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## SCHEDULE

### TAY ROAD BRIDGE

Provisional Order to re-enact with amendments certain provisions of the Tay Road Bridge Order 1962; to confer further powers upon the Tay Road Bridge Joint Board; and for other purposes.

“WHEREAS—

- (1) By virtue of the Tay Road Bridge Order 1962 (hereinafter referred to as the “Order of 1962”) the Tay Road Bridge Joint Board (hereinafter called the “former Joint Board”) were established as provided in the Order of 1962 to construct and maintain the Tay Road Bridge, to take tolls in respect of the use of the said bridge and for other purposes:
- (2) The said bridge was duly constructed and the works and undertaking as defined in the Order of 1962 are now vested in the former Joint Board:
- (3) Certain provisions of the Order of 1962 are now spent and it is expedient that there should be established a new Tay Road Bridge Joint Board (hereinafter called the “Joint Board”) and that other provisions of the said Order should be replaced by more up to date and more appropriate provisions and that certain provisions of the said Order should be re-enacted with amendments:
- (4) It is expedient that the other provisions of this Order be enacted:
- (5) The purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936:

Now, therefore, in pursuance of the powers contained in the said Act the Secretary of State orders as follows:—

## PART I

### PRELIMINARY

#### Short title

- 1 This Order may be cited as the Tay Road Bridge Order 1991.

#### Interpretation

- 2 In this Order, except where the context otherwise requires—
  - “accommodation facilities” means the accesses, gangways, brackets, fixings, handrails, fittings and other things necessary to permit of the accommodation and the inspection, maintenance and repair from time to time of the water mains together with such other facilities therefor as the water authorities may reasonably require together with the accommodation, things and facilities provided for a public telecommunications operator in pursuance of section 31 (Accommodation for telecommunication apparatus on bridge, etc.) of this Order;
  - “Act of 1973” means the Local Government (Scotland) Act 1973;

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- “authorised works” means the works authorised by the Order of 1962;
- “bridge” means the Tay Road Bridge;
- “council” means either of the councils;
- “councils” means Fife Regional Council and Tayside Regional Council;
- “former Joint Board” means the Joint Board established by the Order of 1962;
- “Joint Board” means the Joint Board established by this Order;
- “level of high water” means the level of mean high-water springs;
- “Order of 1962” means the Tay Road Bridge Order 1962;
- “port authority” means the Dundee Port Authority;
- “public telecommunications operator” has the meaning assigned to it in section 9 (3) of the Telecommunications Act 1984;
- “roads authorities” means the councils in their capacities of roads authorities;
- “the scheme of 1966” means the Scheme approved by the Tay Road Bridge (Scheme) Approval Order 1966;
- “the scheme of 1969” means the Scheme approved by the Tay Road Bridge (Scheme) Approval Order 1969;
- “the scheme of 1985” means the Scheme approved by the Tay Road Bridge (Scheme) Approval Order 1985;
- “the Tay Road Bridge Orders 1962 to 1985” means the Order of 1962, the scheme of 1966, the scheme of 1969 and the scheme of 1985;
- “tidal work” means so much of any work authorised by this Order as is on, under or over tidal lands below the level of high water;
- “undertaking” means the bridge and any road, quay wall and other property for the time being belonging to the Joint Board;
- “water authorities” means the councils in their capacities of water authorities;
- “Work No. 1” means Work No. 1 as authorised by and described in section 11 of the Order of 1962;
- “Work No. 2” means Work No. 2 as authorised by and described in section 11 of the Order of 1962;
- “Work No. 9” means Work No. 9 as authorised by and described in section 11 of the Order of 1962.

## PART II

### ESTABLISHMENT AND CONSTITUTION OF JOINT BOARD

#### **Establishment and constitution of Joint Board, etc**

- 3 (1) A Joint Board, to be called “the Tay Road Bridge Joint Board”, shall be and is hereby established for the purpose of exercising, subject to the provisions of this Order, the powers conferred on the Joint Board by this Order or, on the former Joint Board, or by any other enactment and such powers shall be exercised by the Joint Board accordingly.
- (2) The Joint Board shall be a body corporate.
- (3) The Joint Board shall consist of twelve members, of whom seven shall be members of Tayside Regional Council and five shall be members of Fife Regional Council.

