the proceedings have reference to powers, functions or duties referred to in paragraph (b) of this subsection, the name of the Minister shall, on and from such commencement, be substituted in the proceedings for that of the managing authority and the proceedings shall not abate by reason of such substitution; (d) anything commenced before the commencement of the order by or under the authority of the managing authority for the harbour may, on and from such commencement, in so far as it relates to powers, functions or duties referred to in paragraph (b) of this subsection, be carried on or completed on or after such commencement by the Minister; (e) a licence, certificate or other

like document granted or made in the exercise of a power, function or duty of the managing authority for the harbour shall, if and in so far as it was operative immediately before the commencement of the order, have effect on or after such commencement as if it had been granted or made by the Minister; (f) on and from such commencement none of the following Acts, that is to say, the State Harbours Act, 1924, the Harbours (Regulation of Rates) Act, 1934, the Harbours Acts, 1946 and 1947, and the Harbours, Docks, and Piers Clauses Act, 1847, shall apply to the fishery harbour centre to which the order relates; (g) if the harbour is Killybegs Harbour and all the property, rights, and liabilities of the Killybegs Harbour Commissioners are transferred to the Minister by the order, the Killybegs Harbour Commissioners shall, on the commencement of the order, stand dissolved; (h) if the harbour is Castletownbere Harbour, neither the Public Works (Ireland) Act, 1836, nor the Fisheries (Ireland) Act, 1846, shall apply to the fishery harbour centre to which the order relates. (3) Any order, regulation, bye-law or other instrument (other than an instrument of the kind referred to in subsection (4) of this section) relating to the management, control, operation or development of a harbour which, immediately before the commencement of an order under this section in relation to the harbour, was in force shall, on and from such commencement, in so far as it applies to the fishery harbour centre to which the order under this section relates, be deemed to have been made by the Minister as a bye-law under section 4 of this Act and to be in force in respect of so much of the harbour as is comprised in such fishery harbour centre and shall be capable of being amended or revoked accordingly. (4) Any order, regulation, bye-law or other instrument which, immediately before the commencement of an order under this section in relation to a harbour, was in force in respect of that harbour and relates to rates or dues chargeable in respect of the harbour shall, on and from such commencement, in so far as it applies to the fishery harbour centre to which the order under this section relates, be deemed to have been made by the Minister as an order under section 4 of this Act and to be in force in respect of so much of the harbour as is comprised in such fishery harbour centre and shall be capable of being amended or revoked accordingly. (5) An order shall not be made under subsection (1) or (7) of this section in relation to a harbour that was, immediately before the passing of this Act, under the management and control of a harbour authority mentioned in the First Schedule to the Harbours Act, 1946, without the consent of the Minister for Transport and Power. (6) (a) Before making an order under subsection (1) or (7) of this section, the Minister shall publish in *Iris Oifigiúil* and in such other manner as he may think best adapted for informing persons affected, notice of the proposal to make the order and of the place where copies of the draft order may be obtained and of the time (which shall not be less than twenty-one days) within which any objection made with respect to the draft order by or on behalf of persons affected must be sent to the Minister. (b) Every objection shall be in writing and state— (i) the specific grounds of objection, (ii) the omissions, additions or modifications asked for. (c) The Minister shall consider any objection made by or on behalf of any persons appearing to him to be affected which is sent to him within the required time, and he may, if he thinks fit, amend the draft order. (d) If after the publication of the notice with respect to a draft order an objection is made within the required time with respect to the draft and not withdrawn, the Minister may, if he so thinks fit, before making the order direct an inquiry to be held in the manner hereinafter provided. (e) Where an inquiry is to be held as to a draft order, the following provisions shall have effect with respect to the inquiry: (i) the Minister shall appoint a competent person or competent persons to hold the inquiry, and to report to him thereon, (ii) the inquiry shall be held in public, and any objector and any other person who, in the opinion of the person holding the inquiry or, if there is more than one such person, of the person presiding over the inquiry, is affected by the draft order, may appear at the inquiry whether in person or by counsel, solicitor or agent. (iii) the witnesses may, if the person holding or presiding over the inquiry thinks fit, be examined on oath (which such person is hereby empowered to administer), and any person who gives false evidence on oath at the inquiry shall be guilty of perjury and punishable accordingly. (7) The Minister may by order revoke or amend an order under this section (including an order under this subsection).

