



# Transport Act 1981

## 1981 CHAPTER 56

An Act to make provision with respect to the disposal by the British Railways Board of part of their undertaking, property, rights and liabilities; to provide for the reconstitution of the British Transport Docks Board under the name of Associated British Ports and to confer on a company powers over that body corresponding to the powers of a holding company over a wholly-owned subsidiary; to dissolve the National Ports Council and amend the Harbours Act 1964; to make further provision for promoting road safety; to make provision with respect to road humps; to provide a new basis of vehicle excise duty for goods vehicles; to amend the law as to the payments to be made for cab licences and cab drivers' licences; to make provision for grants to assist the provision of facilities for freight haulage by inland waterway; to make provision with respect to railway fires; to amend Schedules 7 and 8 to the Public Passenger Vehicles Act 1981; and for connected purposes. [31st July 1981]

### PART I

#### SUBSIDIARY ACTIVITIES OF BRITISH RAILWAYS BOARD

##### **1 Railways Board's powers of disposal.**

- (1) Without prejudice to any powers conferred on them by any other enactment, the Railways Board shall have power to provide for the disposal, in such manner as they think fit, of—
  - (a) any securities of one of their subsidiaries which are held by the Board or by another of their subsidiaries; or
  - (b) the whole or any part of the undertaking of, or of any property, rights or liabilities of, any of their subsidiaries.
- (2) The Board shall not exercise their powers under subsection (1)(a) above except with the consent of the Secretary of State.

*Status: Point in time view as at 01/04/1991.*

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- (3) For the purpose of facilitating the eventual disposal under this section of any part of their undertaking or of any property, rights or liabilities the Board may exercise their powers to establish subsidiaries and to transfer property, rights and liabilities to subsidiaries under section 7 of the Transport Act 1968, notwithstanding any provision of any enactment which may be taken to limit the circumstances in which, or the purposes for which, those powers may be exercised.
- (4) In exercising their powers under this section the Board may with the consent of the Secretary of State, provide for employees' share schemes to be established in respect of any of their subsidiaries; and any such scheme may provide for the transfer of shares without consideration.
- (5) In this section "employees' share schemes" means schemes for encouraging or facilitating the holding of shares or debentures in a company by or for the benefit of—
  - (a) the bona fide employees or former employees of the company or of a subsidiary of the company; or
  - (b) the wives, husbands, widows, widowers or children or step-children under the age of 18 of such employees or former employees.

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

**C1** S. 1 restricted (E.W.S.) (1.1.1993) by S.I. 1992/3060, arts. 1(1), 4(2)

**2 The new harbours company.**

- (1) The Railways Board shall secure that—
  - (a) a company (the "harbours company") limited by shares, the objects of which include the acquisition of property, rights and liabilities in accordance with the provisions of this Part, is formed by Sealink and registered under the <sup>MI</sup>Companies Act 1948 before the expiry of the initial period; and
  - (b) the harbours undertaking of Sealink is transferred to the harbours company.
- (2) For the purposes of this section the harbours undertaking of Sealink shall be taken to be—
  - (a) all the property, rights and liabilities comprised in that part of Sealink's undertaking which consists of the following harbours—  
 Folkestone, Harwich, Heysham, Holyhead, Newhaven, Parkeston Quay, Stranraer, Gravesend West Station Pier, Tilbury Floating Landing Stage, Ryde Pier, Lymington Pier, New Holland Pier, Fishbourne and Portsmouth Harbour Railway Jetty;  
 and
  - (b) the securities of the Fishguard and Rosslare Railways and Harbours Company held by Sealink.
- (3) In consideration of the transfer of property, rights and liabilities in accordance with this section the harbours company shall issue securities of the company to Sealink.
- (4) Sealink shall make, and before the expiry of the initial period send to the Secretary of State, a scheme for the transfer to the harbours company of all the property, rights and liabilities which are required by this section to be so transferred.

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- (5) The scheme may contain such supplementary, incidental and consequential provision as may appear to Sealink to be necessary or expedient.
- (6) The scheme shall not come into force unless it has been approved by the Secretary of State or until such date as the Secretary of State may, in giving his approval, specify; and the Secretary of State may approve a scheme either without modifications or with such modifications as, after consultation with Sealink, he thinks fit.
- (7) On the coming into force of the scheme the property, rights and liabilities in question shall, subject to subsection (8) below, be transferred and vest in accordance with the scheme.
- (8) Schedule 4 to the <sup>M2</sup>Transport Act 1968 (supplementary provisions as to certain transfers of property, rights and liabilities) shall apply in relation to the scheme as it applies in relation to any scheme made under section 7 of that Act.

#### Marginal Citations

M1 1948 c. 38.

M2 1968 c. 73.

### 3 Power of Secretary of State to give directions.

- (1) The Secretary of State may, after consultation with the Railways Board, give directions to the Board requiring them—
  - (a) to exercise their powers under section 1 of this Act in a specified manner and in relation to a specified subsidiary;
  - (b) to establish a subsidiary and exercise their powers under section 7 of the Transport Act 1968 (transfer of property, rights and liabilities to subsidiaries) in a specified manner.
- (2) It shall be the duty of the Board (notwithstanding any duty imposed on them by section 3(1) of the <sup>M3</sup>Transport Act 1962) to give effect to any directions given under this section.
- (3) In this section “specified” means specified in directions given by the Secretary of State under this section.
- (4) Any directions under this section shall be given in writing.
- (5) In section 4(5) of the <sup>M4</sup>Railways Act 1974 (duty of Board to include certain information in the annual report made under section 4), after the words “1962 Act, in paragraph (b), there are inserted the words “section 3 of the Transport Act 1981.

#### 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

M3 1962 c. 46.

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**M4** 1974 c. 48.

#### 4 Provisions supplementary to ss. 1 to 3.

- (1) Schedule 1 to this Act has effect for the purpose of making certain provisions supplementing sections 1 to 3 of this Act.
- (2) In this Part of this Act—
  - “harbours company” has the meaning given in section 2(1)(a);
  - “initial period” means the period of three months beginning with the commencement of this Part;
  - “Railways Board” means the British Railways Board;
  - “Sealink” means Sealink U.K. Limited;
  - “securities” includes shares, debentures, debenture stock, bonds and other securities of the company concerned, whether or not constituting a charge on the assets of the company;
  - “subsidiary” means a subsidiary as defined in [<sup>F1</sup>section 736 of the Companies Act 1985].

#### Textual Amendments

**F1** Words substituted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 144(4), [Sch. 18 para. 26](#)

## PART II

### RECONSTITUTION OF BRITISH TRANSPORT DOCKS BOARD

#### 5 Associated British Ports and its Holding Company.

- (1) As from the appointed day, the British Transport Docks Board shall be known as Associated British Ports and the following provisions of this Part have effect with respect to the constitution, powers and duties of that body.
- (2) As from the appointed day, a company (referred to in this Part as “the Holding Company”) shall have the powers in relation to Associated British Ports conferred on it by the following provisions of this Part, being powers corresponding to the powers of a holding company over a wholly-owned subsidiary; and for the purposes of any enactment Associated British Ports shall be deemed to be such a subsidiary of the Holding Company.
- (3) The Secretary of State shall by order made by statutory instrument taking effect on the appointed day designate as the Holding Company a company limited by shares, formed and registered under the <sup>M5</sup>Companies Act 1948, in which all the issued shares are held by the Secretary of State or by nominees for him.
- (4) In this Part the “appointed day” means such day as the Secretary of State may, with the consent of the Treasury, appoint for the purposes of this section by order made by statutory instrument.

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

- C3** Power of appointment conferred by s. 5(4) fully exercised: 31.12.1982 appointed for the purposes of s. 5 by [S.I. 1982/1887](#), [art. 2](#)

**Marginal Citations**

- M5** 1948 c. 38.

**6 The financial structure.**

- (1) The commencing capital debt of Associated British Ports and any liability of Associated British Ports in respect of sums borrowed from the Secretary of State are extinguished as from the appointed day.
- (2) On the appointed day—
  - (a) Associated British Ports shall issue to the Holding Company such securities, and pay to the Holding Company such sum of money, as the Secretary of State may direct; and
  - (b) the Holding Company shall issue to the Secretary of State or, if he so directs, to nominees for him such shares and securities of the company, and shall pay to him such sum of money, as he may direct.
- (3) Shares issued in pursuance of subsection (2)(b) shall be of such nominal value and shall be deemed to have been issued for such consideration as the Secretary of State may direct.
- (4) The Secretary of State may give directions as to the manner in which the various matters provided for by the preceding provisions of this section are to be dealt with in the accounts of Associated British Ports and the Holding Company for the period beginning with or including the appointed day.
- (5) In ascertaining for the purposes of section 39 of the <sup>M6</sup>Companies Act 1980 the profits of the Holding Company which are available for distribution, any amount which by virtue of the Secretary of State's direction is to be treated as a revenue reserve of the company shall be treated as accumulated, realised profits of the company.
- (6) In ascertaining for the purposes of section 56 of the Companies Act 1948 what amount falls to be treated as a premium received on the issues of shares by the Holding Company in pursuance of subsection (2)(b), the amount which in accordance with the Secretary of State's direction is to be deemed to be the consideration for the issue shall be taken to be reduced by such amount as the Secretary of State may direct to be treated as a revenue reserve of the company.
- (7) The Secretary of State shall not give any directions for the purposes of this section without the consent of the Treasury, and shares or securities of the Holding Company held by the Secretary of State or by nominees for him shall not be disposed of except with the consent of the Treasury and in such manner and on such terms as the Treasury may direct.
- (8) There shall be paid into the Consolidated Fund—
  - (a) any sum paid to the Secretary of State by the Holding Company under subsection (2)(b);

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- (b) any dividends or other sums received by the Secretary of State or his nominees in right of, on the disposal of or otherwise in connection with any shares or securities of the Holding Company.
- (9) Directions given by the Secretary of State under this section to Associated British Ports or the Holding Company shall be in writing.
- (10) The first report prepared by the directors of the Holding Company under section 157 of the <sup>M7</sup>Companies Act 1948 after the appointed day shall contain a statement of every direction given by the Secretary of State under this section.

#### **Marginal Citations**

- M6** 1980 c. 22.
- M7** 1948 c. 38.

## **7 Constitution of Associated British Ports, etc.**

- (1) Associated British Ports continues to be a body corporate.
- (2) The members of Associated British Ports shall be known as directors.
- (3) The number of directors of Associated British Ports shall be determined by the Holding Company from time to time, but shall not be less than five or more than thirteen.
- (4) The directors of Associated British Ports shall be appointed by the Holding Company for such period as the Holding Company may determine but, without prejudice to any claim for damages for breach of contract, may be removed by the Holding Company at any time.
- (5) The provisions of Schedule 2 have effect with respect to the constitution and proceedings of Associated British Ports and related matters.

## **8 Powers of Associated British Ports.**

- (1) The provisions of Schedule 3 have effect with respect to the powers of Associated British Ports.
- (2) In favour of a person dealing in good faith with Associated British Ports, any transaction decided on by the directors of Associated British Ports shall be deemed to be one which it is within the capacity of Associated British Ports to enter into and the power of the directors shall be deemed to be free of any limitation imposed by or by virtue of any provision of this Part.
- (3) A person dealing with Associated British Ports is not bound to enquire as to the capacity of Associated British Ports to enter into a transaction or as to any such limitation on the powers of the directors as is mentioned in subsection (2), and shall be presumed to have acted in good faith unless the contrary is proved.
- (4) Associated British Ports shall exercise its control over its subsidiaries so as to ensure that they do not engage in activities which Associated British Ports itself has no power to engage in.

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

C4 S. 8 restricted (30.12.2002) by S.I. 2002/3269, art. 8(d)

**9 General duties of Associated British Ports.**

- (1) It is the duty of Associated British Ports to provide port facilities at its harbours to such extent as it may think expedient.
- (2) Associated British Ports shall have due regard to efficiency, economy and safety of operation as respects the services and facilities provided by it and its subsidiaries.
- (3) In the performance of its functions Associated British Ports shall have regard to the interests in general of its employees and the employees of its subsidiaries.
- (4) This section does not impose any form of duty or liability enforceable, either directly or indirectly, by proceedings before any court.

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

C5 S. 9 restricted (30.12.2002) by S.I. 2002/3269, art. 8(d)

C6 S. 9(1) excluded (30.12.2002) by S.I. 2002/3269, art. 8(d)

**10 Provisions of the Companies Acts applying to Associated British Ports.**

- (1) The provisions of the <sup>M8</sup>[<sup>F2</sup>Companies Acts 1948 to 1981] mentioned in subsection (2) apply to Associated British Ports, subject to the adaptations specified in subsection (3), as if Associated British Ports were a public company registered in England and Wales under the Companies Act 1948 and as if the directors of Associated British Ports were the directors of such a company; and the supplementary provisions of those Acts relating to the interpretation, operation and enforcement of those provisions apply accordingly.
- (2) The provisions referred to in subsection (1) are the following—

<i>Subject-matter</i>	<i>Provisions applied</i>
1. Financial assistance for purchase of shares, &c.	Companies Act 1948, section 54.
2. Register of charges.	Companies Act 1948, sections 104 and 105.
3. Accounts and audit.	Companies Act 1948, sections 149 to 156, 158(2), 161, 163, 196, 454(1) and Schedule 8; Companies Act 1967, sections 3 to 8, . . . <sup>F3</sup> , 13 and 14 (except subsections (2) and (7)); Companies Act 1976, sections 1 to 6, 12, 13, 18 and 19; Companies Act 1980, sections 54 to 56, 58 and 59

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	[ <sup>F4</sup> Companies Act 1981, sections 4 and 11.]
4. Directors' report.	Companies Act 1948, section 157; Companies Act 1967, [ <sup>F5</sup> sections 15, 16, 19 and 23A].
5. Disclosure by directors of interests in contracts, &c.	Companies Act 1948, section 199.
6. Power of Court to give relief in certain cases.	Companies Act 1948, section 448.
7. Restrictions on distributions.	Companies Act 1980, [ <sup>F6</sup> sections 39, 40, 42A, 43 and 43A; Companies Act 1981, section 60].

- (3) The provisions mentioned in subsection (2) apply to Associated British Ports with the following adaptations—
- (a) any reference to the date of incorporation of Associated British Ports shall be construed as a reference to the appointed day;
  - (b) any reference to the registered office of Associated British Ports shall be construed as a reference to its principal office;
  - (c) any reference to the members of Associated British Ports shall be construed as a reference to the Holding Company and any reference to shares in Associated British Ports shall be disregarded;
  - (d) documents required to be laid before Associated British Ports in general meeting shall instead be sent to the Holding Company, and any reference to documents so laid shall be construed accordingly.
- (4) The Secretary of State may by regulations make such amendments of subsections (1) to (3) as appear to him necessary or expedient in consequence of changes in company law coming into force after the passing of this Act.
- (5) Regulations under subsection (4) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F2** Words substituted by [S.I. 1983/559, reg. 2\(1\)](#)
- F3** Reference to section 11 of the Companies Act 1967 repealed by [S.I. 1983/559, reg. 2\(2\)\(a\)](#)
- F4** Words added by [S.I. 1983/559, reg. 2\(2\)\(a\)](#)
- F5** Words substituted by [S.I. 1983/559, reg. 2\(2\)\(b\)](#)
- F6** Words substituted by [S.I. 1983/559, reg. 2\(2\)\(c\)](#)

#### Marginal Citations

- M8** [1948 c. 38.](#)

## 11 Payments to Holding Company out of profits of Associated British Ports.

- (1) The directors of Associated British Ports shall from time to time pay to the Holding Company such sums as appear to them to be justified by the profits of Associated British Ports.



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- (2) For the purpose of [<sup>F7</sup>sections 263 and 264 of the Companies Act 1985] (restrictions on distributions) such payments by Associated British Ports are distributions.
- (3) For the purpose of the said section [<sup>F8</sup>264] (restriction on extent to which distributions may reduce a company's net assets) the undistributable reserves of Associated British Ports include—
  - (a) any capital reserve arising from the capital debts extinguished by section 6(1);
  - (b) any reserve arising from payments made by the Holding Company on terms that the amount paid form part of Associated British Ports' undistributable reserves.
- (4) In [<sup>F7</sup>[<sup>F9</sup>section 234] of the Companies Act 1985] (directors' report) as it applies to Associated British Ports the reference to the amount recommended by the directors to be paid by way of dividend shall be construed as a reference to the amount proposed by them to be paid to the Holding Company under subsection (1).

