1965 No. 145

MINISTERS OF THE CROWN

The Transfer of Functions (Shipping and Construction of Ships) Order 1965

Made - - - -	*29th January* 1965
Laid before Parliament	*4th February* 1965
Coming into Operation	*8th February* 1965

At the Court at Buckingham Palace, the 29th day of January 1965

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 1 of the Ministers of the Crown (Transfer of Functions) Act 1946(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation, interpretation and commencement

1.—(1) This Order may be cited as the Transfer of Functions (Shipping and Construction of Ships) Order 1965.

(2) The Interpretation Act 1889(b) applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(3) In this Order "instrument" (without prejudice to the generality of that expression) includes in particular Orders in Council, judgments, decrees, orders, rules, regulations, awards, deeds, contracts, certificates, notices and other documents.

(4) Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended, and as including a reference thereto as extended or applied, by or under any other enactment.

(5) This Order shall come into operation on 8th February 1965.

Transfer of functions

2. Subject to the provisions of this Order, there are hereby transferred to the Board of Trade the functions exercisable by the Minister of Transport under the enactments and orders mentioned or described in Schedule 1 to this Order.

Supplementary

3.—(1) There are hereby transferred to the Board of Trade all property, rights and liabilities to which the Minister of Transport was entitled or subject immediately before the coming into operation of this Order in connection with any of the functions thereby transferred.

(a) 9 & 10 Geo. 6. c. 31. (b) 52 & 53 Vict. c. 63.

(2) Any enactment or instrument shall, so far as may be necessary for or in consequence of any transfer effected by this Order, have effect as if references to, or which are to be construed as references to, the Minister of Transport or his officers or department were references to the Board of Trade or the officers or department of the Board.

(3) This Order shall not affect the validity of anything done by or in relation to the Minister of Transport before the coming into operation of this Order; and anything which, at the time of the coming into operation of this Order, is in process of being done by or in relation to that Minister (including, in particular, any legal proceeding then pending to which he is a party) may, if it relates to any functions, property, rights or liabilities transferred by this Order, be continued by or in relation to the Board of Trade.

(4) Any authority, direction, consent, approval or certificate given, any appointment made and any other thing done by the Minister of Transport, in the exercise of any function transferred by this Order, shall, if in force at the coming into operation of this Order, continue in force and have effect as if made, given or done by the Board of Trade.

(5) The functions transferred to the Board of Trade by this Order may be exercised by the President of the Board, any Minister of State with duties concerning the affairs of the Board, any secretary, under-secretary or assistant secretary of the Board, or any person authorised in that behalf by the President of the Board; and the enactments mentioned in Schedule 2 to this Order (which are superseded by this paragraph) are hereby repealed to the extent specified in the third column of that Schedule.

Transitional financial provisions

4.—(1) The charges coming in course of payment during the period beginning with the coming into operation of this Order and ending with 31st March 1965 of the services to which functions transferred by this Order appertain shall be defrayed as if—

(*a*) those functions had remained functions of the Minister of Transport; and

(*b*) anything done by or under the authority of the Board of Trade in the exercise of those functions had been done by or under the authority of the Minister of Transport; and

(*c*) any sums paid to the Board of Trade by virtue of the transfer of those functions had been paid to the Minister of Transport;

and the appropriation accounts of the expenditure of grants appropriated for the services and purposes expressed in Votes 11 and 14 mentioned in Part 13 of Schedule (B) to the Appropriation Act 1964(a), or in any Vote supplementary to any of those Votes, shall be prepared, framed and rendered accordingly.

(2) During the said period any sums falling to be paid—

(*a*) under the provisions of the Merchant Shipping Acts relating to seamen's money orders or savings banks, the property of deceased seamen, the wages of seamen left behind abroad or to wreck and salvage, being sums which, before the coming into operation of this Order, would have been payable to or by the Minister of Transport; or

(*b*) under the provisions of the Shipbuilding Credit Act 1964(b), being sums payable by way of interest on, or repayment of, any loan under

(a) 1964 c. 62. (b) 1964 c. 7.

that Act (whether made before or after the coming into operation of this Order) or payable to a borrower in respect of any loan made by the Board of Trade after the coming into operation of this Order,

shall, notwithstanding anything in this Order, continue to be payable to or by the Minister of Transport, and those provisions shall have effect accordingly; but any account of such sums required to be prepared and rendered for a period falling partly before and partly after the coming into operation of this Order shall be prepared and rendered by the Board of Trade.