3 Acquisition of land in fishery harbour centres.

3.—(1) The Minister may, whenever he thinks proper, acquire, by agreement or compulsorily, any land situate in a fishery harbour centre or right over or in respect of land or water so situate. (2) (a) Not later than one month before the Minister enters on any land or acquires any right, he shall cause maps, plans and books of reference in relation thereto to be deposited in accordance with this subsection. (b) The maps and plans shall be sufficient in quantity and character to show on adequate scales the property, corporeal or incorporeal, proposed to be acquired and every interference (so far as it can be shown on a drawing) proposed to be made with any property, corporeal or incorporeal. (c) The books of reference shall contain the names of the owners or reputed owners, lessees or reputed lessees and occupiers of all land proposed to be acquired under this section and of all rights proposed to be acquired under this section. (d) The maps, plans and books of reference shall be deposited at the office of the Minister and at such other places (if any) as the Minister may specify and shall remain so deposited for such period as may be specified by the Minister 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 bank holidays. (e) As soon as may be after the deposit of any maps, plans or books of reference, the Minister shall give public notice of such deposit by advertisement published in such newspaper or newspapers circulating in the area adjoining the centre as the Minister may specify. (f) The public notice shall state that the maps, plans or books of reference to which it relates are open to public inspection in accordance with this paragraph and shall state the times and places at which they may be inspected. (3) (a) The amount of the price or compensation to be paid by the Minister for any land acquired under this section to the several persons entitled thereto or having estates or interests therein, or for or in respect of any rights so acquired to the owner thereof or to the several persons entitled to or having estates or interests in the land over or in respect of which such right is so acquired shall, in default of agreement, be fixed under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919. (b) Sections 69 to 83 of the Lands Clauses Consolidation Act, 1845 (as adapted or amended by or under any subsequent Act), shall apply to any price or compensation payable under this paragraph and to the conveyance to the Minister of property, corporeal or incorporeal, acquired under this Act, and for the purpose of the application the Minister shall be deemed to be the promoter of the undertaking. (4) All claims for the price of or compensation in respect of any land or right (whether corporeal or incorporeal) acquired under this section shall be made within one year after the land or right is first entered on or exercised under this section. (5) (a) In this subsection "public authority" means the Irish Land Commission or the Commissioners of Public Works in Ireland. (b) Whenever the Minister acquires permanently any land which is subject, either alone or in conjunction with other land, to a land purchase annuity, payment in lieu of rent or other annual sum (not being merely rent under a contract of tenancy) payable to a public authority, he shall, as from the date on which he enters on and takes possession of the land so acquired— (i) become and be liable for the payment to the public authority of such annual sum or such portion thereof as shall be apportioned by the public authority on such land as if the land had been transferred to the Minister by the owner thereof on that date, and (ii) be entitled, if the Minister so thinks fit, to redeem the annual sum or such portion thereof as aforesaid, and (iii) be obliged, if required by the public authority to do so, to redeem such annual sum or such portion thereof as aforesaid. (6) (a) At any time after compliance by the Minister with subsection (2) of this section in relation to any land or right and before conveyance or ascertainment of compensation, the Minister may, subject to the subsequent provisions of this subsection, enter on and take possession of that land or terminate that right. (b) Where the Minister exercises any power conferred on him by paragraph (a) of this subsection— (i) subject to subparagraph (ii) of this paragraph, the Minister shall pay to the person who is the occupier of the land entered on or the owner of the right over land terminated, interest on the amount of the compensation payable to such person at the rate of

six per cent. per annum from the date on which the power was exercised until payment of the compensation. (ii) if— (I) the Minister has made an unconditional offer in writing of any sum as such compensation to the person, and (II) the offer is not accepted by the person, and (III) the sum awarded as compensation by the official arbitrator to the person does not exceed the sum so offered, no interest shall be payable on such compensation in respect of any period after the date of the offer. (c) The Minister shall not, without the consent of the occupier— (i) enter on or take possession of any land under paragraph (a) of this subsection without giving to the occupier thereof at least one month's or, in the case of an occupied dwelling house, three months' previous notice in writing of his intention to do so, or (ii) terminate any right under paragraph (a) of this subsection without giving to the owner thereof at least one month's notice of his intention to do so. (d) A notice under paragraph (c) of this subsection may be given to any person by sending it by post in an envelope addressed to that person at his usual or last known address. (e) Where, for any reason, the envelope mentioned in paragraph (d) of this subsection cannot be addressed in the manner provided by that paragraph, it may be addressed to the person for whom it is intended in either or both of the following ways— (i) by the description "the occupier" or "the owner" (as the case may be) without stating his name, (ii) at the land or the situation of the property to which the notice contained in the envelope relates. (7) The Minister shall not acquire compulsorily under this section— (a) any land, or (b) any right over or in respect of land or water, used in connection with the operation of commercial shipping (other than fishing boats) or the exercise of the public right of navigation without the consent of the Minister for Transport and Power. (8) The powers of compulsory acquisition conferred on the Minister by this section shall not extend to land, or rights over or in respect of land or water, vested in the State, a Minister of State, the Irish Land Commission, a local authority for the purposes of the Local Government Act, 1941, the Electricity Supply Board or a gas undertaker (within the meaning of the Gas Regulation Act, 1920, as amended). (9) (a) The Minister may with the consent of the Minister for Finance, arrange for the exercise for and on behalf of the Minister of any one or more of his powers, functions or duties under the preceding subsections of this section by the Commissioners. (b) An arrangement under this subsection shall continue in operation for such period as the Minister, with the consent of the Minister for Finance, determines and may, with the like consent, be terminated at any time or renewed from time to time.