#### Textual Amendments

- F7** Words substituted by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), s. 30, [Sch. 2](#)
- F8** Figure substituted by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), s. 30, [Sch. 2](#)
- F9** Words substituted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 23, [Sch. 10 para. 31](#) (subject to savings in [S.I. 1990/355](#), art. 8, [Sch. 3 para. 1](#))

## 12 Documents to be kept available for inspection.

- (1) Associated British Ports shall keep at its principal office—
  - (a) a copy of any rules for the time being prescribed by the Holding Company under paragraph 4 of Schedule 2 with respect to the proceedings of the directors of Associated British Ports;
  - (b) a statement of the limit for the time being set by the Holding Company under paragraph 21(5) of Schedule 3 on the aggregate amount of borrowing and guarantees by Associated British Ports and its subsidiaries; and
  - (c) a statement of any restrictions for the time being imposed by the Holding Company under paragraph 22 of that Schedule on the financial arrangements which may be entered into by Associated British Ports and its subsidiaries;and those documents shall, during normal business hours, be made available for inspection by any person on request.
- (2) It is an offence for Associated British Ports to fail to comply with a request under subsection (1).
- (3) An offence under subsection (2) is punishable on summary conviction with a fine not exceeding [<sup>F10</sup>level 3 on the standard scale].

#### Textual Amendments

- F10** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46, (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. 289G and (N.I.) [S.I. 1984/703 \(N.I. 3\)](#), [art. 5](#)

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### 13 **Transfer of functions of Holding Company.**

- (1) The Holding Company may nominate another company to be Holding Company in its place and, subject to subsection (2), the provisions of this Part thenceforth have effect as if references to the Holding Company were references to the nominated company.
- (2) A nomination under this section does not affect references to the Holding Company in section 6, this subsection and paragraphs 4, 7(1) and (4) and 8 of Schedule 4; and those references remain references to the company designated under section 5(3).
- (3) A nomination under this section does not affect the validity of anything done before the nomination takes effect by or in relation to the company making the nomination, and anything which when the nomination takes effect is in process of being done by or in relation to that company may, if it relates to any functions transferred by virtue of the nomination, be continued by or in relation to the company nominated.
- (4) Any appointment or rule made, limit set, restriction imposed, or other thing done by or on behalf of a company making a nomination under this section in connection with any functions transferred by virtue of the nomination shall, if in force when the nomination takes effect, have effect as if made, set, imposed or done by or on behalf of the nominated company so far as that is required for continuing its effect after the nomination takes effect.
- (5) A company may not be nominated under this section unless it is controlled by the company designated under section 5(3); and if a company so nominated ceases to be so controlled—
  - (a) its functions as Holding Company cease to be exercisable except for the power conferred by this section; and
  - (b) it shall forthwith nominate under this section the company designated under section 5(3) or a company controlled by that company.
- (6) In this section “company” means a company limited by shares which is formed and registered under the [F11Companies Act 1985]; and for the purposes of this section a company is controlled by another company if, and only if, all the issued voting shares in the company are held by that other company or by a company controlled by that other company.

#### **Textual Amendments**

**F11** Words substituted by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), s. 30, [Sch. 2](#)

### 14 **Provisions supplementary to ss. 5 to 13.**

- (1) The provisions of Part I of Schedule 4, being provisions supplementary to or consequential on the other provisions of this Part, have effect as from the appointed day.
- (2) The other provisions of this Part have effect subject to the transitional provisions and savings contained in Part II of that Schedule.
- (3) In this Part—
 

“the appointed day” has the meaning given by section 5(4);

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“enactment” means any provision of a public general Act, of a local, private or personal Act, of a provisional order confirmed by an Act or any regulations, order, scheme, byelaws or similar instrument made under an Act;

“harbour” has the same meaning as in the <sup>M9</sup>Harbours Act 1964;

“the Holding Company”, subject to section 13(1), means the company designated by the Secretary of State under section 5(3);

“pension”, in relation to a person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes a gratuity so payable and a return of contributions to a pension fund, with or without interest thereon or any other addition thereto and any sums payable on or in respect of the death of that person;

“pension fund” means a fund established for the purposes of paying pensions;

“pension scheme” includes any form of arrangement for the payment of pensions, whether subsisting by virtue of an Act of Parliament, trust, contract or otherwise;

“port facilities” means—

- (a) the constructing, improving, maintaining, regulating, managing, marking or lighting of a harbour or any part thereof;
- (b) the berthing, towing, moving or dry-docking of a ship which is in, or is about to enter, or has recently left, a harbour;
- (c) the loading or unloading of goods, or embarking or disembarking of passengers, in or from any such ship;
- (d) the lighterage or the sorting, weighing, warehousing or handling of goods in a harbour; and
- (e) the movement of goods within a harbour;

“shares” includes stock;

“securities”, in relation to a body corporate, includes debentures, debenture stock, bonds and other securities of the body corporate, whether or not constituting a charge on the assets of that body;

“subsidiary” means a subsidiary as defined in [<sup>F12</sup>section 736 of the Companies Act 1985];

“wholly-owned subsidiary” means a subsidiary all the issued shares of which are beneficially owned by the body of which it is a subsidiary, or by one or more other wholly-owned subsidiaries of that body, or partly by that body and partly by any wholly-owned subsidiary of that body.

(4) References in this Part to Associated British Ports’ business or undertaking include any business or undertaking carried on by a subsidiary of Associated British Ports.

(5) References in this Part to Associated British Ports’ harbours include any harbour for the time being owned or managed by Associated British Ports or by any of its subsidiaries.

#### Textual Amendments

**F12** Words substituted by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), s. 30, [Sch. 2](#)

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#### Marginal Citations

M9 1964 c. 40.

## PART III

### DISSOLUTION OF NATIONAL PORTS COUNCIL AND AMENDMENT OF THE HARBOURS ACT 1964

#### 15 Dissolution of National Ports Council.

- (1) On such day as the Secretary of State may appoint by order made by statutory instrument the functions of the National Ports Council shall determine, and—
  - (a) so much of any enactment as requires any person to consult, or do anything else in relation to, the Council, or makes consultation with, or the doing of anything else in relation to, the Council a condition precedent to the taking of any action by any person, shall cease to have effect; and
  - (b) all the property, rights, liabilities and obligations which immediately before the appointed day were property, rights, liabilities and obligations of the Council shall by virtue of this section, become property, rights, liabilities and obligations of the Secretary of State.
- (2) Subsection (1) has effect subject to Part I of Schedule 5 which contains further provisions relating to the dissolution of the Council.
- (3) The Secretary of State shall repay to the National Loans Fund an amount equal to the debts of the Council to the Secretary of State outstanding immediately before the appointed day.
- (4) Sums received by the Secretary of State by virtue of subsection (1)(b) or by virtue of paragraph 4(2)(b) of Schedule 5 shall, if not applied in making the repayment mentioned in subsection (3), be paid into the Consolidated Fund.
- (5) In this section and Part I of Schedule 5—
  - “the appointed day” means the day appointed by the Secretary of State under subsection (1);
  - “the Council” means the National Ports Council;
  - “enactment” means any provision of a public general Act, of a local, private or personal Act, of a provisional order confirmed by an Act or any regulations, order, scheme, byelaws or similar instrument made under an Act.

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

C7 1.10.1981 appointed under s. 15(1) by [S.I. 1981/1364](#)

#### 16 Levy of contributions from harbour authorities.

- (1) The Secretary of State shall levy from harbour authorities such contributions as appear to him necessary to meet the expenses specified in subsection (2) after making allowance for the contribution made by him in accordance with subsection (3).

*Status: Point in time view as at 01/04/1991.*

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- (2) The expenses referred to in subsection (1) are—
  - (a) the expenses of the Secretary of State in making the repayment to the National Loans Fund mentioned in section 15(3);
  - (b) his expenses in discharging any debts or other liabilities to which he becomes subject by virtue of section 15(1)(b) or paragraph 4(2)(b) of Schedule 5; and
  - (c) expenses incurred by him under paragraph 4(3) or (5), 7, 8(4)(b) or 9(5) of Schedule 5.
- (3) The Secretary of State’s contribution to those expenses is—
  - (a) all sums received by him by virtue of section 15(1)(b) or paragraph 4(2)(b) of Schedule 5, and
  - (b) a further contribution of £1.5 million, made by such instalments as he may determine with the consent of the Treasury.
- (4) Sums received by the Secretary of State by virtue of this section shall be paid into the Consolidated Fund.
- (5) In this section and section 17 “harbour authority” means a person engaged (whether or not in the exercise of statutory functions) in improving, maintaining or managing a harbour within the meaning of the <sup>M10</sup>Harbours Act 1964.

**Marginal Citations**

M10 1964 c. 40.

**17 Charging schemes.**

- (1) Contributions under section 16 shall be levied by means of one or more schemes made by the Secretary of State, referred to in this section as “charging schemes”.
- (2) A charging scheme shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) A charging scheme may apply to all harbour authorities, subject to subsection (4), to harbour authorities of a particular class or to particular harbour authorities, and may make provision for levying different contributions from different harbour authorities to whom it applies.
- (4) No contribution shall be levied from a harbour authority under a charging scheme if the only harbour being improved, maintained or managed by them is a fishery harbour or marine work within the meaning of the <sup>M11</sup>Harbours Act 1964.
- (5) The provisions of Part II of Schedule 5 have effect with respect to charging schemes.

**Marginal Citations**

M11 1964 c. 40.

**18 Amendments of the Harbours Act 1964.**

- (1) The Harbours Act 1964 is amended in accordance with Schedule 6.

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- (2) With the exception of paragraph 10, the provisions of Schedule 6 come into force on the day appointed by the Secretary of State under section 15(1).
- (3) Paragraph 10 of Schedule 6 comes into force on such day as the Secretary of State may appoint by order made by statutory instrument.
- (4) So far as may be necessary for the purposes of any amendment by this Act of the Harbours Act 1964, references in that Act to the Minister shall be construed as references to the Secretary of State.

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

- C8** Power of appointment conferred by s. 18(3) fully exercised: 2.8.1983 appointed by [S.I. 1983/930](#), [art. 2](#)

## PART IV

19— ..... <sup>F13</sup>  
31.

**Textual Amendments**

- F13** Pt. IV (ss. 19–31) repealed by [Road Traffic \(Consequential Provisions\) Act 1988](#) (c. 54, SIF 107:1), ss. 3, 5, Sch. 1 Pt. I, [Sch. 4 paras. 1–3](#)

## PART V

### MISCELLANEOUS AND GENERAL

#### *Miscellaneous*

**[<sup>F14</sup>32 Road humps.**

- (1) The provisions of Schedule 10 have effect with respect to road humps.
- (2) This section and Schedule 10 come into force on such day as the Secretary of State may appoint by order made by statutory instrument, and different days may be so appointed for different purposes.]

**Textual Amendments**

- F14** [S. 32](#) repealed (S.) by [Roads \(Scotland\) Act 1984](#) (c. 54, SIF 108), s. 156(3), [Sch. 11](#)

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

- C9** Power of appointment conferred by s. 32(2) fully exercised (E.W.): 25.8.1983 appointed (E.W.) by [S.I. 1983/1089](#), [art. 2](#)

*Status: Point in time view as at 01/04/1991.*

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**33, 34.** ..... F15

**Textual Amendments**

**F15** Ss. 33, 34 repealed by Finance Act 1982 (c. 39), s. 157, Sch. 22 Pt. II

**35 Charges for licensing of cabs and cab drivers.**

- (1) In section 6 of the <sup>M12</sup>Metropolitan Public Carriage Act 1869 (licensing of cabs) the words “at such price are omitted and for the words from “such uniform sum to “prescribe there are substituted the words “ such sum as the person granting the licence may, with the approval of the Secretary of State, determine, and different sums may be so determined with respect to different descriptions of vehicle ”.
- (2) In section 8 of the Metropolitan Public Carriage Act 1869 (licensing of cab drivers) the words “at such price are omitted and for the words from “such sum to “prescribe there are substituted the words “ such sum as the person granting the licence may, with the approval of the Secretary of State, determine, and different sums may be so determined with respect to different descriptions of licence ”.
- (3) Where section 70 of the <sup>M13</sup>Local Government (Miscellaneous Provisions) Act 1976 (fees for vehicle and operator’s licences) is not in force in the area of a district council, the sums to be paid for a licence granted by the council under section 37 of the <sup>M14</sup>Town Police Clauses Act 1847 (licensing of cabs outside London) shall be such as the council may determine, and different sums may be so determined with respect to different descriptions of vehicle ; and the sums so determined shall be such as appear to the council to be sufficient in the aggregate to cover in whole or in part—
  - (a) the reasonable cost of the carrying out by or on behalf of the district council of inspections of hackney carriages for the purpose of determining whether any such licence should be granted or renewed ;
  - (b) the reasonable cost of providing hackney carriage stands ; and
  - (c) any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages.
- (4) This section does not extend to Scotland.
- (5) This section comes into force on such day as the Secretary of State may by order made by statutory instrument, appoint, and different days be so appointed for different purposes.

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

- C10** 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
- C11** Power of appointment conferred by s. 35(5) fully exercised: [S.I. 1981/1331](#), 1982/310

**Marginal Citations**

- M12** 1869 c. 115.  
**M13** 1976 c. 57.  
**M14** 1847 c. 89.

*Status: Point in time view as at 01/04/1991.*

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### 36 Grants to assist the provision of facilities for freight haulage by inland waterway.

- (1) Where it appears to the Secretary of State that it would be in the interests of any locality or of all or some of its inhabitants for facilities to be provided in that locality or elsewhere for or in connection with the carriage of freight by inland waterway or the loading or unloading of freight carried or intended to be carried by inland waterway, he may make grants in accordance with this section towards the provision of such facilities.
- (2) Grants under this section shall be made towards capital expenditure which is to be incurred in providing such facilities, and the facilities may, without prejudice to the generality of subsection (1) above, include cargo-carrying craft, inland waterway terminals, depots, access roads and equipment for use in connection with the carriage, loading or unloading of freight.
- (3) Grants under this section shall be made in pursuance of an application made to the Secretary of State by the person who intends to provide the facilities and shall be supported by evidence that the navigation authority have given that person their approval for the provision by him of the facilities to which the application relates.
- (4) The Secretary of State may, in making a grant under this section, impose such terms and conditions as he thinks fit.

### 37 Railway etc. byelaws: increase in penalties.

In section 67 of the <sup>M15</sup>Transport Act 1962 (byelaws for railways and railway shipping services) for subsection (3) there is substituted the following subsection—

“(3) Any byelaws made under this section may provide—

- (a) in the case of byelaws made by virtue of subsection (1) above, that any person contravening them shall be liable on summary conviction to a penalty not exceeding £200 for each offence; and
- (b) in the case of byelaws made by virtue of subsection (2) above, that any person contravening them shall be liable on summary conviction to a fine not exceeding £50 for each offence and, in the case of such a contravention which continues after conviction, to a fine not exceeding £10 for each day on which the offence so continues.”.

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

**C12** 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**

**M15** 1962 c. 46.

### 38 Fires caused by railway engines.

- (1) In section 1 of the <sup>M16</sup>Railway Fires Act 1905 (liability of railway companies to make good damage to crops caused by their engines), in subsection (3) for the words “two hundred pounds there is substituted “ £3,000 or such greater sum as may for the time



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being prescribed by order made by the Secretary of State ” ; and after that subsection there is inserted the following—

“(3A) An order under subsection (3) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3B) In the application of subsection (3) above to Northern Ireland for the reference to the Secretary of State there shall be substituted a reference to the Department of the Environment for Northern Ireland and any order made by the Department under that subsection—

- (a) shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979; and
- (b) shall be subject to negative resolution as defined by section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if it were a statutory instrument within the meaning of that Act.”

(2) In section 2 of the <sup>M17</sup>Railway Fires Act (1905) Amendment Act 1923 the words “not exceeding the sum of two hundred pounds are hereby repealed.

