



# Ports Act 1991

## 1991 CHAPTER 52

### PART III

#### MISCELLANEOUS AND SUPPLEMENTARY

##### *Supplementary*

#### **35 Corporation tax and taxation of company distributions.**

- (1) Where property, rights, liabilities and functions of a relevant port authority are transferred under section 2 above to a company formed in pursuance of section 1 above to be the authority's successor company for the purposes of Part I above, the company shall be treated for all purposes of corporation tax as if it were the same person as the authority.
- (2) Where following the transfer to a company under section 2 above of property, rights, liabilities and functions of a relevant port authority securities of the company are issued or allotted to the authority in pursuance of section 3 above, the authority shall be treated for the purposes of corporation tax on chargeable gains as if the securities had been issued or allotted to the authority in consideration of the transfer.
- (3) Where apart from this subsection an allowable loss (within the meaning of the [<sup>F1</sup>1992 Act]) would accrue to a former relevant port authority on a disposal on which levy under section 13(1) above is chargeable, the authority shall be treated for the purposes of corporation tax on chargeable gains as if the disposal had been made for a consideration of such amount as would secure that neither a gain nor a loss would accrue to the authority.
- (4) Any share issued by a company in pursuance of section 3 above shall be treated for the purposes of the tax provisions relating to company distributions as if it had been issued wholly in consideration of a subscription paid to that company of an amount equal to the nominal value of the share.

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- (5) Any debenture issued by a company in pursuance of section 3 above shall be treated for the purposes of the tax provisions relating to company distributions as if it had been issued—
- (a) wholly in consideration of a loan made to that company of an amount equal to the principal sum payable under the debenture; and
  - (b) wholly and exclusively for the purposes of the trade carried on by that company.
- (6) Where a company is formed by the Port of London Authority in pursuance of section 21 above, section [F2178 or 179 of the 1992 Act] (deemed disposal of assets for capital gains purposes where member leaves group) shall not have effect as respects any relevant assets of the company on its ceasing for the purposes of sections [F2171 to 181] of that Act to be a member of the group of companies of which that Authority are the principal company.
- (7) For the purposes of subsection (6) above, assets of the company are relevant assets if they were acquired from that Authority by virtue of the scheme under section 22 above.
- (8) In this section “the tax provisions relating to company distributions” means the provisions of the Corporation Tax Acts, excluding any of those provisions relating to corporation tax on chargeable gains.

#### Textual Amendments

- F1** Words in s. 35(3) substituted (6.3.1992 with effect as mentioned in s. 289 of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), s. 290, **Sch. 10 para. 24(5)(a)** (with ss. 60, 201(3), Sch. 11 paras. 22, 26(2), 27).
- F2** Words in s. 35(6) substituted (6.3.1992 with effect as mentioned in s. 289 of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), s. 290, **Sch. 10 para. 24(5)(b)** (with ss. 60, 201(3), Sch. 11 paras. 22, 26(2), 27).

### 36 Stamp duty.

- (1) No transfer effected by this Act shall give rise to any liability to stamp duty.
- (2) Stamp duty shall not be chargeable—
- (a) on the scheme under section 22 above;
  - (b) on any instrument which is certified to the Commissioners of Inland Revenue by the Port of London Authority as having been made or executed in pursuance of Schedule 2 to this Act; or
  - (c) on any proposals under section 32 above.
- (3) An instrument such as is mentioned in subsection (2)(b) above shall not be treated as duly stamped unless it is stamped with the duty to which it would be liable but for subsection (2) above, or it has, in accordance with section 12 of the <sup>M1</sup>Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it is duly stamped.

#### Extent Information

- E1** S. 36: extends to England and Wales and Scotland except s. 36(2)(c) extends to United Kingdom

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#### **Marginal Citations**

**M1** 1891 c. 39.

### **37 Orders and regulations.**

- (1) Any power to make an order or regulations under this Act shall be exercisable by statutory instrument.
- (2) No order shall be made under section 13(5), 17 or 18(1) above unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, the House of Commons.
- (3) No order to which this subsection applies shall be made unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Subsection (3) above applies to an order which is made—
  - (a) under subsection (7) of section 9 above as that subsection applies in relation to a scheme submitted under section 10 above;
  - (b) under section 12(8) above;
  - (c) under subsection (9) of section 22 above confirming a scheme submitted under subsection (1) of that section in pursuance of a direction under section 27(3) above; or
  - (d) under section 22(10) above.
- (5) A statutory instrument containing regulations under section 29 above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) If, apart from the provisions of this subsection, the draft of an order to which subsection (3) above applies would be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument it shall proceed in that House as if it were not such an instrument.