4 Operation and development of fishery harbour centres.

4.—(1) The Minister shall manage, control, operate and (to such extent as he thinks proper) develop each fishery harbour centre and shall have all such powers as are necessary for those purposes. (2) For the purposes of subsection (1) of this section, but without prejudice to the generality thereof, the Minister may, in relation to each fishery harbour center— (a) make such bye-laws as he deems necessary or desirable for the purposes of the management, control, operation and development of the centre (excluding bye-laws in relation to matters referred to in paragraph (b) of this subsection), (b) by order, fix rates, tolls and other charges for the use of facilities (including the harbour) and services in the centre and provide for their payment and collection and for penalties and remedies for their non-payment (including distress and sale of ships, boats and goods in respect of which any rates, tolls or charges are payable), (c) provide, or arrange for the provision of, facilities in the centre for the sale of fish landed at the centre and require that fish so landed be offered for sale at the centre and that sales of fish at the centre be conducted in such manner as the Minister may specify, (d) appoint, to manage, control, operate and develop the centre, such number of officers and servants as he deems necessary for the purpose and provide for their powers, functions and duties and, with the consent of the Minister for Finance, for their terms and conditions of service (including, if, and in such cases as, he thinks fit, superannuation benefits), (e) provide, improve and develop or arrange for the provision, improvement and development of, such facilities and installations as he considers desirable or necessary at the centre, (f)

provide, improve and develop or arrange for the provision, improvement and development of, such services ancillary to or connected with the fish industry as he considers desirable or necessary at the centre. (3) (a) This subsection applies to— (i) service as an officer or servant in the employment of the managing authority for a harbour other than Galway Harbour to which an order under section 2 of this Act relates, being service ending immediately before the commencement of such order, and (ii) service which is remunerated out of the Fund. (b) Service to which this subsection applies shall, if the Minister for Finance thinks fit, be deemed, for the purposes of the Superannuation Acts, 1834 to 1963, to be service which was in a public department and was remunerated entirely out of moneys provided by the Oireachtas and where any such service was in a pensionable capacity, it shall, if the Minister for Finance thinks fit, be deemed for the purposes of those Acts to be service as an established officer in the permanent civil service of the Government. (4) (a) The Minister may, with the consent of the Minister for Finance, arrange for the exercise of any one or more of his powers, duties or functions under subsection (1) and paragraphs (c), (e) and (f) of subsection (2) of this section and section 6 of this Act by any person selected, with the consent of the person, by the Minister. (b) An arrangement under this subsection shall continue in operation for such period as the Minister, with the consent of the Minister for Finance, determines and may, with the like consent, be terminated at any time or renewed from time to time. (5) The Minister may by order amend or revoke an order under this section including an order under this subsection. (6) (a) A person who contravenes a provision of an order or bye-law under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100 or, at the discretion of the court, to imprisonment for a term not exceeding six months or to both the fine and the imprisonment. (b) Where an offence under this section which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of the offence. (7) (a) Whenever the Minister proposes to make an order or bye-law under this section, the following provisions shall have effect— (i) the Minister shall publish notice of his proposal at least once in such newspaper or newspapers circulating in the area adjoining the fishery harbour centre to which the order or bye-law will relate as he may specify, (ii) the notice shall include a statement of the purposes for which the order or bye-law is proposed to be made, an intimation that a copy of the draft order or bye-law is open for public inspection at a place in the fishery harbour centre aforesaid specified in the notice and that any person may submit to the Minister objections to the draft order or bye-law at any time during the period of twenty-one days commencing on the day of the first publication of the notice, (iii) the Minister shall, during the said period of twenty-one days, keep a copy of the draft order or bye-law open for public inspection at the place aforesaid, (iv) any person who objects to the draft order or bye-law may submit his objection to the Minister in writing at any time during the said period of twenty-one days and the Minister shall consider the objections, and (v) on the expiration of the said period of twenty-one days, the Minister shall, as he may think proper, refrain from making the order or bye-law or make the order or bye-law either without modifications or with such modifications therein as he may think proper. (b) A copy of an order or bye-law for the time being in force under this section in respect of a fishery harbour centre shall be made available by the Minister for inspection by the public at the centre during ordinary office hours and the Minister shall make available to the public at such price (if any) as may be determined by the Minister copies of orders and bye-laws for the time being in force under this section in relation to the centre. (c) A document which purports to be a copy of an order or bye-law made under this section and which has endorsed thereon a certificate (purporting to be signed by an officer of the Minister) stating the document is a true copy of the order or bye-law, as the case may be, and that the specified date, shall, without proof of the signature of such order or bye-law, as the case may be, was in force on a officer or that he was in fact such officer, be evidence (until the contrary is proved) in every court and in all legal proceedings of the order or bye-law, as the case may be, and of the fact that it was in force on that date. (8) The