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

**C13** 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**

**M16** 1905 c. 11.

**M17** 1923 c. 27

**39 Amendment of Schedules 7 and 8 to the Public Passengers Vehicles Act 1981.**

In the <sup>M18</sup>Public Passenger Vehicles Act 1981—

- (a) in Schedule 7 (consequential amendments), paragraph 24 is omitted;
- (b) in Schedule 8 (repeals)—
  - (i) in the entry relating to the <sup>M19</sup>Transport Act 1968 the words “in section 145, subsection (2) are omitted, and
  - (ii) in the entry relating to the <sup>M20</sup>Transport Act 1980 after the words “In Schedule 5, Part I there are inserted the words “ (except paragraph 13) ” and for the words “the Minibus Act 1977 and the Transport Act 1978 there are substituted the words “ and the Minibus Act 1977 and paragraphs 2 to 4 of the entry relating to the Transport Act 1978. ”.

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

**C14** 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

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#### Marginal Citations

- M18** 1981 c. 14.  
**M19** 1968 c. 73.  
**M20** 1980 c. 34.

### General

#### 40 Repeals.

- (1) The enactments mentioned in Schedule 12 are repealed to the extent specified in the third column of that Schedule.
- (2) Part I of that Schedule has effect as from the day appointed by the Secretary of State for the purposes of section 5.
- (3) Part II of that Schedule has effect as from the day appointed by the Secretary of State under section 15(1), except for the repeal of the entry for the National Ports Council in Part II of Schedule 1 to the <sup>M21</sup>House of Commons Disqualification Act 1975 which comes into force on the Council ceasing to exist.
- (4) Part III of that Schedule so far as relates to—
  - (a) the <sup>M22</sup>Railway Fires Act (1905) Amendment Act 1923; and
  - (b) the <sup>M23</sup>Public Passenger Vehicles Act 1981,
 comes into force on the passing of this Act and otherwise comes into force on such day as the Secretary of State may appoint by order made by statutory instrument and different days may be so appointed for different purposes.

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

- C15** Power of appointment conferred by s. 40(4) partly exercised by [S.I. 1981/1331](#), 1617, 1982/300, 310, 866, 1341, 1451, 1803, 1983/576, 930, 1089, 1988/1037, 1170

#### Marginal Citations

- M21** 1975 c. 24.  
**M22** 1923 c. 27.  
**M23** 1981 c. 14.

#### 41 Northern Ireland.

- (1) The following provisions of this Act extend to Northern Ireland—
  - (a) Part I;
  - (b) Part II, except—
    - (i) in Schedule 3, paragraphs 7 and 19;
    - (ii) in Schedule 4, paragraphs 1, 5 to 9 and 15;
  - (c) Section 38;
  - (d) Part I of Schedule 12, and section 40 so far as relates to that Part;
  - (e) the repeal by Part II of Schedule 12 of the entry for the National Ports Council in Part II of Schedule 1 to the House of Commons Disqualification Act 1975, and section 40 so far as it relates to that repeal ;

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- (f) Part III of Schedule 12 and section 40 so far as relating to the <sup>M24</sup>Railway Fires Act (1905) Amendment Act 1923;
  - (g) this section and sections 42 and 43.
- (2) The other provisions of this Act do not extend to Northern Ireland.
- (3) An Order in Council made under paragraph 1(1)(b) of Schedule 1 to the <sup>M25</sup>Northern Ireland Act 1974 which contains a statement that its purposes correspond to those of sections 27 and 28 of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament instead of the order or a draft of the order being subject to the procedure set out in paragraph 1(4) or (5) of that Schedule.

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**Marginal Citations**

**M24** 1923 c. 27.

**M25** 1974 c. 28.

**42 Expenses.**

Expenses incurred by any government department in consequence of the provisions of this Act shall be defrayed out of money provided by Parliament.

**43 Short title.**

This Act may be cited as the Transport Act 1981.

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## SCHEDULES

### SCHEDULE 1

#### PROVISIONS SUPPLEMENTING SECTIONS 1 TO 3

##### *Pensions*

- 1 (1) The Secretary of State may make such orders under section 74 of the <sup>M26</sup>Transport Act 1962 (power to make provision about pensions in the nationalised transport industry) in relation to related companies as he could make if those companies were subsidiaries of the Railways Board.
- (2) Except on the application of a related company which is not a subsidiary of the Board, no order shall be made by virtue of this paragraph which has the effect of placing the company or any of its subsidiaries in any worse position; but for this purpose a related company or a subsidiary shall not be regarded as being placed in a worse position because an order provides that any changes in a pension scheme are not to be effected without the consent of the Secretary of State.
- (3) An order such as is mentioned in sub-paragraph (2) which is made without the application of the related company shall not be invalid because it does not have the effect of securing that the related company and its subsidiaries are not placed in any worse position, but except in so far as the related company approves the effect of the order the Secretary of State shall as soon as may be make the necessary amending order.
- (4) Sub-paragraphs (2) and (3) above have effect only in relation to orders made after such day as may be appointed for the purposes of this paragraph by order made by statutory instrument by the Secretary of State, and different days may be so appointed in relation to different related companies.
- (5) Where an order (the “first order”) applying to a company has been made under section 74 and at the time when it was made the company was a subsidiary of the Railways Board, the order shall not apply to that company when it ceases to be such a subsidiary except where an order made (at any time) by virtue of this paragraph provides for the first order to continue to apply to the related company.
- (6) An order made by virtue of this paragraph may, in particular, authorise the Railways Board or any subsidiary of the Board—
- (a) to transfer liabilities and obligations under a pension scheme in relation to some (but not all) of the participants in that scheme to another pension scheme (the “other scheme); and
  - (b) to divide or apportion a pension fund held for the purposes of the scheme between that scheme and the other scheme.
- (7) In this paragraph “participant”, in relation to a pension scheme, means—

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- (a) in relation to a scheme under which benefits are or will be receivable as of right, a person who has pension rights under the scheme (whether he has contributed or not); and
  - (b) in relation to a scheme under which benefits are not or will not be receivable as of right, a person who (whether he is referred to in the scheme as a member, contributor or otherwise) has contributed under the scheme and has pension rights thereunder.
- (8) Section 57 of the <sup>M27</sup>Transport Act 1980 (power of Secretary of State to direct that certain payments in respect of transfer values are to be ignored for the purposes of certain provisions of Part III of that Act) shall have effect as if the reference to a subsidiary of the Railways Board included a reference to a related company.
- (9) In this paragraph “related company” means a company in which the Railways Board have, or at any time have had, a beneficial interest (either directly or through nominees or subsidiaries) in not less than 20 per cent. of the issued ordinary share capital of the company.

**Marginal Citations**

**M26** 1962 c. 46.

**M27** 1980 c. 34.

*Transport police*

- 2
- (1) The Railways Board may make an agreement with Sealink or the harbours company for making available the services of the British Transport Police Force to Sealink and any of its subsidiaries or to the harbours company and any of its subsidiaries, for such period, to such extent and on such terms as may be specified in the agreement.
  - (2) Where such an agreement has been made members of the British Transport Police Force shall, notwithstanding the provisions of any other enactment but subject to the terms of the agreement, have the same powers to act as constables in relation to the premises of, and matters connected with or affecting, the company concerned as they would have if those premises belonged to, or those matters were connected with or affected, the Railways Board.
  - (3) In this section “the British Transport Police Force” means the force established by a scheme made under section 69 of the <sup>M28</sup>Transport Act 1962.

**Marginal Citations**

**M28** 1962 c. 46.

*Charges*

- 3
- (1) The harbours company shall, in the exercise of statutory powers and duties at a harbour which it is engaged in improving, maintaining or managing, have power to make such reasonable charges for its services and facilities as it thinks fit.

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- (2) This paragraph does not apply in relation to—
- (a) ship, passenger and goods dues; or
  - (b) charges ascribable to the running of a ferry service in or from a harbour;
- and does not authorise the making of any charge in a case where an enactment relating to any of the company's harbours expressly provides for freedom from charges or otherwise prohibits the making of any charge.
- (3) The provisions of sections 27 to 48 of the <sup>M29</sup>Harbours, Docks and Piers Clauses Act 1847 (which provide for various matters connected with liability for and collection of the rates to be taken by undertakers) as incorporated with or applied by any enactment relating to any of the company's harbours apply to charges under this paragraph as if they were rates payable under that enactment.

#### Marginal Citations

**M29** 1847 c. 27.

4

F16

#### Textual Amendments

**F16** Sch. 1 para. 4 repealed by Finance Act 1988 (c. 39, SIF 114), s. 148, **Sch. 14 Part XI**

#### *Provision of services for related companies*

- 5 The Railways Board may provide for any related company (within the meaning of paragraph 1 above) any of the services which they have power to provide for any of their subsidiaries.

#### *Leases of vessels*

- 6 Where, immediately before the commencement of this Part of this Act, any vessel is the subject of a lease granted to the Railways Board and of a sub-lease granted by the Board to Sealink, the sub-lease shall be taken to have been validly granted by the Board and the lease and sub-lease shall continue to have effect as if this Part of this Act had not been passed.

This paragraph applies equally where the lease and sub-lease were granted after, but in pursuance of an agreement entered into before, the commencement of this Part.

#### *Repeal of powers to provide shipping services and to provide and manage hotels*

- 7 (1) If at any time Sealink ceases to be a subsidiary of the Railways Board the Secretary of State shall by order repeal the Railway Shipping Acts.
- (2) If at any time the Board cease to provide and manage hotels (either themselves or through a subsidiary) the Secretary of State shall by order repeal subsection (2)

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(power to provide and manage hotels) of section 50 of the <sup>M30</sup>Transport Act 1968 and make such consequential amendments in subsection (4) of that section as he considers appropriate.

- (3) In this paragraph “the Railway Shipping Acts” means—
- (a) the enactments so described in section 5 of the <sup>M31</sup>Transport Act 1962;
  - (b) section 47 of the <sup>M32</sup>British Railways Act 1967; and
  - (c) subsections (1) and (3)(a) of section 5 of the 1962 Act.
- (4) An order under this paragraph shall be made by statutory instrument.
- (5) Notwithstanding the repeal of the Railway Shipping Acts under this paragraph, the Board shall continue to have power to provide vessels and shipping services for the carriage by sea of rail freight wagons.
- (6) The Board shall not exercise their powers under sub-paragraph (5) above to provide shipping services except with the consent of the Secretary of State; and any consent under this paragraph may be given subject to such conditions as the Secretary of State thinks fit to impose.

#### Marginal Citations

- M30** 1968 c. 73.  
**M31** 1962 c. 46.  
**M32** 1967 c. xxx.

#### *Local enactments*

- 8 (1) Where he considers it necessary or expedient to do so in consequence of, or of anything done under, this Act, the Secretary of State may by order—
- (a) repeal any local enactment which in his opinion has ceased to have effect; or
  - (b) make such amendments in any local enactment as he thinks appropriate.
- (2) An order under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## SCHEDULE 2

Section 7.

### FURTHER PROVISIONS WITH RESPECT TO THE CONSTITUTION AND PROCEEDINGS OF ASSOCIATED BRITISH PORTS AND RELATED MATTERS

#### *Preliminary*

- 1 In this Schedule “director” means a director of Associated British Ports.

#### *Remuneration and other payments*

- 2 (1) The remuneration and allowances payable to directors by Associated British Ports shall be determined by the Holding Company.

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- (2) The payment by Associated British Ports to or in respect of a former director of any pension or compensation for loss of office shall be subject to the approval of the Holding Company.

*Resignation and vacation of office*

- 3 (1) A director may resign his office by notice in writing to Associated British Ports.
- (2) The office of director is vacated if the director—
- (a) becomes bankrupt or makes an arrangement with his creditors, or in Scotland has his estate sequestrated or makes a trust deed for behoof of his creditors or a composition contract; or
  - (b) becomes of unsound mind; or
  - (c) is absent from meetings of the directors for a period of more than six months without the permission of the directors.

*Proceedings of the directors*

- 4 (1) Subject to any rules which may be prescribed by the Holding Company, the directors may regulate their own procedure.
- (2) Unless the directors determine otherwise, the quorum necessary for the transaction of business by them is three.

*Chairman and deputy chairman*

- 5 (1) The directors may elect a chairman of their meetings and determine the period for which he is to hold office.
- (2) If the directors elect a chairman they may also elect a deputy chairman and determine the period for which he is to hold office.

*Committees of directors*

- 6 (1) The directors may delegate any of their powers to a committee consisting of one or more directors.
- (2) Subject to any rules which may be prescribed by the directors, such a committee may regulate its own procedure and may elect a chairman of its meetings.

*Executive directors*

- 7 (1) The directors may appoint one or more of their number as executive directors.
- (2) Such an appointment shall be for such period and on such terms as the directors think fit, but shall determine automatically if the person appointed ceases to be a director.
- (3) The directors may delegate any of their powers to an executive director on such terms and subject to such restrictions as they think fit.
- (4) An appointment as executive director may be revoked at any time by the directors, but without prejudice to any claim for damages for breach of contract.



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### *Secretary*

- 8 (1) The directors shall appoint a secretary of Associated British Ports on such terms as to remuneration and otherwise as the directors think fit.
- (2) A secretary so appointed may be removed by the directors at any time, but without prejudice to any claim for damages for breach of contract.
- 9 The fixing of the common seal of Associated British Ports shall be authenticated by the signature of the secretary or some other person authorised by the directors to act for that purpose.

### *Auditors*

- 10 (1) The auditors of Associated British Ports shall be appointed by the Holding Company for such period as the Holding Company may determine but, without prejudice to any claim for damages for breach of contract, may be removed by the Holding Company at any time.
- (2) The amounts payable by Associated British Ports to its auditors in respect of remuneration and expenses shall be determined by the Holding Company.

### *Validity of proceedings notwithstanding formal defects*

- 11 (1) The validity of proceedings of the directors is not affected by any vacancy among the directors.
- (2) Acts done by the directors, by a committee of directors or by any person acting as director are valid notwithstanding that it is afterwards discovered—
- (a) that there was some defect in the appointment of any such director or person acting as director; or
  - (b) that any such director or person acting as director was disqualified from acting on grounds of interest or had ceased to hold office as director by virtue of paragraph 3(2).

## SCHEDULE 3

### POWERS OF ASSOCIATED BRITISH PORTS

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

C16 Sch. 3 restricted (30.12.2002) by S.I. 2002/3269, art.8(d)

### *Preliminary*

- 1 Each of the powers conferred on Associated British Ports by this Schedule is in addition to, and not in derogation of, any other power conferred on Associated British Ports by this Schedule or by any other enactment.

*Status: Point in time view as at 01/04/1991.*

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*Operation of harbours and provision of port facilities*

- 2 Associated British Ports has power to operate its harbours and to provide port facilities at them.

*Consignment and carriage of goods*

- 3 (1) Associated British Ports may consign goods on behalf of other persons to or from or on routes through its harbours.
- (2) Associated British Ports may carry goods by road on behalf of other persons to or from its harbours.

*Activities as ship's agent*

- 4 Associated British Ports may carry on at its harbours the activities of a ship's agent.

*Storage of goods*

- 5 Associated British Ports may provide facilities for the storage of goods.

*Development of land*

- 6 (1) Associated British Ports may develop in such manner as it thinks fit land belonging to it or to any of its subsidiaries.
- (2) Associated British Ports may in particular—
- (a) develop for use by other persons land belonging to it or to any of its subsidiaries which is not otherwise required for the purposes of its business; or
- (b) where the use of such land for the purposes of its business can be combined with its use by other persons, develop the land by constructing or adapting buildings on it for use wholly or partly by other persons,
- with a view to the disposal of any right or interest in the land or, as the case may be, the buildings or any part of the buildings, after the development is carried out.
- (3) Where Associated British Ports proposes under this paragraph to develop any land as mentioned in sub-paragraph (2), it may acquire by agreement adjoining land for the purpose of developing it together with the other land.
- (4) Except as provided by sub-paragraph (3), Associated British Ports does not have power to acquire land solely for the purpose of developing it as mentioned in sub-paragraph (2).

*Pipelines*

- 7 (1) Associated British Ports may construct and operate pipelines in Great Britain.
- (2) The power conferred by sub-paragraph (1) includes power to construct and operate any works provided in connection with the operation of a pipeline.
- (3) Associated British Ports does not have power to acquire land for the purpose of constructing pipelines except—
- (a) where the pipeline is, or is to be, mainly on land acquired for other purposes; or

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- (b) where the pipeline is required for the purposes of the business of Associated British Ports other than the operation of pipelines.

