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## SCHEDULES

### SCHEDULE 4

#### PROVISIONS SUPPLEMENTING SECTIONS 5 TO 13

##### PART I

##### SUPPLEMENTARY AND CONSEQUENTIAL PROVISIONS

##### *Provisions of Harbours Act 1964 and Docks and Harbours Act 1966 applying to Associated British Ports*

- 1 (1) In the definition of “the Boards” in section 57(1) of the <sup>M1</sup>Harbours Act 1964 the words “the British Transport Docks Board” are repealed.
- (2) In consequence of sub-paragraph (1) the following provisions apply to Associated British Ports as they apply to harbour authorities generally—
- (a) sections 26, 27, 30, 31 and 40 of the Harbours Act 1964 (power to make charges, certain charges to be reasonable, revision of charges and power to impose conditions as to use of harbour services and facilities);
  - (b) section 42 of that Act (accounts and reports);
  - (c) sections 37 and 39 of the <sup>M2</sup>Docks and Harbours Act 1966 (acquisition of harbour businesses or securities of bodies carrying on such businesses).
- (3) In section 47 of the Docks and Harbours Act 1966 (policing of harbour premises by British Transport Police), in subsection (3) after “section 69 of the Transport Act 1962 there is inserted “and “the Boards” has the same meaning as in that section.

##### **Modifications etc. (not altering text)**

- C1** The text of ss. 3(5), 35(1)(2), 37, 38, 39, Sch. 4 paras. 1(3), 6, Sch. 5 Pt. I para. 10(1)(2), Sch. 9 Pt. II para. 25, Sch. 12 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

##### **Marginal Citations**

- M1** 1964 c. 40.  
**M2** 1966 c. 28.

##### *Provisions of Transport Act 1962 and Transport Act 1968 continuing to apply to Associated British Ports*

- 2 (1) Except as provided by the following provisions of this paragraph, the provisions of the <sup>M3</sup>Transport Act 1962 and the <sup>M4</sup>Transport Act 1968 relating to the Boards established by the said Act of 1962 no longer apply to Associated British Ports.

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- (2) The following provisions of the Transport Act 1962 continue to apply to Associated British Ports—
- (a) section 1(1) (establishment of the Boards);
  - (b) section 13(1) (powers of manufacture and production) and section 14(1)(b) (power to enter into working agreements), so far as those provisions confer power on authorities other than Associated British Ports;
  - (c) section 24(4) (exclusion of certain enactments relating to accounts, statistics and returns);
  - (d) Part II, section 67(15) and 81 and paragraph 24 of Schedule 7 (provisions relating to the division of the functions of the British Transport Commission and consequential matters);
  - (e) section 43(4) and (5) (exclusion of certain enactments relating to railway undertakers);
  - (f) sections 52(4) and 83(7) (which exclude the Boards from the definition of independent railway undertakings);
  - (g) section 67(16) (power to make bylaws in relation to railways within a harbour);
  - (h) sections 69 to 71 (transport police);
  - (i) sections 74 and 75 and Part IV of Schedule 7 (pensions).
- (3) The following provisions of the Transport Act 1968 continue to apply to Associated British Ports—
- (a) section 51(5) and (6) (joint subsidiaries), so far as those provisions relate to companies which are not subsidiaries of Associated British Ports, except that the Secretary of State’s power to give directions under subsection (6) is not exercisable with respect to Associated British Ports;
  - (b) section 125 (powers of inspectors of railways);
  - (c) section 141(2) (application of Town and Country Planning Acts), so far as that provision relates to companies which are not wholly-owned subsidiaries of Associated British Ports;
  - (d) section 144 (transfer and disposal of historical records and relics);
  - (e) paragraph 7(1) of Schedule 16 (references to the Boards in certain enactments to include wholly-owned subsidiaries of the Boards).

**Marginal Citations**

**M3** 1962 c. 46.

**M4** 1968 c. 73.

*Restriction on cross-eligibility under existing pensions orders*

- 3 (1) In this paragraph “pensions order” means an order made under section 74 of the <sup>M5</sup>Transport Act 1962 (which confers on the Secretary of State power to make orders about pensions in the nationalised transport industry).
- (2) A person who on or after the appointed day leaves or enters the employment of the group consisting of Associated British Ports and its subsidiaries (in this paragraph referred to as “the Ports group”) is not eligible by virtue of any provision of a pensions order made before that day—

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- (a) to participate in a Ports pension scheme by reason of any employment outside the Ports group; or
  - (b) to participate in a pension scheme other than a Ports pension scheme by reason of his employment within the Ports group.
- (3) For the purposes of this paragraph the following are Ports pension schemes—
- (a) any pension scheme established by the British Transport Docks Board;
  - (b) any pension scheme in relation to which the rights, liabilities and functions of the British Transport Commission were transferred to that Board in pursuance of paragraph 14 of Schedule 7 to the Transport Act 1962;
  - (c) any pension scheme in relation to which the responsibility for making payments was transferred to that Board by virtue of paragraph 15 of that Schedule.