### **38 Directions.**

- (1) It shall be the duty of any person to whom any directions are given in pursuance of any provision of this Act to give effect to those directions.
- (2) Any directions so given by a Minister of the Crown shall be in writing.

### **39 Expenses.**

Any expenses incurred by a Minister of the Crown in consequence of the provisions of this Act shall be paid out of money provided by Parliament.

### **40 General interpretation.**

- (1) In this Act—
  - “body” means a body corporate;
  - “equity share capital” has the meaning given by section 744 of the <sup>M2</sup>Companies Act 1985;
  - “functions” includes powers and duties;

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“harbour” and “harbour authority” (subject to section 41(2) below) have the same meanings as in the <sup>M3</sup>Harbours Act 1964;

“liability” includes an obligation;

“local statutory provision” means—

- (a) a provision contained in, or in a document made or issued under, any local Act (including an Act confirming a provisional order); or
- (b) a provision of any other instrument which is in the nature of a local enactment;
  - “relevant port authority” has the meaning given by section 1(3);
  - “securities”, in relation to a company, includes shares, debentures, bonds and other securities of the company, whether or not constituting a charge on the assets of the company;
  - “shares” includes stock;
  - “statutory provision” means a provision (whether of a general or special nature) contained in, or in a document made or issued under, any Act (whether of a general or of a special nature); and
  - “subsidiary” and “wholly-owned subsidiary” have the meanings given by section 736 of the <sup>M4</sup>Companies Act 1985 [<sup>F3</sup>and
  - “the 1992 Act” means the Taxation of Chargeable Gains Act 1992.]

(2) In this Act—

- (a) references, in relation to any company, to maximising participation by employees of the company in ownership of its equity share capital are references to securing the disposal of the whole or a substantial part of its equity share capital (“the relevant equity”) to—
  - (i) managers or other persons employed by the company; or
  - (ii) another company (“the acquiring company”) the whole or a substantial part of whose equity share capital is owned by managers or other persons so employed;

where the persons so employed participating in acquiring the relevant equity or (as the case may be) in ownership of the acquiring company’s equity share capital comprise the greatest possible number of persons so employed; and
- (b) references to a former relevant port authority are references to any body which immediately before a transfer under section 2 above was a relevant port authority.

(3) For the purposes of any provision of this Act to which this subsection applies a person employed by a company which is a wholly-owned subsidiary of any company or other body mentioned in that provision shall be regarded as employed by the company or other body so mentioned.

(4) Subsection (3) above applies to the following provisions of this Act—

- section 2(3)(c);
- section 5(3);
- section 13(3)(b);
- section 19(3)(b) and (6);
- section 26(5);
- section 28(2)(b) and (5); and
- subsection (2)(a) above;

(all of which are concerned with participation by employees of a company in ownership of its equity share capital or related matters).

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#### Textual Amendments

- F3** Words in s. 40(1) inserted (6.3.1992 with effect as mentioned in s. 289 of the inserting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), s. 290, **Sch. 10 para. 24(6)** (with ss. 60, 201(3), Sch. 11 paras. 22, 26(2), 27).

#### Marginal Citations

- M2** 1985 c. 6.  
**M3** 1964 c. 40.  
**M4** 1985 c. 6.

### 41 Northern Ireland.

- (1) Sections 31 to 35, 36(2)(c), 37 and 38 above, this section and section 42 below extend to Northern Ireland.
- (2) In sections 31 to 34 above as they apply to Northern Ireland, “harbour” and “harbour authority” have the same meanings as in the <sup>M5</sup>Harbours Act (Northern Ireland) 1970.
- (3) Notwithstanding anything in the <sup>M6</sup>Northern Ireland Act 1974, an Order in Council under paragraph 1(1)(b) of Schedule 1 to that Act may include provisions for purposes corresponding to those of sections 13 to 18 above.

#### Marginal Citations

- M5** 1970 c. 1(N.I.).  
**M6** 1974 c. 28.

### 42 Short title, commencement and extent.

- (1) This Act may be cited as the Ports Act 1991.
- (2) The following provisions of this Act, that is to say—
  - (a) sections 31 and 33; and
  - (b) section 34 so far as relates to either of those sections;shall come into force on the day appointed under section 32(8) as the transfer date for the purposes of section 32.
- (3) Subject to section 41(1) above, this Act does not extend to Northern Ireland.

**Status:**

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**Changes to legislation:**

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