*Incidental amenities and facilities*

- 8 (1) In places where those using the services and facilities provided by Associated British Ports or any of its subsidiaries may require them, Associated British Ports may provide both for them and for other persons facilities for the purchase and consumption of food and drink and such other amenities and facilities as appear to Associated British Ports appropriate.
- (2) Associated British Ports may, at any place where, in the exercise of the power conferred by sub-paragraph (1), it or any of its subsidiaries provides a car park, repair motor vehicles, both for persons using the car park and others, and sell to any such persons petrol, oil, spare parts and accessories for motor vehicles.

*Other activities*

- 9 Associated British Ports may carry on any business which in its opinion can advantageously be carried on by reason of the fact that the business—
- (a) involves the use of machinery, plant or equipment of a kind used by Associated British Ports or any of its subsidiaries in connection with the operation of its harbours; or
- (b) requires skills which employees of Associated British Ports or any of its subsidiaries have in connection with the operation of its harbours.
- 10 (1) Associated British Ports may manufacture for sale to any person and repair for any person anything which it considers can advantageously be so manufactured or repaired by reason of the fact that Associated British Ports or any of its subsidiaries has materials or facilities for, or skill in, the manufacture or repair of that thing in connection with its existing activities.
- (2) Associated British Ports may sell to any person, and for that purpose purchase, anything which is of a kind which Associated British Ports or any of its subsidiaries purchases in the course of its existing activities.
- (3) In this paragraph “existing activities” includes existing activities carried on by virtue of this paragraph.
- 11 Associated British Ports may provide for any person technical advice or assistance including research services as respects any matter in which it or any of its subsidiaries has skill or experience.

*Acquisition of further harbour undertakings*

- 12 (1) Associated British Ports may, either alone or together with any other person, provide, maintain or operate harbours additional to those which it or any of its subsidiaries owns or manages by virtue of Part II of the <sup>M33</sup>Transport Act 1962 (which provided for the division of the undertaking of the British Transport Commission) or by virtue of a harbour reorganisation scheme under the <sup>M34</sup>Harbours Act 1964.
- (2) For the purposes of sub-paragraph (1) Associated British Ports may acquire by agreement any harbour undertaking, or any part of such an undertaking.

*Status: Point in time view as at 01/04/1991.*

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- (3) Associated British Ports may subscribe for or acquire shares or securities of a body corporate which is wholly or mainly engaged, or which it is proposed should become wholly or mainly engaged, in the provision, maintenance or operation of a harbour.

**Marginal Citations**

**M33** 1962 c. 46.

**M34** 1964 c. 40.

*Disposal and discontinuance of parts of Associated British Ports' undertaking, etc.*

- 13 (1) Associated British Ports may dispose of any part of its undertaking, or any property, which in its opinion is not required by it for the purposes of its business.
- (2) Associated British Ports may dispose of or discontinue any part of its undertaking carried on by virtue of paragraph 9 or 10.
- (3) Associated British Ports may dispose of or discontinue any part of its undertaking acquired under paragraph 12, and may dispose of any shares or securities subscribed for or acquired under that paragraph.
- (4) The powers of disposal conferred by this paragraph include power—
- (a) to dispose of property absolutely or for a term of years;
  - (b) to dispose of a right in, or interest over, property.

*Power to promote and oppose Bills*

- 14 (1) Associated British Ports may promote Bills in Parliament and may oppose any Bill in Parliament.
- (2) The power conferred by sub-paragraph (1) is in lieu of any power to promote or oppose Bills which Associated British Ports might otherwise possess as successor to the persons carrying on any undertaking, and, in particular, the persons carrying on any undertaking transferred to the British Transport Commission by the <sup>M35</sup>Transport Act 1947, but nothing in this sub-paragraph affects any power exercisable by Associated British Ports as successor to apply for orders and schemes, and oppose applications for orders and schemes, including orders and schemes subject to special parliamentary procedure.
- (3) In the application of this paragraph to Scotland, “Bill in Parliament” includes an order under the <sup>M36</sup>Private Legislation Procedure (Scotland) Act 1936.

**Marginal Citations**

**M35** 1947 c. 49.

**M36** 1936 c. 52.

*Training, education and research*

- 15 (1) Associated British Ports may do anything it thinks fit for the purpose of advancing—
- (a) the skill of its employees and those of its subsidiaries; or

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- (b) the efficiency and manner in which the equipment of Associated British Ports and its subsidiaries is operated, including making, or assisting the making, of provision for training and education.
- (2) Associated British Ports may do anything which appears to it practicable or desirable for the purpose of—
- (a) promoting research into matters affecting, or arising out of, the activities of Associated British Ports and its subsidiaries; or
  - (b) turning to account the results of any such research.

*Provision of accommodation, etc.*

- 16 (1) Associated British Ports may provide houses, hostels and other like accommodation for its employees and those of its subsidiaries.
- (2) Associated British Ports may make housing loans to such employees to assist them to acquire housing accommodation and may guarantee loans made for housing purposes to such employees by building societies and other bodies.

*Pensions*

- 17 (1) Associated British Ports may pay pensions and enter into obligations under pension schemes.
- (2) Associated British Ports may lend money to be applied for the purposes of a pension scheme under which it, or any of its subsidiaries, pays employer's contributions or is subject to any other obligations.

*Acquisition of land*

- 18 (1) Associated British Ports has power to acquire land for the purposes of its business.
- (2) Sub-paragraph (1) is subject to paragraphs 6(4) and 7(3).
- (3) Where it is proposed to dispose of any land belonging to Associated British Ports or any of its subsidiaries, Associated British Ports may acquire by agreement adjoining land for the purpose of disposing of it together with that land.

*Compulsory purchase of land*

- 19 (1) Subject to sub-paragraph (2), the Secretary of State may authorise Associated British Ports to purchase compulsorily any land in Great Britain which it requires for the purposes of its business; and the <sup>M37</sup>Acquisition of Land (Authorisation Procedure) Act 1946 shall apply as if Associated British Ports were a local authority within the meaning of that Act and as if this Act had been in force immediately before the commencement of that Act.
- (2) This paragraph does not authorise Associated British Ports to purchase compulsorily—
- (a) land required for the purposes of a business carried on by a subsidiary of Associated British Ports other than a wholly-owned subsidiary;
  - (b) land required for the purposes of a business or activity carried on by virtue of paragraph 3(2), 4, 9 or 10;

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- (c) land required for the purpose of providing facilities for the storage of goods other than goods which have been or are to be loaded or unloaded in or carried through one of Associated British Ports' harbours; or
  - (d) land which Associated British Ports has power to acquire by agreement under paragraph 6(3) or 18(3).
- (3) Subject to sub-paragraph (4), the power of purchasing land compulsorily in this paragraph includes power to acquire an easement or other right over land by the creation of a new right.
- (4) Sub-paragraph (3) does not apply to an easement or other right over any land which forms part of a common, open space or fuel or field garden allotment within the meaning of the <sup>M38</sup>Acquisition of Land (Authorisation Procedure) Act 1946.
- (5) In the application of this paragraph to Scotland—
- (a) for any reference to the Acquisition of Land (Authorisation Procedure) Act 1946 there is substituted a reference to the <sup>M39</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947;
  - (b) for any reference to an easement there is substituted a reference to a servitude; and
  - (c) the reference in sub-paragraph (4) to a fuel or field garden allotment is omitted.

**Marginal Citations**

**M37** 1946 c. 49.  
**M38** 1946 c. 49.  
**M39** 1947 c. 42.

*Charges*

- 20 (1) Subject to sub-paragraph (2), Associated British Ports may make such reasonable charges as it thinks fit for services and facilities provided by it or by its subsidiaries.
- (2) This paragraph does not authorise—
- (a) the levying of ship, passenger and goods dues within the meaning of the <sup>M40</sup>Harbours Act 1964; or
  - (b) the making of a charge in any case where an enactment relating to any of Associated British Ports' harbours expressly provides for freedom from charges or otherwise prohibits the making of any charge.
- (3) The provisions of sections 27 to 48 of the <sup>M41</sup>Harbours, Docks and Piers Clauses Act 1847 (which provide for various matters connected with liability for and collection of the rates to be taken by the undertakers) as incorporated with or applied by any enactment relating to any of Associated British Ports' harbours apply to charges under this paragraph as if they were rates payable under that enactment.

**Marginal Citations**

**M40** 1964 c. 40.  
**M41** 1847 c. 27.

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*Status: Point in time view as at 01/04/1991.*

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### *Borrowing and guarantees*

- 21 (1) Subject to sub-paragraph (5), Associated British Ports may borrow money for any of the purposes of its business, whether of a capital or revenue nature and including any proposed exercise of the powers conferred by paragraph 12, and may do so in such a manner and on such terms as it considers expedient.
- (2) Without prejudice to the generality of sub-paragraph (1), the power conferred by that sub-paragraph may be exercised—
- (a) by the issue of debentures on such terms as Associated British Ports thinks fit;
  - (b) by borrowing from a bank on overdraft;
  - (c) by opening an acceptance credit with a bank or accepting house;
  - (d) by accepting money on deposit.
- (3) Subject to sub-paragraph (5), Associated British Ports may, for the purposes of its business, give a guarantee for the benefit of any person for the purposes of an undertaking carried on by him or, where that person is a body corporate, any undertaking carried on by a subsidiary of that body corporate.
- (4) Associated British Ports may, by way of security for any of its borrowing or any guarantee given by it, mortgage or charge all or any part of its undertaking, revenues, property or assets (present or future).
- (5) The aggregate amount outstanding at any time of—
- (a) the principal of money borrowed by Associated British Ports and its subsidiaries; and
  - (b) guarantees given by Associated British Ports and its subsidiaries,
- shall not exceed the limit for the time being set by the Holding Company.

### *Restrictions on certain descriptions of financial arrangement*

- 22 (1) The Holding Company may from time to time impose restrictions on the descriptions of financial arrangement which may be entered into by Associated British Ports and its subsidiaries.
- (2) The Holding Company may, in particular, prohibit Associated British Ports and its subsidiaries from entering into specified descriptions of financial arrangement—
- (a) absolutely, or
  - (b) without the consent of the Holding Company,
- and may set a limit on the aggregate amount of the liabilities which Associated British Ports and its subsidiaries may incur in respect of arrangements of any specified description.
- (3) Restrictions imposed under this paragraph may be varied or revoked by the Holding Company from time to time.

### *General supplementary powers*

- 23 Associated British Ports may purchase, manufacture or repair anything required for the purposes of its business.

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- 24 Associated British Ports may acquire any undertaking of part of an undertaking if the assets of the undertaking or part are wholly or mainly assets which it requires for the purposes of its business.
- 25 Associated British Ports may, for the purposes of its business, subscribe for or acquire shares or securities of any body corporate.
- 26 Associated British Ports may, for the purpose of its business, lend money to any person for the purposes of an undertaking carried on by him or, where that person is a body corporate, any undertaking carried on by a subsidiary of that body corporate.
- 27 Associated British Ports may—
- (a) invest any sums not immediately required for the purposes of its business; and
  - (b) turn its resources to account so far as not required for those purposes.
- 28 Associated British Ports may do all other things which in its opinion are necessary or expedient to facilitate the proper carrying on of its business.

#### *Subsidiaries*

- 29 (1) Associated British Ports may form and promote, or join with any other person in forming and promoting, a company for carrying on any activities which Associated British Ports has power to carry on.
- (2) Associated British Ports may enter into arrangements with a company formed in exercise of the powers conferred by sub-paragraph (1) for the transfer to that company from Associated British Ports or any of its subsidiaries, in such manner and on such terms (including payments by any of the parties to the arrangements to any other of them) as may be provided for by the arrangements, of any property, rights, liabilities or obligations of Associated British Ports or any of its subsidiaries relevant to the carrying on of the activities to be carried on by the company.

#### *Working agreements, etc.*

- 30 (1) Associated British Ports may enter into an agreement with any person for the carrying on by that person, whether as agent of Associated British Ports or otherwise, of any of the activities which Associated British Ports may itself carry on.
- (2) Associated British Ports may enter into arrangements with a person with whom an agreement is made under sub-paragraph (1) for the transfer to that person from Associated British Ports or any of its subsidiaries, in such manner and on such terms (including payments by any of the parties to the arrangements to any other of them) as may be provided for by the arrangements, of any property, rights, liabilities or obligations of Associated British Ports or any of its subsidiaries relevant to the carrying on of the activities to be carried on by that person.

#### *Powers in relation to public transport authorities*

- 31 (1) Associated British Ports may purchase, manufacture or repair anything required for the purposes of the business of any public transport authority or any subsidiary of such an authority.



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- (2) Without prejudice to paragraph 30(1), Associated British Ports may enter into an agreement with a public transport authority or with a subsidiary of such an authority for the management, working and use by one party to the agreement of works, land or other property belonging to the other party, and with respect to the rendering of services and pooling of receipts or expenses.
- (3) An agreement under sub-paragraph (2) may be entered into notwithstanding that it involves a delegation of functions under any enactment relating to any part of the undertaking of a party to the agreement.
- (4) In this paragraph “public transport authority means the British Railways Board, the British Waterways Board, [<sup>F17</sup>London Regional Transport][<sup>F18</sup>and], the Scottish Transport Group [<sup>F19</sup> and the National Bus Company].

#### Textual Amendments

- F17** Words in Sch. 3 para. 31(4) substituted (E.W.) (29.6.1984) by London Regional Transport Act 1984 (c. 32, SIF 126), s. 71(3)(a), Sch. 6 para. 24; S.I. 1984/877, art. 2
- F18** By S.I. 1991/510, art. 5(2) it is provided that in Sch. 3 para. 31(4) the word “and” shall be inserted (E.W.S.) (1.4.1991) after the word “Executive”
- F19** Words in Sch. 3 para. 31(4) repealed (E.W.S.) (1.4.1991) by S.I. 1991/510, art. 5(2)(4), Sch.

#### Interpretation

- 32 In this Schedule—
- (a) references to selling and purchasing include references to supplying or obtaining by exchange, hire or hire-purchase;
  - (b) references to manufacture include references to construction and production;
  - (c) references to repair include references to maintenance; and
  - (d) references to goods include references to fish, livestock and animals of all descriptions.

## 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>M42</sup>Harbours Act 1964 the words “the British Transport Docks Board” are repealed.

*Status: Point in time view as at 01/04/1991.*

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- (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>M43</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)**

**C17** 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**

**M42** 1964 c. 40.

**M43** 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>M44</sup>Transport Act 1962 and the <sup>M45</sup>Transport Act 1968 relating to the Boards established by the said Act of 1962 no longer apply to Associated British Ports.
- (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).

*Status: Point in time view as at 01/04/1991.*

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- (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**

**M44** 1962 c. 46.

**M45** 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>M46</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—
- (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.

**Marginal Citations**

**M46** 1962 c. 46.

*Status: Point in time view as at 01/04/1991.*

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*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>M47</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.

**Marginal Citations**

**M47** 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.
- (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>M48M49</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.

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**Marginal Citations**

**M48** S.I. 1968/237.

**M49** S.I. 1968/941.

*Payments for making up of private streets*

- 6 In section 219 of the <sup>M50</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)**

**C18** 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**

**M50** 1980 c. 66.

*Taxation*

- 7 (1) ..... <sup>F20</sup>
- (2) Section 92(9)(b) of the <sup>M51</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.
- (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>M52</sup>Income and Corporation Taxes Act 1970 (restriction on carry forward of loss relief) or section 101 of the <sup>M53</sup>Finance Act 1972 (restriction on carry forward of relief for advance corporation tax).

**Textual Amendments**

**F20** Sch. 4 para. 7(1) repealed by Finance Act 1988 (c. 39, SIF 114), s. 148, **Sch. 14 Part XI**

**Marginal Citations**

**M51** 1972 c. 41.

**M52** 1970 c. 10.

**M53** 1972 c. 41.

*Status: Point in time view as at 01/04/1991.*

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*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>M54</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**

**M54** 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>F21</sup>section 262(1) of the Town and Country Planning Act 1990] or section 275(1) of the <sup>M55</sup>Town and Country Planning (Scotland) Act 1972, 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**

**F21** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 50](#)

**Marginal Citations**

**M55** 1972 c. 52.

## 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>M56</sup>House of Commons Disqualification Act 1975 and Part II of Schedule 1 to the <sup>M57</sup>Northern Ireland Assembly Disqualification Act 1975 does not

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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**

**M56** 1975 c. 24.

**M57** 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>M58</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**

**M58** 1962 c. 46.

*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>M59</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.

