ELIZABETH II

1970 CHAPTER lxvi

An Act to empower the Port of Tyne Authority to transfer the Market Place Ferry undertaking at North Shields and South Shields; to make certain provision for enabling the service of that undertaking to be reduced or abandoned; and for other purposes.

[17th December 1970]

WHEREAS—

(1) The Port of Tyne Authority (hereinafter referred to as "the Authority") were constituted under the Port of Tyne Reorganisation Scheme 1967 as the authority responsible for the conservancy, maintenance and improvement of (inter alia) the former harbour undertakings of the Tyne Improvement Commissioners and the Corporations of Newcastle, Gateshead and Tynemouth:

(2) Under the said Scheme the undertaking of the Market Place Ferry was included among the undertakings transferred to the Authority and certain statutory powers and duties of continuation and maintenance of the said ferry undertaking were transferred and applied to the Authority:

(3) Financial difficulties have for many years been experienced by the Authority and their predecessors, the Tyne Improvement Commissioners, in continuing and maintaining the ferry undertaking, and these difficulties have since October 1967 been considerably increased by the opening and use of the Tyne Tunnel:

(4) It is expedient that the Authority should be empowered to transfer the said ferry undertaking by agreement to the Tyneside Passenger Transport Executive and that powers should be conferred for the reduction of the ferry service, and in certain circumstances for its abandonment, as in this Act contained:

(5) It is expedient that the further provisions in this Act contained be enacted:

(6) The purposes of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted, and 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 (that is to say):—

Short title.

1. This Act may be cited as the Port of Tyne Act 1970.

Interpretation.

2.—(1) In this Act—

" the Authority " means the Port of Tyne Authority;

" the day of transfer " means the day upon which any transfer of the undertaking pursuant to section 4 (Power to transfer ferry undertaking to the Executive) of this Act takes effect;

" enactment " includes an enactment in this Act or in any general or local Act and any order, byelaw or regulation for the time being in force;

" the Executive " means the Passenger Transport Executive established under the Tyneside Passenger Transport Area (Designation) Order 1969;

" the ferry service " means the service operated by means of the undertaking;

" the Port " has the meaning assigned to that expression in the Scheme;

" the Scheme " means the Port of Tyne Reorganisation Scheme 1967;

" the undertaking " means the undertaking in respect of the Market Place Ferry and the property interests therein, transferred to and now vested in the Authority by the Scheme, and includes any part of the undertaking.

(2) Except where the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by, or by virtue of, any subsequent enactment, including this Act.

Power to discontinue certain services.

3.—(1) The Authority may at any time by resolution discontinue the carriage of vehicles or animals, or of any class or classes of vehicles or animals, by means of the undertaking.

(2) Any resolution made pursuant to this section shall specify the date (not being earlier than one month after the date of the resolution) on which the discontinuance shall have effect.

Power to transfer ferry undertaking to the Executive.

4.—(1) Subject to the provisions of this Act the Authority may enter into and carry into effect an agreement for the transfer of the undertaking to the Executive:

Provided that—

(i) no monetary or other valuable consideration shall be required from the Executive as a term of such agreement;

(ii) the Authority may in such agreement exclude from the transfer any property or rights the use or enjoyment of which is reasonably required by the Authority in the exercise of their general functions of improving, maintaining, regulating or managing the Port.

(2) On the day of transfer all the rights, powers, privileges, authorities, obligations and liabilities of the Authority in respect of the undertaking and of the property included in the transfer, other than—

(*a*) any rights excluded under paragraph (ii) of the proviso to the foregoing subsection; and

(*b*) any liability for the accumulated deficit outstanding as at the day of transfer, derived from the separate accounts of the undertaking maintained pursuant to section 8 (2) of the Tyne Improvement Act 1925; 1925 c. xxxiii.

shall be transferred to and vest in, and may be exercised by and shall attach to, the Executive.

Transfer of staff.

5. On the day of transfer the Executive shall take over and employ any officer or servant who immediately before that day is employed on a full-time basis by the Authority wholly in connection with the undertaking, and who shall be willing to enter the service of the Executive, on terms and conditions not less favourable than those on which he is employed by the Authority immediately before that day:

Provided that the Executive shall not be required to take into their service any officer or servant whose contract of service was entered into after 1st September 1969 unless such contract was entered into to replace an officer or servant who had left the service of the Authority and contained terms and conditions substantially similar to those of the contract with that officer or servant, or was entered into with the approval of the Executive.

Byelaws.

