

*Status: Point in time view as at 15/07/2003.*

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## SCHEDULES

### SCHEDULE 3

#### POWERS OF ASSOCIATED BRITISH PORTS

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

**C1** 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.

*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

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- (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
  - (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

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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>M1</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>M2</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.
  - (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**

**M1** 1962 c. 46.

**M2** 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.

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- (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>M3</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>M4</sup>Private Legislation Procedure (Scotland) Act 1936.

**Marginal Citations**

- M3** 1947 c. 49.  
**M4** 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
  - (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.

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### *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>M5</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;
  - (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>M6</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>M7</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**

- M5** 1946 c. 49.  
**M6** 1946 c. 49.  
**M7** 1947 c. 42.

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### *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>M8</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>M9</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**

**M8** 1964 c. 40.

**M9** 1847 c. 27.

### *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.

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*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.
- 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.

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*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.
- (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>F1</sup>and][<sup>F2</sup>Transport for London][<sup>F3</sup>[<sup>F4</sup>and], the Scottish Transport Group][<sup>F5</sup> and the National Bus Company].

**Textual Amendments**

- F1** Word in Sch. 3 para. 31(4) inserted (S.) (7.6.2002) by [S.S.I. 2002/263](#), [art. 5\(1\)](#)
- F2** Words in Sch. 3 para. 31(4) substituted (E.W.) (15.7.2003) by [The Transport for London \(Consequential Provisions\) Order 2003 \(S.I. 2003/1615\)](#), [art. 1\(1\)](#), [Sch. 1 para. 10](#)
- F3** Words in Sch. 3 para. 31(4) repealed (S.) (7.6.2002) by [S.S.I. 2002/263](#), [art. 5\(1\)\(2\)](#), [Sch.](#)
- F4** 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
- F5** 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



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- (d) references to goods include references to fish, livestock and animals of all descriptions.

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