**Marginal Citations**

**M59** 1980 c. 22.

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### *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>M60</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.

#### **Marginal Citations**

**M60** 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>M61</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.

#### **Marginal Citations**

**M61** 1966 c. 28.

### *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>M62</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**

**M62** 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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## SCHEDULE 5

### PROVISIONS SUPPLEMENTING SECTIONS 15 TO 17

#### PART I

##### FURTHER PROVISIONS RELATING TO THE DISSOLUTION OF THE NATIONAL PORTS COUNCIL

###### *Duty of Council to facilitate the carrying into effect of section 15 and this Schedule*

- 1 It is the duty of the Council to give to the Secretary of State all such information, to prepare all such documents and to do all such other things as appear to him to be necessary or expedient for facilitating the carrying into effect of section 15 and this Schedule and for enabling him to exercise any functions conferred or imposed on him by or by virtue of that section or this Schedule.

###### *Final accounts of the Council*

- 2 (1) The Council shall (if they have not done so before the appointed day) comply after that day with subsections (1) to (4) and subsection (7) of section 8 of the <sup>M63</sup>Harbours Act 1964 (which relate to the making and publication of periodical reports by the Council and the preparation, audit and publication of their accounts) in relation to their last normal accounting period before the appointed day; and they shall also comply with those subsections in respect of the interval (if any) between the end of that accounting period and the appointed day, and that interval shall by virtue of this paragraph be an accounting period for the purposes of those subsections.
- (2) In sub-paragraph (1) “normal accounting period” means an accounting period, within the meaning of the Harbours Act 1964, of not less than twelve months.
- (3) The Secretary of State shall lay before each House of Parliament a copy of each report made to him by virtue of sub-paragraph (1), of the statement of accounts attached thereto and of any report on that statement by the auditors.

#### **Marginal Citations**

**M63** 1964 c. 40.

###### *Disposal of confidential documents belonging to the Council*

- 3 (1) It is the duty of the Council to set aside any documents belonging to them the disclosure of the contents of which to the Secretary of State would be a breach of confidence and, notwithstanding section 15(1)(b), such documents do not vest in the Secretary of State on the appointed day.
- (2) References in this paragraph to breach of confidence are to—
- (a) the disclosure otherwise than as permitted by section 46 of the <sup>M64</sup>Harbours Act 1964 of information furnished to the Council in pursuance of requirements imposed under section 4 or 41 of that Act; or

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- (b) the disclosure of information furnished to the Council otherwise than in pursuance of requirements so imposed, being information which in the opinion of the Council ought to be treated as confidential,  
not being, in either case, information which the Secretary of State would be entitled to require from any person in exercise of any power conferred on him by this Act or the Harbours Act 1964.
- (3) Where a document which is set aside in pursuance of sub-paragraph (1) also contains information which could be disclosed to the Secretary of State without a breach of confidence, the Council shall, if he so directs, extract that information and furnish it to him.
- (4) Subject to sub-paragraph (3), documents which are set aside in pursuance of sub-paragraph (1) shall be destroyed or otherwise disposed of by the Council in such manner as the Secretary of State may direct so as to prevent any breach of confidence.
- (5) The preceding provisions of this paragraph—
- (a) do not apply to documents relating to legal or other proceedings to which the Secretary of State becomes a party on the appointed day in place of the Council; and
  - (b) do not affect the Council's duty under paragraph 1.
- (6) In this paragraph—
- “document” includes any device in which information is recorded or stored;
- “information” includes forecasts.

#### **Marginal Citations**

**M64** 1964 c. 40.

#### *Continuance of Council until residual functions completed to Secretary of State's satisfaction*

- 4 (1) No amendment or repeal made by this Act affects—
- (a) the continuance of the Council for the purposes of paragraphs 1 to 3 or their powers and duties under those paragraphs; or
  - (b) the continued operation for those purposes of the provisions of the Harbours Act 1964 relating to the constitution and proceedings of the Council;
- and the Council shall cease to exist when the Secretary of State, being satisfied that their duties under those paragraphs have been completed, so directs by order made by statutory instrument.
- (2) Section 15(1)(b) does not affect the continuance of employment with the Council, but on the Council ceasing to exist—
- (a) any contract of employment with the Council then in force shall cease to have effect, except as regards rights previously accrued and liabilities previously incurred; and
  - (b) any rights and liabilities of the Council then existing shall by virtue of this paragraph become rights and liabilities of the Secretary of State.
- (3) The Secretary of State shall pay to members of the Council, in respect of the period beginning with the appointed day and ending with the Council ceasing to exist, such

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remuneration (whether by way of salary or fees) and such allowances as, with the approval of the Minister for the Civil Service, he may determine.

- (4) The Secretary of State shall, as soon as possible after determining the amount of any remuneration or allowances payable under sub-paragraph (3), lay a statement of his determination before each House of Parliament.
- (5) As from the appointed day, the Secretary of State shall make available to the Council such facilities as the Council or their auditors may reasonably require for performing the duties imposed on them by or by virtue of paragraphs 1 to 3; and the remuneration of the auditors and any other expenses incurred by the Council in connection with the performance of those duties on and after the appointed day shall be defrayed by the Secretary of State.

#### *Modification of agreements and documents*

- 5 (1) Every agreement, other than a contract of employment, to which the Council are a party immediately before the appointed day, whether in writing or not and whether or not of such a nature that rights and liabilities thereunder could be assigned by the Council, has effect as from that date as if—
  - (a) the Secretary of State had been a party to the agreement; and
  - (b) for any reference to the Council there were substituted, as respects anything falling to be done on or after the appointed day, a reference to the Secretary of State.
- (2) Other documents, not being enactments, which refer to the Council shall be construed in accordance with sub-paragraph (1) so far as applicable.

#### *Legal remedies and pending proceedings*

- 6 (1) Where any right, liability or obligation is transferred to the Secretary of State by virtue of section 15(1)(b) or paragraph 4(2)(b), he and all other persons have the same rights, powers and remedies (and, in particular, the same rights as to the taking or resisting of legal proceedings) for ascertaining, perfecting or enforcing that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of the Secretary of State.
- (2) Any pending legal proceedings by or against the Council which relate to any property, right, liability or obligation transferred to the Secretary of State by virtue of section 15(1)(b) or paragraph 4(2)(b) may be continued by or against the Secretary of State.
- (3) Any reference in sub-paragraph (1) or (2) to legal proceedings shall be construed as including a reference to any application to an authority, and any reference to the taking or resisting of legal proceedings shall be construed accordingly.

#### *Compensation for loss of office*

- 7 If it appears to the Secretary of State that a person who ceases to hold office as a member of the Council on the Council ceasing to exist should receive compensation for loss of office, he may pay that person such sum as, with the approval of the Minister for the Civil Service, he may determine.

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### *Compensation for loss of employment*

- 8 (1) The Council shall, if they have not done so before the passing of this Act, make a scheme (referred to in this paragraph as the “compensation scheme”) for the payment of compensation, whether by way of a lump sum or periodic payments or by a combination of those methods, to or in respect of persons employed by them who suffer loss of employment which is properly attributable to the winding up of the Council.
- (2) The compensation scheme must—
- (a) provide for the payment of compensation to be at the discretion of the Council; and
  - (b) include provision for an appeal body to determine questions arising.
- (3) For the avoidance of doubt, it is declared that the expenses of the Council in making payments under the compensation scheme are administrative expenses of the Council within section 4 of the <sup>M65</sup>Harbours Act 1964 (under which such expenses may be funded by charges imposed on harbour authorities); and that the Council’s borrowing powers under section 5 of that Act are exercisable for the purpose of making such payments.
- (4) As from the appointed day—
- (a) the administration of the compensation scheme is the responsibility of the Secretary of State, subject to any direction under sub-paragraph (5); and
  - (b) the expenses of administering the scheme and of making payments under it shall be defrayed by the Secretary of State.
- (5) The Secretary of State may direct that the compensation scheme be administered by such person as may be specified in the direction; and a direction under this sub-paragraph may be revoked or varied by the Secretary of State by a further direction under this sub-paragraph.
- (6) The Secretary of State may make such amendments to the compensation scheme as appear to him necessary or expedient in consequence of the winding up of the Council or of the transfer of the administration of the scheme under or by virtue of this paragraph.

#### **Marginal Citations**

**M65** 1964 c. 40.

### *Pensions*

- 9 (1) In this paragraph—
- (a) “the pension scheme” means the National Ports Council Pension Scheme;
  - (b) “the pension fund” means any assets held on trust for the purposes of the pension scheme; and
  - (c) “pension rights” includes all forms of right to or eligibility for the present or future payment of a pension, gratuity or other like payment.
- (2) Subject to any direction under sub-paragraph (3), the administration of the pension scheme is the responsibility of the Secretary of State as from the appointed day and

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on that day the pension fund shall vest in him to be held by him for the purposes of the scheme on the same trusts as subsisted immediately before that day.

- (3) The Secretary of State may direct—
- (a) that the pension scheme be administered by, and the pension fund vest in, such person as may be specified in the direction;
  - (b) that the payment of any pension payable otherwise than under the pension scheme to a former member of the Council be the responsibility of such person as may be specified in the direction;
- and a direction under this sub-paragraph may be revoked or varied by the Secretary of State by a further direction under this sub-paragraph.
- (4) The Secretary of State may make such amendments to the pension scheme as appear to him necessary or expedient in consequence of the winding up of the Council or of the transfer of the administration of the scheme under or by virtue of this paragraph; but no such amendment shall prejudice any pension rights existing under the scheme immediately before the amendment takes effect.
- (5) There shall be defrayed by the Secretary of State—
- (a) any expenses incurred on or after the appointed day in administering or making payments under the pension scheme, so far as those expenses cannot be met from the pension fund; and
  - (b) any expenses incurred on or after that day in administering or paying any such pension as is mentioned in sub-paragraph (3)(b).

*Transfer to the Secretary of State of certain of the Council's former functions*

- 10 (1) In section 30(4) of the <sup>M66</sup>Harbours Act 1964 (duty of authority to supply copy of list of charges) for “the Council” there is substituted as from the appointed day “the Secretary of State”.
- (2) In section 31 of the Harbours Act 1964 (right of objection to certain charges) as from the appointed day—
- (a) for “the Council”, wherever occurring, there is substituted “ the Secretary of State ”, and where necessary in consequence of that substitution for pronouns and verbs in the plural there are substituted corresponding pronouns and verbs in the singular; and
  - (b) in subsection (13) the words from “and in relation” to the end are repealed.
- (3) Sections 30(4) and 31 of the <sup>M67</sup>Harbours Act 1964, and any enactment applying in relation to inquiries under the said section 31, have effect as from the appointed day as if anything previously done by or in relation to the Council (including any direction given by the Council and in force immediately before that day) had been done by or in relation to the Secretary of State.

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

**C19** 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**

**M66** 1964 c. 40.

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**M67** 1964 c

*Information for the Secretary of State*

- 11 In section 41 of the <sup>M68</sup>Harbours Act 1964 (power to obtain information and forecasts), and in section 2 of the <sup>M69</sup>Harbours (Loans) Act 1972 (which extends that power), as from the appointed day—
- (a) for “the Council”, wherever occurring, there is substituted “the Secretary of State”; and
  - (b) for “their functions”, wherever occurring, there is substituted “his functions”;
- and any notice served by the Council under the said section 41 and not complied with before the appointed day has effect on and after that day as if it had been served by the Secretary of State and as if the information or forecasts required by it were required to be furnished to him.

**Marginal Citations**

**M68** 1964 c. 40.

**M69** 1972 c. 16.

*Pending proceedings for harbour reorganisation scheme*

- 12 A harbour reorganisation scheme submitted to the Secretary of State by the Council under section 18 of the Harbours Act 1964 which is being proceeded with under Schedule 4 to that Act immediately before the appointed day shall be proceeded with as from that day—
- (a) as if it were one proposed to be made by the Secretary of State under that section and Schedule as amended by paragraph 6 of Schedule 6 to this Act; and
  - (b) as if anything done under and in accordance with the provisions applicable to schemes submitted by the Council had been the corresponding thing to be done under and in accordance with the provisions applicable to schemes proposed to be made by the Secretary of State.

13 ..... <sup>F22</sup>

**Textual Amendments**

**F22** Sch. 5 Pt. I paras. 13, 14(6) repealed by Dock Work Act 1989 (c. 13, SIF 43:1), s. 7(1), Sch. 1 Pt. I

*Textual amendments to facilitate repeals*

- 14 (1) The following amendments (which do not alter the effect but facilitate express repeals in passages referring to the Council) have effect as from the appointed day.
- (2) In section 17(1)(a), (b) and (g) of the <sup>M70</sup>Harbours Act 1964 and in Parts I, II, and VII of Schedule 3 to that Act for “the Minister”, wherever occurring, there is substituted “the Secretary of State”.

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- (3) In section 17(1) of the Harbours Act 1964, at the end of the paragraphs there is inserted—

“and the said Parts I, II and VII shall have effect with respect to the procedure for the making of orders by the Minister of Agriculture, Fisheries and Food with the substitution, except in paragraph 6(2), of references to him for references to Secretary of State.”

- (4) In paragraph 4(5) and paragraph 8(4) of Schedule 3 to the Harbours Act 1964, and in paragraph 3(6) of Schedule 4 to that Act, for the opening words down to “reported on and” (which require the Secretary of State, before making an order or confirming a scheme, to consider a report of the Council and the documents reported on) there is in each case substituted—

“After considering the objections (if any) made and not withdrawn, and the reports of any person who held an inquiry and any person appointed for the purpose of hearing an objector, the Secretary of State”.

- (5) In paragraph 2(d) of Schedule 4 to the Harbours Act 1964 for such a local lighthouse authority as aforesaid there is substituted “ a local lighthouse authority who are not a harbour authority, ” and for the like documents as would be required to be served in compliance with sub-paragraph (c) above had the scheme been submitted by the Council there is substituted “ a copy of the scheme, together, (if copies of a map or maps were deposited with it) with a copy of that map, or copies of those maps were deposited with it) with a copy of that map, or copies of those maps, and, in any event, with a notice stating that the scheme has been submitted to the Secretary of State and that, if the authority served desire to make to the Secretary of State objection to the scheme, they should do so in writing (stating the grounds of their objection) before the expiration of the period of forty-two days from the date on which the notice is served on them ”.

- (6) ..... F23

**Textual Amendments**

**F23** Sch. 5 Pt. I paras. 13, 14(6) repealed by Dock Work Act 1989 (c. 13, SIF 43:1), s. 7(1), Sch. 1 Pt. I

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

**C20** The text of Sch. 5 Pt. I para. 14, Sch. 6, Sch. 10 Pts. I, II is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**Marginal Citations**

**M70** 1964 c. 40.

*Power to adjust local enactments*

- 15 (1) If it appears to the Secretary of State that the operation of section 15(1)(a) or of any of the preceding paragraphs of this Schedule in relation to any enactment of local application (including any provision of a public general Act as applied by such an enactment) is uncertain or produces a result which is anomalous or confusing, he may by order direct that the enactment shall have effect as may be specified in the

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order, or not have effect, as may appear to him requisite in consequence of section 15 and this Schedule.

- (2) An order under this paragraph shall have effect from such date as may be specified in the order, which may be a date before the making of the order but not earlier than the appointed day.
- (3) An order under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## PART II

### FURTHER PROVISIONS WITH RESPECT TO CHARGING SCHEMES

#### *Preliminary*

- 16 In the following provisions of this Schedule “charging scheme” and “harbour authority” have the same meaning as in section 17.

#### *Procedure for making charging scheme*

- 17 (1) Before he makes a charging scheme the Secretary of State shall publish in such manner as he thinks fit a notice—
- (a) stating that he proposes to make the scheme;
  - (b) specifying a place where copies of the draft scheme may be obtained free of charge by harbour authorities affected by the scheme; and
  - (c) stating that a harbour authority who desire to make to the Secretary of State objections to the scheme should do so in writing before the expiration of such period from the date of publication of the notice (not being less than 42 days) as may be specified in the notice,
- and shall send a copy of the scheme to each harbour authority known to him whom he believes to be affected by the scheme.
- (2) The Secretary of State shall consider any objections duly made to him with respect to the draft scheme and may, if he thinks fit to do so, make the scheme either without modification or with such modifications as he thinks fit (but not including any that in any way increase the charges proposed in the draft scheme).
  - (3) A charging scheme shall come into operation on such date as may be specified in the scheme.