Minister shall not make an order or bye-law under this section in relation to or affecting commercial shipping (other than fishing boats) or the exercise of the public right of navigation without consultation with the Minister for Transport and Power. (9) Notice of the making of an order or bye-law under this section shall be published in *Iris Oifigiúil* as soon as conveniently may be after it is made.

5 Use of property vested in Minister by this Act.

5.—The Minister may use any property vested in him by virtue of this Act for such purposes connected with the improvement and development of the fish industry and the provision, improvement and development of services ancillary to or connected with the fish industry and in such manner as he thinks proper, and may sell, lease, let, exchange, grant easements over, profits á prendre in respect of or permit the use in any manner he thinks fit of any land vested in him by virtue of this Act.

6 Maintenance of harbours in fishery harbour centres.

6.—The Minister shall, to such extent (if any) as he may deem necessary, carry out, or arrange for the carrying out of the maintenance, repair, improvement, extension and modification of any harbour, part of a harbour, building or installation situate in a fishery harbour centre or any road or access vested in the Minister and so situate.

7 Non-repayable grants in respect of fishery harbour centres.

7.—The Minister, with the consent of the Minister for Finance, may from time to time make, or arrange for the Commissioners to make, grants to the Fund out of moneys Provided by the Oireachtas.

8 Accounts in relation to fishery harbour centres.

8.—(1) The Minister shall, as respects a fishery harbour centre, cause to be kept, in such form as may be approved by the Minister for Finance, all proper and usual accounts of all moneys receive or expended in relation to the centre by the Minister or any person while exercising a function of the Minister specified in subsection (1) or (2) of section 4 of this Act. (2) Accounts kept under this section for each financial year of moneys received or expended by the Minister or any person while exercising a function of the Minister referred to in subsection (1) of this section shall be audited as soon as may be after the end of that year by the Comptroller and Auditor General and copies of such of the accounts when so audited as the Minister may specify and of the report of the Comptroller and Auditor General thereon shall be laid by the Minister before each House of the Oireachtas.

9 The Fishery Harbour Centre Fund.

9.—(1) The Minister shall establish, maintain and manage in accordance with this section a fund (in this Act referred to as the Fund) to be known as the Fishery Harbour Centres Fund. (2) The following provisions shall apply in relation to the Fund: (a) there shall be paid into the Fund all moneys received by or on behalf of the Minister in respect of rates, tolls or other charges paid under section 4 (b) of this Act and all moneys received by or on behalf of the Minister in the exercise of the powers conferred on him by section 5 of this Act and any other moneys received by or on behalf of the Minister under or for the purposes of this Act, and (b

) there shall be paid out of the Fund all outlay and expenditure incurred by the Minister under subsections (2), (3) or (4) of section 2 or sections 3, 4, 5 or 6 of this Act or incurred in the exercise of a power, function or duty of the Minister under section 3 (9) or 4 (4) of this Act, (c) so much of the Fund as, in the opinion of the Minister, is for the time being not immediately required for the making of payments under paragraph (b) of this subsection may be invested by the Minister in securities in which trustees are for the time being authorised by law to invest trust funds, (d) the Minister may from time to time at his discretion vary or sell any investments authorised by this subsection, (e) all dividends and interest received by the Minister on investments (being part of the Fund) made by him under this subsection and the proceeds of the sale of any such investments shall be made into the Fund.

10 Laying of orders before Houses of Oireachtas.

10.—Every order made by the Minister under section 2 of this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next subsequent twenty-one days on which that House has sat after the order is laid before it, the order shall be annulled accordingly but without prejudice to anything previously done thereunder.

11 Saver for Customs Acts.

11.—Nothing in this Act or any instrument thereunder shall prejudice or affect the provisions of the Customs Acts or the rights or powers of the Revenue Commissioners under those Acts.

12 Expenses.

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

13 Short title and commencement.

13.—(1) This Act may be cited as the Fishery Harbour Centres Act, 1968. (2) This Act shall come into operation on such day as the Minister may appoint by order. Section 2.

SCHEDULE

HARBOURS IN RELATION TO WHICH FISHERY HARBOUR CENTRE ORDERS MAY BE MADE

C astletownbere. Dunmore East. Galway. Howth. Killybegs.