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## STATUTORY INSTRUMENTS

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# 1991 No. 1257

## The Sealink, (Transfer of Newhaven Harbour) Harbour Revision Order 1991

### PART II

#### TRANSFER OF SEALINK'S UNDERTAKING AT NEWHAVEN HARBOUR

##### **Designation of Company as harbour authority**

3. On the day of transfer the Company shall become the harbour authority for the transferred harbour and Sealink shall cease to be the harbour authority for that harbour.

##### **Transfer of functions, property etc.**

4.—(1) On the day of transfer all property and rights vested in Sealink and held by it for the purposes of the transferred harbour and all liabilities incurred by it for the purposes of the transferred harbour shall be transferred to and vested in the Company.

(2) Subject to the provisions of this Order, on the day of transfer the power and duties conferred or imposed on Sealink by any statutory provision of local application applied in relation to it by the Scheme dated 27th October 1981 made by Sealink U.K. Limited pursuant to section 2 of the Transport Act 1981<sup>(1)</sup> and approved by the Secretary of State with modifications on 5th July 1982 read with Schedule 4 to the Transport Act 1968<sup>(2)</sup> as applied by the said section 2 (subject to any subsequent repeal or amendment of any such statutory provision), or by any enactment subsequent to that Scheme, for the purpose of, or in connection with, the improvement, maintenance or management of the transferred harbour shall be transferred to the Company and accordingly as from that day any such statutory provision of local application shall, so far as it relates to the transferred harbour and with any necessary modifications, apply in relation to the Company as if for references to Sealink there were substituted (unless the context otherwise requires) references to the Company.

##### **Savings of byelaws etc.**

5. As from the day of transfer any byelaw, regulation, licence or consent made, issued or granted by Sealink in relation to the transferred harbour and in force immediately before that day shall notwithstanding the making of this Order continue in force and shall be deemed to have been made, issued or granted by the Company.

##### **Saving of agreements etc.**

6. All sales, conveyances, lease, grants, assurances, deeds, contracts, bonds, agreements, notices and demands affecting the undertaking of Sealink at the transferred harbour and in force immediately before the day of transfer (other than any lease or deed the parties to which include both Sealink and

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(1) 1981 c. 56.

(2) 1968 c. 73.

the Company) shall (in so far as they relate to that undertaking) on and from that day be as binding and of as full force and effect in every respect and may be enforced as fully and effectively against or in favour of the Company as if (except in any case where the Company as agent for Sealink is already a party thereto, or bound thereby or entitled to the benefit thereof) the Company instead of Sealink had been a party thereto or bound thereby or entitled to the benefit thereof.

### **Continuance of proceedings**

7. Nothing in this Order shall release, discharge or suspend any action, arbitration or other proceeding, or any cause of action, arbitration or other proceeding, pending or existing immediately before the day of transfer by or in favour of or against Sealink or by or in favour of or against the Company as agent for Sealink, in relation to Sealink's undertaking at the transferred harbour and any such action, arbitration or proceeding or cause of action, arbitration or proceeding (other than an action, arbitration or proceeding which is or may be an issue between Sealink and the Company or Sea Containers Ltd.) may be maintained, prosecuted or continued by or in favour of or against the Company and may be amended in such manner as may be necessary for that purpose.

### **Charges**

8.—(1) On and after the day of transfer the Company shall in the exercise of statutory powers and duties at the transferred harbour, have power to make such reasonable charges for its services as it thinks fit.

(2) This article does not apply in relation to—

- (a) ship, passenger and goods dues; or
- (b) charge 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 the transferred harbour expressly provides for freedom from charges or otherwise prohibits the making of any charge.

(3) The provisions of sections 27 to 48 of the Harbours, Docks and Piers Clauses Act 1847<sup>(3)</sup> (which provide for various matters connected with liabilities for and collection of the rates to be taken by undertakers) as incorporated with or applied by any enactment relating to the transferred harbour apply to charges under this article as if they were rates payable under that enactment.

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(3) 1847 c. 27.