(3) The functions of the Minister of Transport in respect of payments out of the General Lighthouse Fund shall, notwithstanding anything in this Order, continue to be exercisable by him until 31st March 1965, but the accounts of that Fund for the year ending with that date shall be prepared and rendered by the Board of Trade.

W. G. Agnew.

Article 2

SCHEDULE 1

ENACTMENTS AND ORDERS IN RESPECT OF WHICH FUNCTIONS ARE TRANSFERRED TO THE BOARD OF TRADE

The Public Harbours Act 1806 (46 Geo. 3. c. 153).

The Harbours Act 1814 (54 Geo. 3. c. 159) s. 16.

The Railways Clauses Consolidation Act 1845 (8 & 9 Vict. c. 20) s. 17.

The Railways Clauses Consolidation (Scotland) Act 1845 (8 & 9 Vict. c. 33) s. 17.

The Harbours, Docks and Piers Clauses Act 1847 (10 & 11 Vict. c. 27) ss. 12 and 13.

The Pilotage Law Amendment Act 1853 (16 & 17 Vict. c. 129) ss. 12 and 13.

The Merchant Shipping Law Amendment Act 1853 (16 & 17 Vict. c. 131) s. 13.

The General Pier and Harbour Act 1861, Amendment Act (25 & 26 Vict. c. 19) ss. 7 to 11.

The Harwich Harbour Act 1863 (26 & 27 Vict. c. 71) ss. 12 and 17.

The Railways Clauses Act 1863 (26 & 27 Vict. c. 92) ss. 13 to 19 except as respects functions under s. 16 in respect of level crossings.

The Telegraph Act 1863 (26 & 27 Vict. c. 112) ss. 36 to 40.

The Harwich Harbour Act 1865 (28 & 29 Vict. c. 120) s. 26.

The Dockyard Ports Regulation Act 1865 (28 & 29 Vict. c. 125) s. 7.

The Explosives Act 1875 (38 & 39 Vict. c. 17) s. 58(*b*) so far as it relates to ships.

The Telegraph Act 1878 (41 & 42 Vict. c. 76) s. 5.

The Boiler Explosions Acts 1882 and 1890.

The Sea Fisheries Act 1883 (46 & 47 Vict. c. 22) s. 11(2).

The Peterhead Harbour of Refuge Act 1886 (49 & 50 Vict. c. 49) s. 13.

The Lloyd's Signal Stations Act 1888 (51 & 52 Vict. c. 29) ss. 3 and 12.

The Fisheries Act 1891 (54 & 55 Vict. c. 37) Part I.

The Burgh Police (Scotland) Act 1892 (55 & 56 Vict. c. 55) ss. 235, 303 and 304(2).

The Merchant Shipping Acts 1894 to 1964 except the Merchant Shipping (Liability of Shipowners and Others) Act 1958 (6 & 7 Eliz. 2. c. 62) s. 2(6) and except as respects functions exercisable by virtue of any Order under s. 80 of the Merchant Shipping Act 1906 (6 Edw. 7. c. 48) in relation to government ships in the service of the Ministry of Transport.

The Public Health (Scotland) Act 1897 (60 & 61 Vict. c. 38) s. 119.

The Anchors and Chain Cables Act 1899 (62 & 63 Vict. c. 23).

The Military Lands Act 1900 (63 & 64 Vict. c. 56) s. 2.

The Whale Fisheries (Scotland) Act 1907 (7 Edw. 7. c. 41) s. 3(2).

The Public Health Acts Amendment Act 1907 (7 Edw. 7. c. 53) s. 82.

The Aliens Restriction (Amendment) Act 1919 (9 & 10 Geo. 5. c. 92) s. 5(2).

The Salmon and Freshwater Fisheries Act 1923 (13 & 14 Geo. 5. c. 16) s. 91.

The Coastguard Act 1925 (15 & 16 Geo. 5. c. 88).

The Land Drainage (Scotland) Act 1930 (20 & 21 Geo. 5. c. 20) s. 8.

The Land Drainage Act 1930 (20 & 21 Geo. 5. c. 44) ss. 41(7) and 77.

The Northern Ireland (Miscellaneous Provisions) Act 1932 (22 & 23 Geo. 5. c. 11) s. 9.

The Sea-Fishing Industry Act 1933 (23 & 24 Geo. 5. c. 45) ss. 1 and 2.

The Illegal Trawling (Scotland) Act 1934 (24 & 25 Geo. 5. c. 18) s. 1(6).

