

Post-Enactment Report

Harbours Act 2015 (No. 61 of 2015)

(Dáil Éireann – Standing Order 164A)

(Seanad Éireann – Standing Order 137A)

December 2016

Post Enactment Report
Harbours Act 2015 (No. 61 of 2015)

Background

The Harbours Act 2015 was signed into law by the President on 25 December 2015.

The main purpose of the Harbours Act 2015 is to provide the necessary legislative framework to allow for the transfer of the five Ports of Regional Significance to local authority led governance structures. This is in line with National Ports Policy 2013 and policy on local government reform as set out in *Putting People First-Action Programme for Effective Local Government*.

The Act also made provision to enhance the corporate governance structures of all port companies, including the five proposed transferee ports and the Ports of National Significance, Cork, Dublin, Shannon Foynes and Waterford.

Context

National Ports Policy, published in March 2013, provides that the five designated Ports of Regional Significance (Drogheda, Dún Laoghaire, Galway, New Ross and Wicklow) will be transferred to more appropriate local authority led governance structures.

It was necessary to enact primary legislation, namely the Harbours Act 2015, to provide the legislative framework to allow for the transfer of these ports, by later Ministerial Order, to local authority control.

The Harbours Act 2015 provides for two possible models of transfer:

- Retention of the existing company structure and transfer of the Ministerial shareholding in the company to the local authority (Section 8)

or

- Dissolution of existing company and transfer of all assets, liabilities and employees into local authority structures (Section 28).

The Act does not prescribe the model of transfer for any of the five port companies.

The transfers will be effected by Ministerial Orders made under the Harbours Act 2015. The Orders will be signed by the Minister for Transport, Tourism and Sport with the consent of the Minister for Public Enterprise and Reform and the Minister for Housing, Planning, Community and Local Government (formerly the Minister for the Environment, Community and Local Government).

In addition to the provisions relating to the transfer of the five port companies, the Harbours Act 2015 introduces amendments which strengthen the corporate governance structures of all the commercial port companies.

The most significant changes, relating to the chairperson and directors of the port companies, are as follows:

- The appointment process generally must adhere to any Government or nationally agreed guidelines on appointments to State Boards.
- Overall term limits of 10 years for directors
- Statutory skillsets – each board must comprise a director with experience and competence in maritime transport services, a director with experience and expertise in financial matters, a director with experience and expertise in legal matters and a director with experience and expertise in trade and commerce.

Outcome (post-enactment)

The first of the five Ports of Regional Significance to transfer to local authority control was Wicklow Port Company. This port was transferred directly under the control of Wicklow County Council on 30 August 2016 in accordance with Section 28 of the Harbours Act 2015 (Model 2 above). On that date, the company was dissolved and its assets, liabilities and employees transferred to the Council.

With regard to the remaining ports due to transfer to local authority control, the local authorities concerned are working with those ports on the due diligence process and the Department continues to liaise with both the local authorities and the ports with regard to the transfer process and the model of transfer.

Following the introduction of amendments to corporate governance structures by the Act, all appointments to the boards of the commercial port companies must now generally be conducted in line with Government and nationally agreed guidelines on appointments to State Boards, including the Public Appointments Service (PAS) procedures. In addition, the new requirements concerning statutory skillsets for appointees must also be met.

Department of Transport, Tourism and Sport