



# Ports Act 1991

## 1991 CHAPTER 52

### PART II

#### DISPOSAL BY PORT OF LONDON AUTHORITY OF THE PORT OF TILBURY

##### *Disposal of the Port of Tilbury*

#### **24 The required provision for the protection of pension rights**

- (1) Subject to subsection (2) below, this section applies to—
- (a) any person transferred by virtue of the transfer under section 22(8) above from the employment of the Port Authority to that of the company who—
    - (i) immediately before the date of the transfer was a member of the Port of London Authority Pension Fund (“the Fund”); and
    - (ii) ceased to be such a member by virtue of the transfer; and
  - (b) any person who, after that date, acquires pension rights under any pension scheme provided or amended in pursuance of any provision made in accordance with the following provisions of this section by the scheme under section 22 above (a “relevant pension scheme”) by reason of the death of a person within paragraph (a) above;
- but only, in the case of any person within paragraph (b) above, as respects the pension rights by virtue of which he falls within that paragraph.
- (2) Any person to whom this section applies may elect in such manner as may be prescribed that this section shall cease to apply to him; and if any person within subsection (1)(a) above—
- (a) ceases to be in continuous employment; or
  - (b) voluntarily withdraws from a relevant pension scheme;
- otherwise than in such circumstances as may be prescribed, this section shall cease to apply to him except as respects pension rights which have accrued to him before that time.

---

*Status: This is the original version (as it was originally enacted).*

---

- (3) The required provision for the protection of pension rights mentioned in section 23(2) above is provision for the purpose of securing that—
- (a) no person within subsection (1)(a) above is placed in any worse position by reason of—
    - (i) ceasing to be a member of the Fund by virtue of the transfer of employment mentioned in subsection (1)(a); or
    - (ii) being prevented from continuing to participate in or acquire pension rights under a relevant pension scheme by any subsequent change of employer which does not affect his continuity of employment;
  - (b) no person to whom this section applies is placed in any worse position by reason of—
    - (i) any winding up, in whole or in part, of a relevant pension scheme; or
    - (ii) any amendment of a relevant pension scheme which results in benefits under that scheme being reduced or contributions by employees being increased.
- (4) The references in subsection (3) above to any worse position shall be construed, in relation to a person within subsection (1)(a) above, as references to a position which is any worse than his position immediately before he ceases to be a member of the Fund.
- (5) Provision made by virtue of subsection (3) above may impose duties (whether as to the provision or amendment of pension schemes, the purchase of annuities, the making of payments or otherwise) on persons, other than the Port Authority, who are or have been employers of persons within subsection (1)(a) above.
- (6) Duties imposed on any person by any such provision may include duties owed to persons of whom he is not and has not been an employer.
- (7) The scheme under section 22 above may also provide for any dispute arising under any such provision to be referred to arbitration.
- (8) So much of Schedule 13 to the Employment Protection (Consolidation) Act 1978 as has effect for the purpose of ascertaining whether any employment is continuous shall apply for the purposes of subsections (2) and (3) above as if those subsections were contained in that Act.
- (9) In this section—
- “employer”, in relation to a person employed by a company which is a wholly-owned subsidiary of another company, includes that other company;
- “pension”, in relation to any person, means a pension of any kind payable to or in respect of him, and includes a lump sum, allowance or gratuity so payable and a return of contributions, with or without interest or any other addition;
- “pension rights”, in relation to any person, includes—
- (a) all forms of right to or eligibility for the present or future payment of a pension to or in respect of him; and
  - (b) any expectation of the accruer of a pension to or in respect of him;
- and includes a right of allocation in respect of the present or future payment of a pension;
- “pension scheme” means any scheme for providing pensions to or in respect of any persons;

“the Port of London Authority Pension Fund” refers to the Port of London Authority Pension Fund established under section 5 of the Port of London Act 1928; and

“prescribed” means prescribed by the scheme under section 22 above.