The Whaling Industry (Regulation) Act 1934 (24 & 25 Geo. 5. c. 49).

The Public Health Act 1936 (26 Geo. 5 & 1 Edw. 8. c. 49) s. 340.

The Public Health (London) Act 1936 (26 Geo. 5 & 1 Edw. 8. c. 50) s. 29(1).

The Harbours, Piers and Ferries (Scotland) Act 1937 (1 Edw. 8 & 1 Geo. 6. c. 28) ss. 9(*b*), 11(3), 20(1), 26 to 28 and Schedule 2 paragraph 2; and the following provisions, namely, ss. 5(4) and (6) and 9(*d*) so far as they relate to functions which were exercisable by the Board of Trade under those provisions as originally enacted.

The Ships and Aircraft (Transfer Restriction) Act 1939 (2 & 3 Geo. 6. c. 70).

The Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 (2 & 3 Geo. 6. c. 83) ss. 6 and 7.

The Finance Act (Northern Ireland) 1940 (4 & 5 Geo. 6. c. 20 (N.I.)) s. 7.

The Town and Country Planning (Scotland) Act 1945 (8 & 9 Geo. 6. c. 33) s. 48 and, so far as they relate to lighthouse undertakings, ss. 24 to 26 and Schedules 1 and 4.

The Disabled Persons (Employment) Act (Northern Ireland) 1945 (1945 c. 6 (N.I.)) s. 7.

The Emergency Laws (Transitional Provisions) Act 1946 (9 & 10 Geo. 6 c. 26) s. 15 and Schedule 2.

The Acquisition of Land (Authorisation Procedure) Act 1946 (9 & 10 Geo. 6. c. 49) s. 3(4) and Schedule 1, paragraph 10, so far as they relate to lighthouse undertakings.

The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (10 & 11 Geo. 6. c. 42) s. 3(4) and Schedule 1, paragraph 10, so far as they relate to lighthouse undertakings.

The Crown Proceedings Act 1947 (10 & 11 Geo. 6. c. 44) s. 5(5).

The Town and Country Planning (Scotland) Act 1947 (10 & 11 Geo. 6. c. 53) ss. 32(2), 34(3)(*c*), 42(4) and Schedule 5, so far as they relate to lighthouse undertakings.

The Gas Act 1948 (11 & 12 Geo. 6. c. 67) Schedule 3 paragraph 44.

The Consular Conventions Act 1949 (12, 13 & 14 Geo. 6. c. 29) s. 5(1).

The Civil Aviation Act 1949 (12, 13 & 14 Geo. 6. c. 67) ss. 16(1) and 19(1); and, so far as they relate to lighthouse undertakings, ss. 24(7) and 30 and Schedule 4.

The Coast Protection Act 1949 (12, 13 & 14 Geo. 6. c. 74) ss. 34 to 36.

The Emergency Laws (Miscellaneous Provisions) Act 1953 (1 & 2 Eliz. 2. c. 47) s. 4.

The Oil in Navigable Waters Acts 1955 and 1963.

The Milford Haven Conservancy Act 1958 (6 & 7 Eliz. 2. c. 23) ss. 4(1), (2) and (3), 5(1)(*a*)(ii), 6(4) and 7(2).

The Opencast Coal Act 1958 (6 & 7 Eliz. 2. c. 69) s. 13 so far as it relates to lighthouse undertakings.

The Licensing (Scotland) Act 1959 (7 & 8 Eliz. 2. c. 51) Part III.

The Road Traffic Act 1960 (8 & 9 Eliz. 2. c. 16) s. 84.

The North Atlantic Shipping Act 1961 (9 & 10 Eliz. 2. c. 53).

The Town and Country Planning Act 1962 (10 & 11 Eliz. 2. c. 38) Sch. 14 para. 51(*b*) and, so far as they relate to lighthouse undertakings, s. 67(2)(*c*) and Part X.

The Pipe-lines Act 1962 (10 & 11 Eliz. 2. c. 58) s. 39(2) and, so far as they relate to lighthouse undertakings, s. 13(7) and Schedule 2 paragraph 8.

The Water Resources Act 1963 (1963 c. 38) s. 19(4)(*d*) and (*e*); Schedule 7 paragraph 4(*e*) and (*f*) and, so far as it applies in relation to paragraph 16(*c*)(ii), paragraph 17.

The Shipbuilding Credit Act 1964 (1964 c. 7).

The Licensing Act 1964 (1964 c. 26) Part X.