6. On and after the day of transfer—

(*a*) every byelaw, rule or regulation made or deemed to have been made by the Authority in relation to the undertaking and in force immediately before that day shall, until amended or revoked, continue in force as if made by the Executive and, where necessary, confirmed;

(*b*) the Executive shall have power to make byelaws for regulating the proper management, operation and use of the undertaking and the collection and recovery of charges for such use;

(*c*) all byelaws made by the Executive under this section shall be subject to the provisions of subsections (2), (3), (4), (5), (6) and (7) of section 250, and section 252, of the Local Government Act 1933:

1933 c. 51.

Provided that for the purposes of this section those sections shall be construed as if the Executive were a local authority within the meaning of those sections and as if the secretary of the Executive were the clerk to such an authority;

(*d*) the confirming authority for the purposes of the said section 250 in its application to the Executive shall be the Minister of Transport;

(*e*) byelaws made by the Executive under this Act may contain provisions for imposing on persons offending against any of the byelaws fines not exceeding fifty pounds for any such offence.

Saving of agreements, etc.

7. Subject to the provisions of this Act all sales, conveyances, leases, grants, assurances, deeds, contracts, bonds, agreements, notices and demands affecting the undertaking and in force immediately before the day of transfer shall on and from that day be as binding and of as full force and effect in every respect and may be enforced as fully and effectively against or in favour of the Executive as if instead of the Authority the Executive had been a party thereto or bound thereby or entitled to the benefits thereof.

Inspection of books and documents of account.

8. At all reasonable times after the day of transfer the Executive shall be entitled to inspect, and to take copies of, all books of account and other documents relating to the accounts of the undertaking.

Consequential modification of statutory provisions, etc.

9. Subject to the provisions of this Act any statutory provision, agreement or other instrument which refers to or relates to the Authority in respect of the undertaking shall, on and after the day of transfer, have effect subject to any necessary modifications as if for any reference however worded, and whether express or implied—

(*a*) to the Authority there were substituted a reference to the Executive; and

(*b*) to any officer or servant of the Authority there were substituted a reference to the officer or servant of the Executive who corresponds as nearly as may be to the first-mentioned officer or servant.

Power to abandon ferry service.

10.—(1) If the Authority have submitted to the Executive proposals (and have not withdrawn them) offering to transfer the undertaking in accordance with section 4 (Power to transfer ferry undertaking to the Executive) of this Act, and agreement between the Authority and the Executive has not been reached, whether in the terms of such proposals or otherwise, the Authority may at any time after the expiry of twelve months from the date of such submission, or, in the event of the Executive serving upon the Authority written notice that they decline to entertain any such proposals, at any time after such service, by resolution abandon and discontinue the ferry service.

(2) Subject to the provisions of the Transport Act 1968 the Executive may at any time, by resolution, abandon and discontinue the ferry service. 1968 c. 73.

(3) Any resolution made pursuant to this section shall specify the date (not being earlier than three months after the date of the resolution) from which the abandonment and discontinuance shall have effect, and as from the date so specified all rights of user relating to the ferry service shall cease and be extinguished and the Authority or, as the case may be, the Executive shall by virtue of this Act be released from all duties and obligations (if any) to maintain, work and use the ferry service.

Compensation for officers, etc.

11.—(1) Any officer or servant of the Authority employed in connection with the undertaking immediately before the discontinuance of the carriage of vehicles or animals or of any class or classes of vehicles or animals under section 3 (Power to discontinue certain services) of this Act, or any officer or servant of the Authority or, as the case may be, the Executive immediately before the abandonment of the ferry service under section 10 (Power to abandon ferry service) of this Act, who suffers loss of employment or loss or diminution of emoluments attributable to the discontinuance or abandonment shall be entitled to have his

case for the payment of compensation considered by the body by whom he was so employed, and the provisions of the Local Government (Compensation) Regulations 1963 as to the determination and payment of compensation, and of the Redundancy Payments Statutory Compensation Regulations 1965 as to set-off of redundancy payments against statutory compensation, shall, with the necessary adaptations, apply accordingly.

(2) The material date for the purposes of regulations 3 and 5 (1) of the said regulations of 1963 as so applied shall be the date of the resolution under the said section 3 or 10, and for the other purposes of the said regulations shall be the date of the discontinuance or abandonment.

Hovercraft.

12. Article 2 of the Scheme is hereby amended—

(*a*) by substituting for the definition of " hover vehicle " the following definition:—

" ' hovercraft ' has the same meaning as in the Hovercraft Act 1968 ";

1968 c. 59.

(*b*) in the definition of " vessel ", by substituting for the words " hover vehicle " the word " hovercraft ".

Disposal of property of ferry undertaking.

13. Paragraph (1) of article 32 of the Scheme is hereby amended by inserting after the word " Port " the words " or the ferry undertaking ".

Costs of Act.

14 The costs, charges and expenses preliminary to and of and incidental to the preparing, applying for, obtaining and passing of this Act, and otherwise in relation thereto, shall be paid by the Authority.

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Port of Tyne Act 1970

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