#### *Supplementary and incidental provisions*

- 18 A charging scheme may include such supplementary and incidental provisions as appear to the Secretary of State to be necessary or expedient.

#### *Information*

- 19 (1) Without prejudice to the generality of paragraph 18, a charging scheme may provide for requiring a harbour authority to whom the scheme relates to furnish to the Secretary of State, and if so required to verify, such information as he may require for the purposes of the scheme, being information relating to—



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- (a) any harbour (within the meaning of the <sup>M71</sup>Harbours Act 1964) which that harbour authority are engaged in improving, maintaining or managing; or
  - (b) any activities carried on by them at such a harbour; or
  - (c) any property used by them for the purpose of such a harbour,
- and may provide that failure to comply with any such requirement is an offence punishable on summary conviction with a fine not exceeding such sum (not greater than £500) as may be specified in the scheme.
- (2) No person shall disclose any information furnished to him in pursuance of a requirement imposed under sub-paragraph (1) except—
- (a) with the consent of the person by whom it was furnished; or
  - (b) in the form of a summary of information so framed as not to enable particulars relating to the businesses of individual persons to be ascertained from it; or
  - (c) for the purpose of enabling the Secretary of State to discharge his functions under this Part; or
  - (d) for the purposes of any legal proceedings.
- (3) It is an offence for a person—
- (a) to make in response to a requirement imposed under sub-paragraph (1) a statement which is false in a material particular and which he knows to be so false;
  - (b) to disclose any information in contravention of sub-paragraph (2).
- (4) An offence under sub-paragraph (3) is punishable—
- (a) on summary conviction with imprisonment for a term not exceeding six months, or a fine not exceeding the prescribed sum (within the meaning of section 32 of the <sup>M72</sup>Magistrates' Courts Act 1980 or section 289B of the <sup>M73</sup>Criminal Procedure (Scotland) Act 1975), or both;
  - (b) on conviction on indictment, with imprisonment for a term not exceeding two years, or a fine, or both.

#### **Marginal Citations**

**M71** 1964 c. 40.

**M72** 1980 c. 43.

**M73** 1975 c. 21.

#### *Repayments and avoidance of over-payments*

- 20 If it appears to the Secretary of State that the contributions paid or to be paid under charging schemes made by him exceed or are likely to exceed the amount necessary for the purpose mentioned in section 16(1), he shall by order made by statutory instrument make such provision as appears to him necessary or expedient for—
- (a) terminating or reducing liabilities imposed by virtue of those schemes; or
  - (b) entitling authorities who have paid contributions imposed by virtue of those schemes to repayment of such proportion of those charges as may be determined by the Secretary of State;
- and such an order may contain such supplementary and incidental provisions as appear to the Secretary of State to be necessary or expedient, including provision

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for modifying so much of any of those schemes as relates to the manner of payment of contributions payable under the scheme.

## SCHEDULE 6

Section 18.

### AMENDMENTS OF <sup>M74</sup>THE HARBOURS ACT 1964

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

**C21** The text of Sch. 5 Pt. I para. 14, Sch. 6, Sch. 10 Pts. I, II is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**Marginal Citations**

**M74** 1964 c. 40.

*Abolition of power to make certain grants for harbour works, etc.*

- 1 Section 12 (power to give assistance to harbour authorities by way of grant for harbour works, etc.) is repealed.

*Consolidation, etc. of local enactments by harbour revision orders*

- (2) In section 14 (harbour revision orders) after subsection (2) there is inserted—
- “(2A) The objects for achieving all or any of which a harbour revision order may be made in relation to a harbour include being repealed superseded, obsolete or otherwise unnecessary statutory provisions of local application of affecting the harbour, or consolidating any statutory provisions of local application affecting the harbour ; and subsection (2)(b) of this section does not apply to an order in so far as it is made for objects mentioned in this subsection.”.

*Ancillary provisions in harbour revision and empowerment orders and harbour reorganisation schemes*

- 3 In section 14(3), 16(6) and 18(2)(i) (ancillary provisions which may be included in a harbour revision or empowerment order or in a harbour reorganisation scheme) for consequential or incidental there is substituted “ supplementary, consequential or incidental ”.

*Harbour revision and empowerment orders not subject to special parliamentary procedure in certain cases*

- 4 (1) Sections 14(6) and 16(8) (which make all harbour revision and empowerment orders subject to special parliamentary procedure) are repealed; but Schedule 3 is amended as follows.

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(2) In Part I of that Schedule (procedure for making orders on application to the Secretary of State), after paragraph 4 there is inserted—

“4A (1) The provisions of this paragraph have effect where the Secretary of State makes—

- (a) a harbour revision order relating to a harbour in England or Wales; or
- (b) a harbour empowerment order relating to a harbour or to works to be carried out in England or Wales,

and, in either case, the order is opposed.

(2) For the purposes of this paragraph an order is opposed if—

- (a) an objection to the application for the order has been duly made and not withdrawn, not being an objection which the Secretary of State is entitled to disregard for the purposes of paragraph 4 above or which in his opinion is frivolous or trivial; or
- (b) a comment in writing on proposed modifications to the order applied for has been duly made to the Secretary of State and not withdrawn, which in his opinion would have been duly raised in connection with a provision of the original draft order have amounted to such an objection as is mentioned in paragraph (a) above;

and references in this paragraph to a person opposing the order shall be construed accordingly.

(3) The Secretary of State shall give notice of the making of the order and its effect to each person opposing the order and the order shall, subject to sub-paragraph (4) below, become operative on the expiration of 28 days from the date of the notice given (or last given) under this sub-paragraph or on such later date as the Secretary of State may appoint.

- (4) If within 28 days after the date of a notice given to him under sub-paragraph (3) above a person gives notice to the Secretary of State that he maintains his opposition to the order, and his opposition is not withdrawn within that period, the order shall be subject to special parliamentary procedure.

4B A harbour revision order relating to a harbour in Scotland and a harbour empowerment order relating to a harbour or to works to be carried out in Scotland shall in every case be subject to special parliamentary procedure.”.

(3) In paragraph 5 (duties of applicant after making of order), at the end of sub-paragraph (a) (duty to publish notices) there is inserted “ and further stating, in the case of an order to which paragraph 4B above does not apply, whether the order is affected by the provisions of paragraph 4A above and, where it is not so affected, the date on which it came or will come into operation ”.

(4) After paragraph 5 there is inserted—

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“5A Where an order is affected by the provisions of paragraph 4A above but is not, in the event, subject to special parliamentary procedure, the Secretary of State shall as soon as may be after the expiration of the period (or latest period) of 28 days referred to in sub-paragraph (3) of that paragraph publish by Gazette and local advertisement of a notice stating that the order is not so subject and indicating the date on which it came or will come into operation.”.

(5) In Part II of that Schedule (procedure for the making of orders by the Secretary of State of his own motion), after paragraph 8 there is inserted—

“8A (1) The provisions of this paragraph have effect where the Secretary of State makes—

- (a) a harbour revision order relating to a harbour in England or Wales; or
- (b) a harbour empowerment order relating to a harbour or to works to be carried out in England or Wales,

and in either case, the order is opposed.

(2) For the purposes of this paragraph an order is opposed if—

- (a) an objection to the application for the order has been duly made and not withdrawn, not being an objection which the Secretary of State is entitled to disregard for the purposes of paragraph 8 above or which in his opinion is frivolous or trivial; or
- (b) a comment in writing on proposed modifications to the order applies for has been duly made to the Secretary of State and not withdrawn, which in his opinion would if duly raised in connection with a provision of the original draft order have amounted to such an objection as is mentioned in paragraph (a) above;

and references in this paragraph to a person opposing the order shall be construed accordingly.

(3) The Secretary of State shall give notice of the making of the order and its effect to each person opposing the order and the order shall, subject to sub-paragraph (4) below, become operative on the expiration of 28 days from the date of the notice given (or last given) under this sub-paragraph or on such later date as the Secretary of State may appoint.

(4) If within 28 days after the date of a notice given to him under sub-paragraph (3) above a person gives notice to the Secretary of State that he maintains his opposition to the order, and his opposition is not withdrawn within that period, the order shall be subject to special parliamentary procedure.

8B A harbour revision order relating to a harbour in Scotland and a harbour empowerment order relating to a harbour or works to be carried out in Scotland shall in every case be subject to special parliamentary procedure.”.

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(6) In paragraph 9 (duty of Secretary of State to publish notice of making of order, etc.), after “hours there is inserted “ and further statin, the case of an order to which paragraph 8B above does not apply, whether the order is affected by the provisions of paragraph 8A above and, where it is not so affected, the date on which it came or will come into operation ”.

(7) After paragraph 9 there is inserted—

“9A Where an order is affected by the provisions of paragraph 8A above but is not, in the event, subject to special parliamentary procedure, the Secretary of State shall as soon as may be after the expiration of the period (or latest period) of 28 days referred to in sub-paragraph (3) of that paragraph publish by Gazette and local advertisement a notice sating that the order is not so subject and indicating the date on which it came or will come into operation.”.

(8) The preceding provisions of this paragraph do not apply to a harbour revision or empowerment order in relation to which the notices required by paragraph 3(a) or 7(a) of Schedule 3 have been published before this paragraph comes into force.

*Power to reduce Ministerial appointments to harbour authorities*

5 (1) The following section is inserted after section 15—

**“15A Ministers’ powers to make orders about port appointments.**

(1) —

Each of the Ministers may, subject to subsection (2) of this section, by order vary the constitution of a harbour authority so far as it provides for the appointment by him of any member or members of the authority—

- (a) so as to abolish the power of appointment (except where the power is to appoint the chairman of the authority); or
- (b) so as to provide for the power of appointment to be exercised by such other person or persons as may be specified in the order.

(2) No order under this section may be made by the Secretary of State with respect to the constitution of a harbour authority if under the constitution all the members of the authority, apart from the *ex officio* and co-opted members, are appointed by him.

(3) An order under this section—

- (a) may relate to more than one harbour authority; and
- (b) may contain such supplementary, incidental and consequential provisions as appear to the Minister making the order to be necessary or expedient;

and where the constitution of a harbour authority provides for the appointment by the Minister making the order of more than one member, an order under this section may make different provision for each member falling to be so appointed amd may make provision for some only of those members.

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- (4) A Minister proposing to make an order under this section shall before doing so consult the harbour authority concerned and other such persons affected, or bodies representative of such persons, as he thinks fit.
- (5) In this section “the Ministers” means the Secretary of State and the Minister of Agriculture, Fisheries and Food.”.
- (2) In section 44 (which provides for a statutory application for review of certain orders within a six week time limit)—
  - (a) in subsection (1) after “of that Act)” there is inserted “ or an order under section 15A of this Act, ”; and
  - (b) in subsection (3) after “empowerment order” there is inserted “ , or an order under section 15A of this Act, ”.
- (3) In section 54(2) (which provides for negative resolution procedure for certain orders) after “9(1),” there is inserted “ 15A, ”.

*Secretary of State’s power to make harbour reorganisation schemes of his own motion*

- 6 (1) In section 18 (harbour reorganisation schemes) the following subsection is inserted after subsection (1) (submission of scheme to Secretary of State by relevant authorities)—
 

“(1A) If the Secretary of State is of opinion that, with a view to securing the efficient and economical development of any such group of harbours as is mentioned in subsection (1) of this section, a harbour reorganisation scheme ought to be made providing for all or any of the matters for which provision may be made for such a scheme, he may by order make a harbour reorganisation scheme providing for those matters.”.
- (2) For subsection (4) of section 18 (which introduces Schedule 4 and provides for special parliamentary procedure) there is substituted—
 

“(4) The provisions of Schedule 4 to this Act shall have effect as follows with respect to the procedure for confirming and making harbour reorganisation schemes—

  - (a) Part I of that Schedule shall have effect with respect to the procedure for confirming schemes submitted to the Secretary of State;
  - (b) Part I of that Schedule shall, subject to the modifications specified in Part II thereof, have effect with respect to the procedure for the making of schemes by the Secretary of State of his own motion;

and a harbour reorganisation scheme as confirmed or made by the Secretary of State shall be subject to special parliamentary procedure.”.
- (3) In subsections (5) and (6) of section 18 (restrictions on orders containing certain provisions) after “confirm” there is inserted “ or make ”.
- (4) In section 44 (statutory application for review of orders within six week time limit), in subsection (4) which extends the foregoing provisions of the section to harbour reorganisation schemes)—
  - (a) after “confirmed”, where first occurring, there is inserted “ or made ”; and
  - (b) after “with the substitution” there is inserted “ , in relation to a harbour reorganisation scheme confirmed by the Secretary of State, ”.

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(5) In section 47(3) (inquiries into schemes relating to Scotland) after “confirmation” there is inserted “or making”.

(6) For the heading before paragraph 1 of Schedule 4 there is substituted—

“PROCEDURE FOR CONFIRMING AND MAKING HARBOUR REORGANISATION SCHEMES

## PART I

### PROCEDURE FOR SUBMISSION AND CONFIRMATION OF HARBOUR REORGANISATION SCHEMES”.

(7) After paragraph 4 of Schedule 4 there is inserted—

## “PART II

### MODIFICATIONS SUBJECT TO WHICH PART I HAS EFFECT WITH RESPECT TO PROCEDURE FOR MAKING HARBOUR REORGANISATION SCHEMES BY THE SECRETARY OF STATE OF HIS OWN MOTION.

5 References to confirming a scheme shall be construed as references to making a scheme.

6 Paragraph 1 shall be omitted.

7 In paragraph 2—

(a) for the opening words down to “proceed there shall be substituted “Where the Secretary of State proposes to make, of his own motion, a harbour reorganisation scheme;

(b) for the words “has been submitted to wherever occurring there shall be substituted the words “is proposed to be made by and in sub-paragraph (d) the words “and are not parties to the submission of the scheme shall be omitted;

(c) for any reference in sub-paragraph (a), (b) or (d) to a map deposited with a scheme there shall be substituted a reference to a map to be annexed to the scheme.

8 In paragraph 3—

(a) in sub-paragraph (1) for the words “submitted to there shall be substituted the words “proposed to be made by”;

(b) in sub-paragraph (7) for the words “as submitted to him” there shall be substituted the words “as served under paragraph 2(d) above on the authorities there mentioned, and there shall be omitted the words “that submitted the scheme to him” and the words “that submitted the scheme”.

9 In paragraph 4 for the words “submitted to” there shall be substituted the words “proposed to be made by”.

(8) In section 42(2) of the <sup>M75</sup>Docks and Harbours Act 1966 (further provision as to harbour reorganisation schemes)—

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- (a) for “submission and confirmation there is substituted “ confirmation and making ”; and
- (b) in paragraph (b), for the words from “a submission to “in relation to there is substituted “ the submission to the Secretary of State of a harbour reorganisation scheme and to a proposal by the Secretary of State to make such a scheme of his own motion as it applies in relation to the making of”.

**Marginal Citations**

**M75** 1966 c. 28.

*Abolition of power to make control of movement orders*

- 7 Sections 20 to 25 and Schedule 5 (control of movement orders) are repealed.

*Ship, passenger and goods dues and other charges*

- 8 (1) After section 27 there is inserted—

**“27A Combined charges.**

- (1) Where a harbour authority have power, whether by virtue of section 26 of this Act or any other statutory provision—
    - (a) to levy ship, passenger and goods dues or equivalent dues; and
    - (b) to make other charges,
 the authority may, subject to the next following subsection, make a combined charge, that is to say, a single charge referable in part to matters for which ship, passenger and goods dues or equivalent dues may be levied and in part to matters for which other charges may be made.
  - (2) A harbour authority may not make a combined charge in any case where—
    - (a) the person who would be liable to pay the charge objects to paying a combined charge; or
    - (b) a number of persons would be jointly and severally liable to pay the charge and any of them objects to paying a combined charge;
 but without prejudice to the power of the authority to make separate charges in such a case.
  - (3) A person may not object under subsection (2) above to the payment of a combined charge previously incurred or incurred in pursuance of a prior agreement between that person and the harbour authority.
  - (4) In this section “equivalent dues” means dues exigible in respect of things other than ships for entering, using or leaving a harbour, including charges for marking or lighting the harbour.”.
- (2) In section 30 (duties with respect to keeping of lists of charges, etc.) after subsection (4) there is inserted—
- “(5) Subsection (1) of this section does not apply to combined charges within the meaning of section 27A of this Act.