The Harbours Act 1964 (1964 c. 40) ss. 20 to 25 and Schedule 5 and, so far as they relate to lighthouse undertakings, Schedule 3 paragraph 6 and Schedule 5 paragraph 6.

The Emergency Laws (Re-enactments and Repeals) Act 1964 (1964 c. 60) s. 3(2).

The Shipping Contracts and Commercial Documents Act 1964 (1964 c. 87) ss. 1 and 3(2)(*a*).

Any enactment in a local Act, any provisional order and any order made under Part III of the Sea Fisheries Act 1868(a), so far as it relates to—

(*a*) the approval, control or notification of works on, under or over tidal waters or tidal lands below high water mark (but not so far as it relates to the approval, control or notification of works generally or without reference to their situation as aforesaid), the lighting or survey of works situated as aforesaid, or the removal or abatement of works situated wholly or partially as aforesaid;

(*b*) the disposal below high water mark of materials taken up or collected in the course of dredging or similar operations;

(*c*) the removal of wrecks from tidal waters;

(*d*) appeals against the refusal or revocation by a body having jurisdiction over any tidal waters of a licence or registration in respect of any boat or craft on the ground of unfitness.

(a) 31 & 32 Vict. c. 45.

SCHEDULE 2

Article 3(5)

REPEALS

Session and Chapter	Short Title	Extent of Repeal
8 & 9 Vict. c. 20.	The Railways Clauses Consolidation Act 1845.	In section 17 the words " under the hand of the secretary of the admiralty ".
8 & 9 Vict. c. 33.	The Railways Clauses Consolidation (Scotland) Act 1845.	In section 17 the words " under the hand of the secretary of the Admiralty ".
10 & 11 Vict. c. 27.	The Harbours, Docks and Piers Clauses Act 1847.	In section 12 the words " under the hand of the Secretary of the Admiralty ".
51 & 52 Vict. c. 29.	The Lloyd's Signal Stations Act 1888.	In section 12 the words from " under the hand " to " secretaries of the Board of Trade ".
13 & 14 Geo. 5. c. 16.	The Salmon and Freshwater Fisheries Act 1923.	In section 91(1) the words from " under the hand " to the end.
20 & 21 Geo. 5. c. 44.	The Land Drainage Act 1930.	Section 77(3).
23 & 24 Geo. 5. c. 45.	The Sea-Fishing Industry Act 1933.	Section 9(2).
24 & 25 Geo. 5. c. 49.	The Whaling Industry (Regulation) Act 1934.	Section 14(2).
26 Geo. 5 & 1 Edw. 8. c. 49.	The Public Health Act 1936.	In section 340 the words from " under the hand " to the end.
1 Edw. 8 & 1 Geo. 6. c. 28.	The Harbours, Piers and Ferries (Scotland) Act 1937.	In section 26 the words from " under the hand " to the end.
2 & 3 Geo. 6. c. 70.	The Ships and Aircraft (Transfer Restriction) Act 1939.	Section 9(2).
2 & 3 Geo. 6. c. 83.	The Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939.	Section 9.
8 & 9 Eliz. 2. c. 16.	The Road Traffic Act 1960.	In section 84 the words from " under the hand " to the end.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order transfers from the Minister of Transport to the Board of Trade the functions exercisable by the Minister under the statutory provisions mentioned or described in Schedule 1. The functions thus transferred relate to shipping and shipbuilding, masters of ships and their crews, safety at sea, navigation, pilotage, lighthouses, wreck, salvage, sea fisheries and whaling, oil in navigable waters, coastguard and boiler explosions. The Order does not, however, transfer the functions of the Minister of Transport under the Marine and Aviation Insurance (War Risks) Act 1952, or his functions in relation to harbours, docks, piers, conservancies, inland waterways or navigations except for those which are exercisable under the provisions mentioned or described in Schedule 1, e.g. sections 20 to 25 of the Harbours Act 1964 (which relate to the control of movement of ships in harbours and the approaches thereto) and the local enactments and orders described in the last paragraph of Schedule 1.

The Order will come into operation on 8th February 1965, but Article 4 provides that charges in connection with the functions transferred by this Order coming in course of payment during the period from that date until the end of the current financial year shall be borne on the Ministry of Transport Votes and be accounted for accordingly, that sums falling to be paid during that period under the enactments mentioned in paragraphs (2)(*a*) and (*b*) of Article 4 shall continue to be payable to or by the Minister of Transport and that the Minister of Transport shall continue to exercise his functions in respect of payments out of the General Lighthouse Fund until the end of that period.