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**Marginal Citations**

M5 1962 c. 46.

*Pensions orders made on or after the appointed day*

- 4
- (1) In this paragraph “pensions order” has the same meaning as in paragraph 3.
  - (2) Subject to the following provisions of this paragraph, the power to make pensions orders is exercisable on and after the appointed day as if the Holding Company were a Board within the meaning of the <sup>M6</sup>Transport Act 1962.
  - (3) Except on the application of the Holding Company, no pensions order shall be made on or after the appointed day which has the effect of placing in any worse position the Holding Company or any subsidiary of that company.
  - (4) For the purposes of sub-paragraph (3), the Holding Company or a subsidiary shall not be regarded as being placed in a worse position because a pensions order provides that any changes in a pension scheme are not to be effected without the consent of the Secretary of State.
  - (5) A pensions order such as is mentioned in sub-paragraphs (3) which is made without the application of the Holding Company is not invalid because in fact it does not have the effect of securing that the Holding Company and its subsidiaries are not placed in any worse position, but except in so far as the Holding Company approves the effect of the order the Secretary of State shall as soon as may be make the necessary amending order.

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**Marginal Citations**

M6 1962 c. 46.

*Appointment of members of Local Boards*

- 5
- (1) As from the appointed day the members of the Humber Local Board and the Southampton Local Board shall be appointed by Associated British Ports; and the Humber and Southampton Orders are accordingly amended as follows.

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- (2) In Article 11 of each Order (appointment of members)—
- (a) for the references to the Secretary of State there are substituted references to Associated British Ports; and
  - (b) references to consultation with the chairman for the time being of the British Transport Docks Board are omitted.
- (3) In Article 16(1) of the Humber Order and Article 16(2) of the Southampton Order (notice of resignation) for the reference to the Secretary of State there is substituted a reference to Associated British Ports.
- (4) In this paragraph “the Humber Order” means the Humber Harbour Reorganisation Scheme 1966 Confirmation Order 1967 and “the Southampton Order” means the <sup>M7M8</sup>Southampton Harbour Reorganisation Scheme 1967 Confirmation Order 1968.
- (5) Sub-paragraph (3) applies to any notice of resignation given on or after the appointed day, but subject to that this paragraph does not affect appointments made before the appointed day.

**Marginal Citations**

**M7** [S.I. 1968/237](#).

**M8** [S.I. 1968/941](#).

*Payments for making up of private streets*

- 6 In section 219 of the <sup>M9</sup>Highways Act 1980 (payments to be made by owners of new buildings in respect of street works), in subsection (4)(i) (exemption for certain public authorities), the words “the British Transport Docks Board are repealed.

**Modifications etc. (not altering text)**

**C2** The text of ss. 3(5), 35(1)(2), 37, 38, 39, Sch. 4 paras. 1(3), 6, Sch. 5 Pt. I para. 10(1)(2), Sch. 9 Pt. II para. 25, Sch. 12 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**Marginal Citations**

**M9** [1980 c. 66](#).

*Taxation*

- 7 (1) ..... <sup>F1</sup>
- (2) Section 92(9)(b) of the <sup>M10</sup>Finance Act 1972 (restriction on surrender of surplus advance corporation tax) and section 28(2) of the Finance Act 1973 (restriction of group relief) shall not apply to the Holding Company as the parent company of Associated British Ports.
- (3) Payments by Associated British Ports under section 11(1) of this Act shall be treated as dividends for the purposes of the enactments relating to corporation tax.

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- (4) The vesting on the appointed day in the Holding Company of powers in relation to Associated British Ports shall not be regarded as constituting a change in the ownership of Associated British Ports for the purposes of section 483 of the <sup>M11</sup>Income and Corporation Taxes Act 1970 (restriction on carry forward of loss relief) or section 101 of the <sup>M12</sup>Finance Act 1972 (restriction on carry forward of relief for advance corporation tax).

#### Textual Amendments

**F1** Sch. 4 para. 7(1) repealed by Finance Act 1988 (c. 39, SIF 114), s. 148, **Sch. 14 Part XI**

#### Marginal Citations

**M10** 1972 c. 41.

**M11** 1970 c. 10.

**M12** 1972 c. 41.

#### *Application of Trustee Investments Act 1961 to securities of the Holding Company*

- 8 For the purposes of paragraph 3(b) of Part IV of Schedule 1 to the <sup>M13</sup>Trustee Investments Act 1961 (which excludes securities of a company from trustee status unless the company has paid a dividend in each of the preceding five calendar years) the Holding Company shall be deemed to have paid such a dividend as is mentioned in that provision in the calendar year in which the appointed day falls and in each of the preceding four calendar years.