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- (6) References in this section to the dues or charges exigible by an authority or Board are references to the amount exigible where no composition agreement applies and no specially agreed rebate is allowed.”.
- (3) In section 31 (right of objection to ship, passenger and goods dues), at the end of subsection (1) (charges to which the section applies) there is inserted “ other than combined charges within the meaning of section 27A of this Act ; and references in this section to the rate at which any such charge is imposed are to the amount where no composition agreement applies and no specially agreed rebate is allowed ”.

*Abolition of power to revise certain charges*

- 9 (1) Sections 32 to 34 (powers of Ministers to revise ship, passenger and goods dues) are repealed.
- (2) Section 35 (local light dues) is repealed so far as it applies sections 32 and 34.

*Accounts and reports relating to harbour activities and associated activities*

- 10 For section 42 (accounts relating to harbour undertakings) there is substituted—

**“42 Accounts and reports relating to harbour activities and associated activities.**

- (1) It shall be the duty of every statutory harbour undertaker to prepare an annual statement of accounts relating to the harbour activities and to any associated activities carried on by him.
- (2) Where a statutory harbour undertaker is a holding company with subsidiaries which carry on harbour activities or any associated activities, then, without prejudice to the company’s duty under subsection (1) above, it shall be the duty of the company to prepare an annual statement of accounts relating to the harbour activities and associated activities carried on by it and its subsidiaries.
- (3) The requirements of subsection (1) or subsection (2) above are not satisfied by the preparation of a statement of accounts which relates to other matters in addition to harbour activities and associated activities.
- (4) Where provision is made for the auditing of accounts prepared by any person otherwise than under this section which relate to harbour activities carried on by him (whether or not they relate to other matters) that provision shall apply also to any statement prepared by him under this section.
- (5) It shall be the duty of any person by whom a statement of accounts is prepared in accordance with this section —
- (a) to send to the Secretary of State a copy of the statement together with a copy of the auditor’s report on it; and
- (b) to prepare and send to the Secretary of State a report on the state of affairs disclosed by the statement.
- (6) Subject to any regulations made under the next following subsection, the provisions of the Companies Acts 1948 to 1980 as to the form and contents of

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- accounts and reports required to be prepared under those Acts shall apply to accounts and reports required to be prepared under this section, as follows—
- (a) the provisions relating to company accounts shall apply to statements prepared in accordance with subsection (1) above;
  - (b) the provisions relating to group accounts shall apply to statements prepared in accordance with subsection (2) above; and
  - (c) the provisions relating to the directors' report required to be attached to a company's balance sheet shall apply to reports prepared in accordance with subsection (5)(b) above.
- (7) The Secretary of State may make provision by regulations with respect to the form and contents of accounts and reports prepared under this section—
- (a) prescribing cases in which the provisions of the Companies Acts 1948 to 1980 referred to in subsection (6) above are not to apply;
  - (b) modifying those provisions;
  - (c) prescribing requirements additional to those imposed by those provisions.
- (8) Where a statutory harbour undertaker is obliged by a statutory provision of local application to prepare accounts, then, so far as those accounts relate to harbour activities or associated activities, any requirements of the statutory provision of local application as to the form and contents of the accounts shall be treated as satisfied by the preparation of accounts in the same manner that is required for a statement under this section.
- (9) In this section—
- “associated activities”, in relation to any harbour activities means such activities as may be prescribed in relation to those activities by regulations made by the Secretary of State;
- “harbour activities” means activities involved in carrying on a statutory harbour undertaking or in carrying out harbour operations;
- “holding company” and “subsidiary” have the meaning given by section 154 of the Companies Act 1948;
- “statutory harbour undertaking” means an undertaking or part of an undertaking, whose activities consist wholly or mainly of the improvement, maintenance or management of a harbour in the exercise and performance of statutory powers and duties, and “statutory harbour undertaker shall be construed accordingly.
- (10) Regulations under subsection (7) or (9) above may be made so as to apply to all undertakers, to a class of undertakers or to a particular undertaker.
- (11) This section does not apply to—
- (a) the Boards;
  - (b) a statutory harbour undertaker the activities of whose undertaking consist wholly or mainly in the improvement, maintenance or management of a fishery harbour or marine work;
  - (c) a statutory harbour undertaker of a class exempted from this section by regulations made by the Secretary of State.”.

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### *Inquiries*

- 11 (1) In section 47(1) (which as amended by section 272(2) of the <sup>M76</sup>Local Government Act 1972 applies certain provisions of section 250 of that Act to inquiries and hearings under the <sup>M77</sup>Harbour Act 1964), paragraph (a)(i) and the words “(i) and (which are ineffective as a result of that amendment) are repealed.
- (2) In section 47(3) (power to direct that inquiries in Scotland be held by Commissioners under the <sup>M78</sup>Private Legislation Procedure (Scotland) Act 1936) for “or paragraph 3(3) of Schedule 4 there is substituted “ or paragraph 3(5) of Schedule 4 ”.

#### **Marginal Citations**

**M76** 1972 c. 70

**M77** 1964 c. 40.

**M78** 1936 c. 52.

### *Abolition of preliminary consideration of application for harbour revision or empowerment order*

- 12 Paragraph 2 of Schedule 3 (Secretary of State’s preliminary consideration of applications for harbour revision or empowerment orders) is repealed; and accordingly in paragraph 3 of that Schedule—
- (a) for the words from the beginning to “allowed to proceed there is substituted “ Where an application for a harbour revision order has been duly made to the Secretary of State ”;
- (b) for “further steps there is substituted “ any steps (otherwise than under this paragraph) ”; and
- (c) in paragraph (d) for “be contemporaneously there is substituted “ and within such time as may be so specified, be ”.

### *Penalties for offences*

- 13 (1) ..... <sup>F24</sup>
- (2) In section 31(8) (failure by authority to comply with direction) for “£100 there is substituted “ £500 ”.
- (3) In section 41(3) (failure to comply with notice to furnish information or forecasts) for the words from “£50 to the end there is substituted “ £500 ”.
- (4) The amendments made by this paragraph do not apply in relation to offences committed before this paragraph comes into force.

#### **Textual Amendments**

**F24** Sch. 6 para. 13(1) repealed by [Ports \(Finance\) Act 1985 \(c. 30, SIF 43:1\)](#), s. 6(2), [Sch.](#)

- 14 (1) Section 14(3) and 16(6) (penalties which may be provided for by harbour revision or empowerment orders or harbour reorganisation schemes) are amended as follows—
- (2) In paragraph (a) (penalties on summary conviction), for “the infliction on him of a fine exceeding £100 there is substituted—

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“

- (i) in the case of an offence triable either summarily or on indictment, the infliction on him of a fine exceeding the prescribed sum with the meaning of section 32 of the Magistrates' Courts Act 1980 or section 289B of the Criminal Procedure (Scotland) Act 1975;
  - (ii) in the case of an offence triable only summarily, the infliction on him of a fine exceeding £500 or, in the case of a continuing offence, a daily fine exceeding £50 for each day on which the offence continues after conviction;”.
- (3) In paragraph (b) (penalties on conviction on indictment) for the words from “imprisonment to the end there is substituted “ a penalty other than a fine ”.
- 15 (1) In sections 45(i) and 46(2)(a) (penalties on summary conviction for, respectively, furnishing false information and improperly disclosing information or forecasts) for “three months there is substituted “ six months ”.
- (2) The amendments made by this paragraph do not apply in relation to offences committed before this paragraph comes into force.

## SCHEDULE 7

. . . F25

### Textual Amendments

**F25** Schs. 7, 8, 9 Pt. I repealed by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), ss. 3, 5, Sch. 1 Pt. I, **Sch. 4 paras. 1–3**

## SCHEDULE 8

. . . F26

### Textual Amendments

**F26** Schs. 7, 8, 9 Pt. I repealed by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), ss. 3, 5, Sch. 1 Pt. I, **Sch. 4 paras. 1–3**

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## SCHEDULE 9

Section 30.

### CONSEQUENTIAL AND MINOR AMENDMENTS OF ROAD TRAFFIC ACT 1972 AND SECTION 56 OF THE CRIMINAL JUSTICE ACT 1967

#### PART I

... F27

##### Textual Amendments

**F27** Schs. 7, 8, 9 Pt. I repealed by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), ss. 3, 5, Sch. 1 Pt. I, **Sch. 4 paras. 1–3**

#### PART II

##### SECTION 56 OF THE CRIMINAL JUSTICE ACT 1967 (C. 80)

25 The words “ or section 19 of the Transport Act 1981 ” are inserted after the words “the Road Traffic Act 1972 in subsections 1(b), (6) and (13).

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

**C22** 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

## [<sup>F28</sup>SCHEDULE 10

Section 32.

### ROAD HUMPS

##### Textual Amendments

**F28** Sch. 10 repealed (S.) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), **Sch. 11**

*Status: Point in time view as at 01/04/1991.*

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## PART I

### PROVISION FOR ENGLAND AND WALES

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

**C23** The text of Sch. 5 Pt. I para. 14, Sch. 6, Sch. 10 Pts. I, II is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

- 1 In section 62(3) of the <sup>M79</sup>Highways Act (descriptions of works for which specific powers are given and in relation to which the general power in that section does not apply), the following paragraph is inserted after paragraph (f)—
- “(ff) the construction, maintenance and removal of road humps;”.

#### Marginal Citations

**M79** 1980 c. 66.

- 2 The following provisions are inserted after section 90 of the <sup>M80</sup>Highways Act 1980—

#### *“ Road Humps*

#### **Construction of road humps by highway authority.**

- (1) A highway authority may construct road humps in a highway maintainable at the public expense for which they are the highway authority if—
  - (a) the highway is subject to a statutory speed limit for motor vehicles of 30 miles per hour or less; or
  - (b) the road humps are specially authorised by the Secretary of State, and may remove any road humps so constructed by them.
- (2) The consent of the Greater London Council is required for the construction of road humps under this section by a London borough council or the Common Council.

#### **Additional powers of the Secretary of State.**

- (1) The Secretary of State may construct road humps in a highway maintainable at the public expense for which he is not the highway authority if—
  - (a) the highway is subject to a statutory speed limit for motor vehicles of 30 miles per hour or less; or
  - (b) the road humps are specially authorised by him, and may maintain and remove any road humps so constructed by him.
- (2) The consent of the local highway authority for the highway concerned is required for the construction of road humps under this section and also, in the case of a highway in Greater London for which the Greater London Council are not the highway authority, the consent of that Council.

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- (3) The Secretary of State and the local highway authority may enter into an agreement for the carrying out by the local highway authority of any works which the Secretary of State has power to carry out under this section.
- (4) Subject to subsection (5) below, the consent of the Secretary of State is required before the local highway authority or any other person having power to maintain the highway may remove or otherwise interfere with a road hump constructed under this section.
- (5) If the Secretary of State so directs with the consent of the local highway authority the local highway authority shall have the same powers in relation to a road hump constructed under this section as they have in relation to a road hump constructed by them under section 90A above.
- (6) Where a road hump has been constructed under this section, the local highway authority and any other person having power to maintain the highway may reimburse the Secretary of State the whole or part of his expenses in relation to the road hump.

#### **Consultation and local inquiries.**

- (1) Where the Secretary of State or a local highway authority propose to construct a road hump under section 90A or 90B above, he or they shall consult with—
  - (a) the chief officer of police for the area in which the highway concerned is situated; and
  - (b) such other persons or bodies as may be prescribed by regulations made by the Secretary of State.
- (2) The Secretary of State or local highway authority shall also—
  - (a) publish in one or more newspapers circulating in the area in which the highway concerned is situated; and
  - (b) place at appropriate points on that highway,  
a notice of the proposal stating the nature, dimensions and location of the proposed road hump and the address to which and the period within which any objections to the proposal may be sent.
- (3) The period stated in a notice under subsection (2) above shall be not less than 21 days beginning with the date on which the notice is first published in accordance with paragraph (a) of that subsection.
- (4) The Secretary of State or local highway authority shall consider any objections sent to him or them in accordance with a notice under subsection (2) above and may, if he or they think fit, cause a local inquiry to be held.
- (5) Subsections (2) to (5) of section 250 of the Local Government Act 1972 (provisions as to inquiries) have effect in relation to an inquiry held under subsection (4) above as they have effect in relation to an inquiry held under that section, but with such modifications as may be prescribed by regulations made by the Secretary of State.
- (6) Before making regulations under this section the Secretary of State shall consult such representative organisations as he thinks fit.

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### **Regulations concerning construction and maintenance of road humps.**

- (1) The Secretary of State may by regulations make such provision in relation to the construction and maintenance of road humps as appears to him to be necessary or expedient in the interests of safety and the free movement of traffic, and may in particular—
  - (a) provide that road humps shall be constructed only in highways of such descriptions and in such circumstances as may be prescribed by the regulations;
  - (b) impose requirements as to—
    - (i) the nature, dimensions, location and spacing of road humps;
    - (ii) the placing of signs of such type or character as may be so prescribed;
    - (iii) the carrying out and maintenance of other ancillary or consequential works.
- (2) Regulations under this section may make different provision for different cases, as for example for road humps and highways of different descriptions.
- (3) Before making any regulations under this section the Secretary of State shall consult with such representative organisations as he thinks fit.
- (4) Regulations under this section do not apply where a road hump is specially authorised by the Secretary of State, but conditions attached by him to the authorisation may, in particular, relate to any of the matters with respect to which regulations may be made under this section.

### **Status of road humps.**

- (1) Where a road hump conforms to regulations under section 90D above and, in the case of a road hump in a highway maintainable at the public expense, the conditions mentioned in subsection (2) below are satisfied, the road hump shall not be treated as constituting an obstruction to the highway but as part of the highway, so that in particular—
  - (a) the obligation of any person to maintain the highway; and
  - (b) the obligation of any person having power to break open the highway to make good any damage or otherwise reinstate the highway.

extend to maintaining or, as the case may be, making good any damage to or otherwise reinstating the road hump.
- (2) The further conditions applicable in the case of a road hump in a highway maintainable at the public expense are—
  - (a) that the highway is for the time being subject to a statutory speed limit for motor vehicles of 30 miles per hour or less or the road hump is specially authorised by the Secretary of State; and
  - (b) that the road hump was constructed under section 90A or 90B above or was constructed at a time when the highway was not maintainable at the public expense.
- (3) In relation to a road hump specially authorised by the Secretary of State the reference in subsection (1) above to conformity with regulations shall be



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construed as a reference to conformity with the conditions attached to the authorisation.

- (4) In so far as it does not apply apart from this subsection, Part II of the Public Utilities Street Works Act 1950 (code regulating relations between persons carrying out alterations to roads and statutory undertakers having apparatus in those roads) applies in relation to the construction, maintenance and removal of a road hump as if the works were executed for road purposes and were mentioned in section 21(1)(a) of that Act and as if the person executing them were the promoting authority within the meaning of that Part.

### Meaning of “road hump and interpretation of sections 90A to 90E.

- (1) In this Act “road hump” means an artificial hump in or on the surface of the highway which is designed to control the speed of vehicles, and references to a road hump include references to any other works (including signs or lighting) required in connection with such a hump.
- (2) In sections 90A to 90E above—
- “motor vehicle” has the same meaning as in the Road Traffic Regulation Act 1967; and
- “statutory” means having effect by virtue of an enactment.”.

#### Marginal Citations

**M80** 1980 c. 66.

- 3 In section 329(1) of the <sup>M81</sup>Highways Act 1980 (interpretation) the following is inserted at the appropriate place—

“road hump” has the meaning provided by section 90F(1); ”.

#### Marginal Citations

**M81** 1980 c. 66.

## PART II

### PROVISION FOR SCOTLAND

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

**C24** The text of Sch. 5 Pt. I para. 14, Sch. 6, Sch. 10 Pts. I, II is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

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*Construction of road humps by highway authority*

- 4 A highway authority may construct road humps in a highway for which they are the highway authority if—
- (a) the highway is subject to a statutory speed limit for motor vehicles of 30 miles per hour or less; or
  - (b) the road humps are especially authorised by the Secretary of State, and may remove any road humps so constructed by them.

