



# Ports Act 1991

## 1991 CHAPTER 52

### PART I

#### TRANSFER OF STATUTORY PORT UNDERTAKINGS

##### *Levy on initial disposals of securities of successor companies*

### **13 Levy on initial disposals of securities of successor companies**

- (1) A levy shall be chargeable on the disposal of securities of a company made in pursuance of any provision for such disposal made under section 4(3) above by a former relevant port authority.
- (2) Levy shall be charged at the rate of fifty per cent. on the consideration given for the securities disposed of.
- (3) There shall be allowed as a deduction from the amount on which levy would otherwise be chargeable any expenditure wholly and exclusively incurred for the purposes of the disposal by the former relevant port authority, being—
  - (a) fees, commissions or remuneration paid for professional services;
  - (b) costs incurred in pursuance of section 19 below in connection with any proposal for maximising participation by employees of the company whose securities are the subject of the disposal in ownership of its equity share capital (whether or not the disposal is made for the purposes of implementing any such proposal);
  - (c) costs of transfer; or
  - (d) costs of advertising.
- (4) Where—
  - (a) a scheme has been effected or arrangements have been made (whether before or after a disposal) whereby the value of securities disposed of has been materially reduced; and
  - (b) the aim or one of the aims of the scheme or arrangements is decreasing liability to levy;

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the amount on which levy would be chargeable apart from this subsection shall be increased by such amount as appears to the appropriate Minister to be appropriate.

- (5) The Secretary of State may, with the consent of the Treasury, by order substitute for the percentage for the time being specified in subsection (2) above such other percentage as may be specified in the order.

#### **14 Payment of levy**

- (1) Levy chargeable on a disposal shall be paid to the appropriate Minister by the former relevant port authority by whom the disposal was made.
- (2) The amount of the levy shall be assessed by the appropriate Minister who shall serve a notice of assessment on the former relevant port authority stating the date of issue of the notice of assessment and the effect of subsection (3) below.
- (3) The amount assessed shall be payable within the period of three months beginning with the day on which the disposal was made or within the period of thirty days beginning with the date of issue of the notice of assessment, if that period ends later.
- (4) A person who is liable to make a payment of levy but does not make payment of the amount due during the period within which it is payable shall also pay to the appropriate Minister interest on the unpaid levy at the rate applicable under section 178 of the Finance Act 1989 from the first day after the end of that period until payment of the levy is made; and the interest shall be paid without deduction of tax.
- (5) In subsection (2) of that section, after paragraph (n) there shall be inserted “and  
(o) section 14(4) of the Ports Act 1991.”.
- (6) A disposal made by a nominee of the former relevant port authority shall be regarded for the purposes of this section as made by the authority.

#### **15 Information for purposes of levy**

- (1) Where—
- (a) a former relevant port authority; or
  - (b) a nominee of such an authority;
- makes a disposal of securities on which levy is chargeable, the authority shall give to the appropriate Minister, not later than thirty days after the day on which the disposal is made, written notification that the disposal has been made.
- (2) The appropriate Minister may by notice in writing require—
- (a) a former relevant port authority;
  - (b) any nominee of such an authority who has made a disposal of securities on which levy is chargeable;
  - (c) a person to whom such a disposal has been made; or
  - (d) a company whose securities have been the subject of such a disposal;
- to deliver to him documents, or to furnish to him particulars, to which subsection (3) below applies within such time, not less than thirty days after the date of the notice, as may be specified in the notice.
- (3) This subsection applies to—

- (a) documents specified or described in the notice under subsection (2) above which are in the possession or power of the person to whom the notice is given and which (in the opinion of the appropriate Minister) contain, or may contain, information relevant to a liability to levy or to the amount of such a liability; and
  - (b) particulars specified or described in the notice which the appropriate Minister may reasonably require as being relevant to, or to the amount of, such a liability.
- (4) Where a former relevant port authority fail to give a notification in accordance with subsection (1) above, or such an authority or any other person fails to comply with a notice under subsection (2) above, the authority or that other person shall be liable—
  - (a) to a penalty not exceeding £300; and
  - (b) if the failure continues after a penalty is imposed under paragraph (a) above, to a further penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which the penalty under paragraph (a) above was imposed (but excluding any day for which a penalty under this paragraph has already been imposed).
- (5) Where a person fraudulently or negligently furnishes any incorrect particulars in response to a notice under subsection (2) above he shall be liable to a penalty not exceeding £3,000.
- (6) Proceedings for a penalty under this section shall be instituted by the appropriate Minister before the High Court or, in Scotland, before the Court of Session as the Court of Exchequer in Scotland, and any penalty imposed by the court shall be paid to the appropriate Minister.
- (7) Proceedings within subsection (6) above may not be instituted later than six years after the date on which the penalty was incurred or began to be incurred.
- (8) Any proceedings within subsection (6) above instituted in England and Wales shall be deemed to be civil proceedings by the Crown within the meaning of Part II of the Crown Proceedings Act 1947.

## **16 Supplementary and consequential provisions relating to levy**

- (1) In sections 13 to 15 above and this section “levy” means levy under section 13(1).
- (2) For the purposes of those sections and this section a disposal of rights to require the issue of securities of a company shall be treated as a disposal of the securities.
- (3) A payment of levy by a former relevant port authority shall be allowable as a deduction from the consideration in the computation under the Capital Gains Tax Act 1979 of the gain accruing to the authority on a disposal of securities on which levy is chargeable; but, subject to that, no payment of levy, interest on unpaid levy or penalty under section 15 above shall be allowed as a deduction in computing any income, profits or losses for any tax purposes.
- (4) Section 29A(1) of that Act (disposals and acquisitions treated as made at market value) shall not apply to a disposal of securities of a company on which levy is chargeable.
- (5) There shall be paid into the Consolidated Fund—
  - (a) all payments of levy received by the appropriate Minister;
  - (b) all interest paid to the appropriate Minister on unpaid levy; and

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- (c) all penalties paid to the appropriate Minister under section 15 above.