#### Marginal Citations

**M13** 1961 c. 62.

#### *Wholly-owned subsidiaries of Associated British Ports to be treated as statutory undertakers*

- 9 So far as the activities of any wholly-owned subsidiary of Associated British Ports consist of the carrying on of any such undertaking as is mentioned in the definition of “statutory undertakers” in [<sup>F2</sup>section 262(1) of the Town and Country Planning Act 1990] or [<sup>F3</sup>section 214 of the Town and Country Planning (Scotland) Act 1997], that subsidiary shall be deemed for the purposes of any enactment relating to statutory undertakers or statutory undertakings to be such an undertaker carrying on such an undertaking.

#### Textual Amendments

**F2** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 50**

**F3** Words in Sch. 4 para. 9 substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 33**.

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## PART II

### TRANSITIONAL PROVISIONS AND SAVINGS

#### *Directors of Associated British Ports*

- 10 (1) The persons who immediately before the appointed day were members of the British Transport Docks Board shall continue to hold office on and after that day as directors of Associated British Ports as if appointed by the Holding Company on that day for a period corresponding to the unexpired period of their existing appointments and on the same terms, as to remuneration and otherwise, as applied to those appointments, but subject to paragraph 3 of Schedule 2 and to the Holding Company's power of removal.
- (2) The repeal by this Act of the entries for the British Transport Docks Board in Part II of Schedule 1 to the <sup>M14</sup>House of Commons Disqualification Act 1975 and Part II of Schedule 1 to the <sup>M15</sup>Northern Ireland Assembly Disqualification Act 1975 does not affect the operation of those provisions in relation to directors of Associated British Ports holding office by virtue of appointments made before the appointed day.

#### **Marginal Citations**

**M14** 1975 c. 24.

**M15** 1975 c. 25.

#### *Chairman and deputy chairman*

- 11 The persons who immediately before the appointed day were chairman and vice-chairman of the British Transport Docks Board hold office on and after that day, so long as they remain directors, as chairman and deputy chairman, respectively, of the directors of Associated British Ports as if elected by the directors under paragraph 5 of Schedule 2 for a period corresponding to the unexpired period of their appointments.

#### *Accounts and annual report*

- 12 (1) For the purposes of sections 24 and 27(8) of the <sup>M16</sup>Transport Act 1962 (accounts and annual report) the accounting year of the British Transport Docks Board then current shall be taken to end with the day before the appointed day.
- (2) No amendment or repeal made by this Act affects the operation of those sections in relation to periods before the appointed day.

#### **Marginal Citations**

**M16** 1962 c. 46.

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*Profits attributable to periods before the appointed day*

- 13 (1) The profits of Associated British Ports out of which payments may be made under section 11(1) include accumulated profits attributable to periods before the appointed day.
- (2) Dividends paid by subsidiaries of Associated British Ports on or after the appointed day shall be taken into account in ascertaining the profits of Associated British Ports out of which payments may be made under section 11(1), notwithstanding that they are paid wholly or partly out of profits of the subsidiary attributable to periods before the appointed day.
- (3) For the purposes of section 39 of the <sup>M17</sup>Companies Act 1980 (profits available for distribution) sums received by the Holding Company under section 11(1) shall be regarded as profits of the period in which they are received notwithstanding that they are paid by Associated British Ports out of accumulated profits attributable to periods before the appointed day.

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**Marginal Citations**

**M17** 1980 c. 22.

*Charges*

- 14 Any charges in force immediately before the appointed day in respect of services or facilities provided by the British Transport Docks Board shall as from that day be deemed—
- (a) in the case of ship, passenger and goods dues within the meaning of the <sup>M18</sup>Harbours Act 1964, to have been imposed under section 26 of that Act;
- (b) in the case of other charges, to have been imposed under paragraph 20 of Schedule 3.

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**Marginal Citations**

**M18** 1964 c. 40.

*Debts owed by harbour authorities to Secretary of State*

- 15 This Act does not affect any liability of a harbour authority in respect of a debt owed by them to the Secretary of State by virtue of section 41 of the <sup>M19</sup>Docks and Harbours Act 1966 (power to transfer part of commencing capital debt and other debts by harbour revision order or harbour reorganisation scheme) or by virtue of any local Act.

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**Marginal Citations**

**M19** 1966 c. 28.

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*Instruments issued by the British Transport Docks Board*

- 16 Nothing in this Act affects the operation of paragraph 5 of Schedule 1 to the <sup>M20</sup>Transport Act 1962 as respects any document issued before the appointed day and purporting to be an instrument issued by the British Transport Docks Board.

**Marginal Citations**

**M20** 1962 c. 46.

*Local and private enactments*

- 17 This Act does not affect the operation of local or private enactments relating to Associated British Ports or any of its harbours, except where—
- (a) express provision is made to that effect; or
  - (b) an amendment or repeal is made of a provision of a public general Act which is incorporated with or applied by such an enactment.



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**Changes and effects yet to be applied to :**

- Sch. 4 para. 1(3) by [2000 c. 38 s. 274](#)[Sch. 31 Pt. 4](#)