*Additional powers of the Secretary of State*

- 5 (1) The Secretary of State may, with the consent of the local highway authority for the highway concerned, construct road humps in a highway for which he is not the highway authority if—
- (a) the highway is subject to a statutory speed limit for motor vehicles of 30 miles per hour or less; or
  - (b) the road humps are specially authorised by him, and may maintain and remove any road humps so constructed by him.
- (2) The Secretary of State and the local highway authority may enter into an agreement for the carrying out by the local highway authority of any works which the Secretary of State has power to carry out under this paragraph.
- (3) Subject to sub-paragraph (4), the consent of the Secretary of State is required before the local highway authority may remove or otherwise interfere with a road hump constructed under this paragraph.
- (4) If the Secretary of State so directs with the consent of the local highway authority, the local highway authority shall have the same powers in relation to a road hump constructed under this paragraph as they have in relation to a road hump constructed by them under paragraph 4.
- (5) Where a road hump has been constructed under this paragraph, the local highway authority may reimburse the Secretary of State the whole or part of his expenses in relation to the road hump.

*Consultation and local inquiries*

- 6 (1) Where the Secretary of State or a local highway authority propose to construct a road hump under paragraph 4 or 5, he or they shall consult with—
- (a) the chief officer of police for the area in which the highway concerned is situated; and
  - (b) such other persons or bodies as may be prescribed by regulations made by the Secretary of State.
- (2) The Secretary of State or local highway authority shall also—
- (a) publish in one or more newspapers circulating in the area in which the highway concerned is situated; and
  - (b) place at appropriate points on that highway, a notice of the proposal stating the nature, dimensions and location of the proposed road hump and the address to which and the period within which any objections to the proposal may be sent.

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- (3) The period stated in a notice under sub-paragraph (2) shall not be less than 21 days beginning with the date on which the notice is first published in accordance with paragraph (a) of that sub-paragraph.
- (4) The Secretary of State or local highway authority shall consider any objection sent to him or them in accordance with a notice under sub-paragraph (2) and may, if he or they think fit, cause a local inquiry to be held.
- (5) Subsections (2) to (8) of section 210 of the <sup>M82</sup>Local Government (Scotland) Act 1973 (provisions as to inquiries) have effect in relation to an inquiry held under sub-paragraph (4) as they have in effect in relation to an inquiry held under that section, but with such modifications as may be prescribed by regulations made by the Secretary of State.
- (6) Before making regulations under this paragraph the Secretary of State shall consult such representative organisations as he thinks fit.

**Marginal Citations**

**M82** 1973 c. 65.

*Regulations concerning construction and maintenance of road humps*

- 7 (1) The Secretary of State may by regulations make such provision in relation to the construction and maintenance of road humps as appears to him to be necessary or expedient in the interests of safety and the free movement of traffic, and may in particular—
  - (a) provide that road humps shall be constructed only on highways of such descriptions and in such circumstances as may be prescribed by the regulations;
  - (b) impose requirements as to—
    - (i) the nature, dimensions, location and spacing of road humps;
    - (ii) the placing of signs of such type or character as may be so prescribed;
    - (iii) the carrying out and maintenance of other ancillary or consequential works.
- (2) Regulations under this paragraph may make different provision for different cases, as for example for road humps and highways of different descriptions.
- (3) Before making any regulations under this paragraph the Secretary of State shall consult with such representative organisations as he thinks fit.
- (4) Regulations under this paragraph do not apply where a road hump is specially authorised by the Secretary of State, but conditions attached by him to the authorisation may, in particular, relate to any of the matters with respect to which regulations may be made under this paragraph.
- (5) In this paragraph and in paragraph 8 and 9(1) below, and without prejudice to paragraph 9(2) below, the expression “highway” includes any road over which the public have a right of way.

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### *Status of road humps*

- 8 (1) Where a road hump conforms to regulations under paragraph 7 and, in the case of a road hump constructed under paragraph 4 or 5 above, the condition mentioned in sub-paragraph (2) is satisfied, the road hump shall not be treated as constituting an obstruction to the highway but as part of the highway, so that in particular—
- (a) the obligation of any person to maintain the highway; and
  - (b) the obligation of any person having power to break open the highway to make good any damage or otherwise reinstate the highway;
- extend to maintaining or, as the case may be, to making good any damage to or otherwise reinstating the road hump.
- (2) The further condition applicable in the case of a road hump constructed under paragraph 4 or 5 above is that either—
- (a) the highway in question is for the time being subject to a statutory speed limit for motor vehicles of 30 miles per hour or less: or
  - (b) the road hump is specially authorised by the Secretary of State.
- (3) In relation to a road hump specially authorised by the Secretary of State the reference in sub-paragraph (1) to conformity with regulations shall be construed as a reference to conformity with the conditions attached to the authorisation.
- (4) In so far as it does not apply apart from this sub-paragraph, Part II of the <sup>M83</sup>Public Utilities Street Works Act 1950 (code regulating relations between persons carrying out alterations to roads and statutory undertakers having apparatus in those roads) applies in relation to the construction, maintenance and removal of a road hump as if the works were executed for road purposes and were mentioned in section 21(1)(a) of that Act and as if the person executing them were the promoting authority within the meaning of that Part.

#### **Marginal Citations**

**M83** 1950 c. 39.

### *Interpretation and construction*

- 9 (1) In this Part—
- “motor vehicle” has the same meaning as in the <sup>M84</sup>Road Traffic Regulation Act [<sup>F29</sup>1984];
- “road hump” means an artificial hump in or on the surface of the highway which is designed to control the speed of vehicles, and references to a road hump include references to any other works (including signs or lighting) required in connection with such a hump;
- “statutory” means having effect by virtue of an enactment.
- (2) This Part shall be construed as one with the <sup>M85</sup>Roads (Scotland) Act 1970.]

#### **Textual Amendments**

**F29** Figure substituted by [Road Traffic Regulation Act 1984 \(c. 27\), s. 146, Sch. 13 para. 52](#)

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### Marginal Citations

**M84** 1984 c. 27.

**M85** 1970 c. 20.

## F30F30 SCHEDULE 11

### Textual Amendments

**F30** Sch. 11 repealed by Finance Act 1982 (c. 39), s. 157, Sch. 22 Pt. II

F30

## SCHEDULE 12

Section 40.

### REPEALS

### Modifications etc. (not altering text)

**C25** 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

## PART I

### REPEALS CONSEQUENTIAL ON PART II

Chapter	Short title	Extent of repeal
1962 c. 46.	Transport Act 1962.	Section 1(5). Section 9. Section 19(3)(iii). In Schedule 9— (a) paragraph 1; (b) the lists in paragraphs 2(1) and 3(1) of the harbours vesting in the Docks Board.
1964 c. 40.	Harbours Act 1964.	In section 30(1)(b), the words “the British Transport Docks Board”.

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		In section 36(a), the words “the British Transport Docks Board”.
		In section 57(1), in the definition of “the Boards”, the words “the British Transport Docks Board,”.
1968 c. 73.	Transport Act 1968.	Section 41(7). In section 50(1), the words “Docks Board”.
		In Schedule 16, in paragraph 8(2), the words “the Docks Board”.
1975 c. 24.	House of Commons Disqualification Act 1975.	In Part II of Schedule 1, the entry for the British Transport Docks Board.
1975 c. 25.	Northern Ireland Assembly Disqualification Act 1975.	In Part II of Schedule 1, the entry for the British Transport Docks Board.
1980 c. 66.	Highways Act 1980.	In section 219(4)(i)(i), the words “the British Transport Docks Board”.

## PART II

### REPEALS CONSEQUENTIAL ON PART II

Chapter	Short Title	Extent of Repeal
1964 c. 40.	Harbours Act 1964.	Sections 1 to 8. Section 9(6). In section 11(1), the words “and after consulting the Council”. Section 12. Section 14(6). In section 15, in subsection (1) the words “on a representation made to him by the Council”, and subsection (2). Section 16(8). In section 17(1), paragraphs (c) to (f), (h) and (i).

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In section 18(1), the words  
“by the Council or”.

Sections 20 to 25.

In section 31(2), the words  
from the first “and” to  
“sections”.

In section 31(13), the words  
from “and in relation” to the  
end.

Sections 32 to 34, both as  
originally enacted and as  
applied by any enactment.

In section 35, the words “32  
and 34”, the words from “and  
of securing” to “with the  
like consequences”, and the  
paragraphs from (h) onwards.

In section 36, the words “and  
32”.

In section 37, the words “to  
33”.

Section 41(2).

In section 43—

(a) in subsection (1), the  
words “6 or”;

(b) in subsection (2), the  
words “6 or”;

In section 44—

(a) in subsection (1), the  
words from “or who desires  
to “parcel of land” and the  
words from “under the said  
Act of 1945” to “it is made”;

(b) in subsection (1A), the  
words “relating to a harbour  
revision or empowerment  
order”;

(c) subsection (2);

(d) in subsection (3), the  
words from “and an order” to  
the end;

(e) in subsection (5), the  
words “and (2)(a)”.

*Status: Point in time view as at 01/04/1991.*

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In section 45(a), the words “4 or”.

In section 46(1)—

(a) the words “4 or”;

(b) in paragraph (c) the words “the Council or” and “their or”.

In section 47(1)—

(a) paragraph (a)(i);

(b) the word “and” at the end of paragraph (a);

(c) paragraph (b);

(d) the words “(i) and”.

In section 47(2) the words from “and shall” to “Act” where next occurring, and paragraph (a).

In section 49(2) the words “and an order under section 20 of this Act”.

In section 54(2), the words “4,” “20,” and “23”.

In section 57(1), the definitions of “accounting period”, “control of movement order” and “the Council”.

In section 62(1), the words “or an order under section 20 of this Act”.

Schedule 1.

In Schedule 3—

(a) paragraph 2;

(b) in paragraph 4 and in paragraph 8, subparagraph (2) and subparagraph (3) from “and after onwards”;

(c) in the heading to Part I, the words from “TO THE MINISTER OF AGRICULTURE” to “PART IV)” and the words from



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		<p>“BY THE MINISTER OF AGRICULTURE” to the end;</p> <p>(d) in the heading to Part II, the words from “(AS SET OUT)” to the end;</p> <p>(e) Parts III to VI, VIII and IX.</p> <p>In Schedule 4—</p> <p>(a) paragraph 2(c);</p> <p>(b) in paragraph 2(d) the words from “if” to “Council”;</p> <p>(c) paragraph 3(2), (3) and (4);</p> <p>(d) in paragraph 3(5) the words “the scheme was submitted otherwise than by the Council and” and the words from “and after” onwards;</p> <p>(e) in paragraph 4 the words “(c) or and the words from “according” onwards.</p> <p>Schedule 5.</p>
1966 c. 28.	Docks and Harbours Act 1966.	<p>In section 6—</p> <p>(a) in subsection (1) the words “the Council”;</p> <p>(b) in subsection (3) the words “the Council and”.</p> <p>In section 7—</p> <p>(a) in subsection (2) the words “and the Council”;</p> <p>(b) subsections (3) to (5);</p> <p>(c) in subsection (6) the words “or making an objection or representation”;</p> <p>(d) in subsection (7) the words from “or a copy” to “such appeal” and the words “objection or representations”;</p> <p>(e) in subsection (8) the words from “or a copy” to “such appeal” and</p>

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the words “objection or representations”;

(f) subsection (9);

(g) in subsection (10) the words “or an objection is made thereunder to” and the words “or objection to” in both places;

(h) subsection (11);

(i) subsection (12) except paragraph (c), and in that paragraph the words from the first “and” to “subsection” and the final “and”.

In section 8—

(a) in subsection (1) the words “or an objection is made thereunder to”;

(b) in subsection (2) the words “or objection”, in both places, the words “or objected to” and the words “or the objection is made to”;

(c) in subsections (3) and (5) the words “or an objection made to”;

(d) in subsection (4) the words “or objection to”;

(e) in subsection (6) the words “or objection” and the words “the Council”.

In section 9—

(a) in subsection (2) the words “or objecting to”, “or an objection is made to”, “or objection” and “or objections to”;

(b) in subsection (3) the words “the Council and”;

(c) in subsection (4) the words “or an objection made to” and the words “or objection” in both places;

(d) in subsection (5) the words “or objection”.

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In section 10(3)—

(a) in paragraph (b), the words “or objecting to”, “or an objection is made to” and “or objection”;

(b) in paragraph (c), the words “or an objection is made to” and “or objection”.

In section 11—

(a) in subsection (4) the words “the Council”;

(b) in subsection (5) the words “or an objection made to” and “or objection”;

(c) in subsection (8) the words “the Council”, and in paragraph (b) the words from “(if” to “thereto”;

(d) in subsection (9) the words from “and the Council” to “that decision” and the words “or objection”, in both places;

(e) in subsection (10) the words from “and if an objection” onwards.

In section 12(3) the words “the Council”.

In section 15(1)—

(a) in paragraph (b), the words “or objection to”, “or objection” and “or objecting”;

(b) in paragraph (c), the words “or objection” in both places.

Section 40(1) to (4).

In section 42(2)(a) the words “(3) or”, where first occurring, and the words from “the said” onwards.

Section 44(4).

Sections 48 and 49.

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		In section 52(2)(a), the words “or objection”.
		In section 58, in subsection (1) the definition of “the Council”, and in subsection (5) the words “or an objection is made” and the words “or objection”.
1967 c. 80.	Criminal Justice Act 1967.	In Schedule 3, in Part II the amendment of the Harbours Act 1964.
1968 c. 13.	National Loans Act 1968.	In Schedule 1, the entry for section 6(1)(b) of the Harbours Act 1964.
1969 c. 48.	Post Office Act 1969.	In Schedule 4, in paragraph 93, in sub-paragraphs (1) (xxii) and (2)(k), the words “and 5”.
1971 c. 75.	Civil Aviation Act 1971.	In Schedule 5, in paragraph 5(t), the words “and 5”.
1972 c. 11.	Superannuation Act 1972.	In Schedule 4, the entry relating to the National Ports Council.
1972 c. 16.	Harbours (Loans) Act 1972.	In Schedule 6, paragraph 45. In section 1(1), the words “after consulting the National Ports Council”. In section 1(4), the words “6 or”.
1975 c. 24.	House of Commons Disqualification Act 1975.	In Part II of Schedule 1, the entry relating to the National Ports Council.
1976 c. 79.	Dock Work Regulation Act 1976.	In section 2(5), the words “with the National Ports Council and”. In section 7(8), paragraph (a). In section 8(6), paragraph (a).

### PART III

#### REPEALS CONSEQUENTIAL ON PARTS IV AND V

Chapter	Short title	Extent of repeal
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*Status: Point in time view as at 01/04/1991.*

*Changes to legislation: Transport Act 1981 is up to date with all changes known to be in force on or before 09 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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10 & 11 Vict. c. 89.	The Town Police Clauses Act 1847.	Section 39.
33 & 34 Vict. c. 115.	The Metropolitan Public Carriage Act 1869.	In section 6 the words “at such price”. In section 8 the words “at such price”.
1923 c. 27.	The Railway Fires Act (1905) Amendment Act 1923.	Section 1. In section 2, the words “not exceeding the said sum of two hundred pounds”.
1972 c. 20.	The Road Traffic Act 1972.	In section 89, in subsection (1), in paragraph (aa) the words “or (c), and paragraph (c) and the word “and” preceding it. In section 90, in subsection (1), paragraph (bb). In section 93, subsections (3) and (5). In section 177(2)(c) the words from “(whether or not” to “section 93(3) of this Act”. In section 189, in subsection (1), paragraph (g). In Schedule 4, in Part V, paragraph 1.
1974 c. 50.	The Road Traffic Act 1974.	Section 17. In Schedule 3, in the paragraph set out in paragraph 6, paragraph (bb).
1975 c. xxix.	The British Railways (No. 2) Act 1975.	Section 21.
1977 c. xii.	The London Transport Act 1977.	Section 13(1).
1977 c. xvii.	The British Railways Act 1977.	Section 14(1).
1980 c. 62.	The Criminal Justice (Scotland) Act 1980.	In Schedule 7, paragraph 22.
1981 c. 14.	The Public Passenger Vehicles Act 1981.	In Schedule 7, paragraph 24.

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In Schedule 8, in the entry relating to the Transport Act 1968, the words “In section 145, subsection (2)”.

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**Status:**

Point in time view as at 01/04/1991.

**Changes to legislation:**

Transport Act 1981 is up to date with all changes known to be in force on or before 09 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.