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- (4) A chairman and a vice-chairman of the Joint Board shall be appointed by and from the members of the Joint Board but shall not both be persons appointed by the same council.
- (5) Subject to the provisions of this Order, the provisions of Schedule 1 to this Order with respect to the appointment, tenure of office and qualifications of members of the Joint Board and of the chairman and vice-chairman of the Joint Board and with respect to meetings and proceedings of the Joint Board shall have effect.
- (6) The proceedings of the Joint Board shall not require the approval of the councils, but not later than 21 days from the approval by the Joint Board of the minutes of any proceedings a copy of such minutes shall be sent to each of the councils.

### **Saving for former Joint Board**

- 4 Until the appointment of the Joint Board in pursuance of this Order the former Joint Board shall continue in office and shall continue to exercise their powers under the Order of 1962 and any other enactment.

## **PART III**

### **OFFICERS**

#### **Appointment of clerk, treasurer, etc**

- 5 (1) The Joint Board shall appoint a clerk, a treasurer and an engineer who shall be clerk, treasurer and engineer respectively of the Joint Board.
- (2) No person shall hold more than one of the offices of clerk, treasurer or engineer, and no person who stands in relation to the holder of any of those offices as partner, employer or employee shall be appointed to any of those offices.
- (3) The Joint Board shall appoint such other officers as they think necessary for carrying out the purposes of this Order.
- (4) An officer of either of the councils may also be an officer of the Joint Board.
- (5) The Joint Board shall pay to every officer appointed by them under this section such reasonable salary as they may determine.
- (6) Every officer appointed by the Joint Board shall hold office during the pleasure of the Joint Board.

#### **Appointment of deputies**

- 6 (1) The clerk, treasurer and engineer of the Joint Board may, and if required by the Joint Board shall, appoint one or more persons approved by the Joint Board to act as their deputies respectively and all things authorised by law to be done by or to the officer appointing the deputy may be done by or to any deputy so appointed by him.
- (2) A deputy appointed under this section shall—
  - (a) notwithstanding that the officer appointing the deputy has by reason of death or resignation or other cause ceased to hold office, exercise and discharge the powers and duties of the office until the Joint Board otherwise determine;

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- (b) be deemed to be an officer of the Joint Board; and
  - (c) cease to hold office if either the officer appointing the depute or the Joint Board so determine.
- (3) The Joint Board shall pay to a depute appointed by them under this section such reasonable salary as they may determine.

#### **Member of Joint Board or council not to be appointed officer**

- 7 It shall not be lawful for the Joint Board to appoint to any paid office in the gift or disposal of the Joint Board a person who is, or has within six months prior to the date of appointment been, a member of the Joint Board or of the former Joint Board or of either of the councils.

#### **Security to be given by officers**

- 8 (1) The Joint Board, in the case of the treasurer shall, and in the case of any other officer employed by them may, take security for the faithful execution of his office and for his duly accounting for all money or property which may be entrusted to him to such amount as the Joint Board think sufficient.
- (2) The Joint Board shall defray the premium in respect of any security taken under this section.
- (3) Every deed of security shall be produced by the officer to whom it has been delivered to the auditor at the audit of the accounts of the Joint Board.

#### **Disclosure by officers of interests in contracts**

- 9 The provisions of section 68 of the Act of 1973 shall have effect with respect to officers of the Joint Board as if the Joint Board were a local authority.

#### **Superannuation**

- 10 For the purposes of regulation C1 of the Local Government Superannuation (Scotland) Regulations 1987 the appropriate superannuation fund in relation to the pensionable employees of the Joint Board shall be the fund administered by Tayside Regional Council.

#### **Dwelling-houses for officers**

- 11 The Joint Board may erect, purchase or take on lease dwelling-houses for such of the officers employed by them as require, in consequence of the nature of their duties, to reside in proximity to the places where they are employed and may charge such rents therefor as they shall deem proper.

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## PART IV

### PROVISIONS RELATING TO AUTHORISED WORKS

#### **Joint Board may continue to maintain authorised works**

- 12 Subject to the provisions of this Order, the Joint Board may continue to maintain, repair and improve the authorised works.

#### **Transfer of property, works and undertaking**

- 13 On the commencement of this Order and subject to the provisions of this Order, the interests of the former Joint Board in all heritable and moveable property shall be transferred to and vest in the Joint Board.

#### **Subsidiary works in Firth of Tay and elsewhere**

- 14 Subject to the provisions of this Order, the Joint Board in connection with and at or near the authorised works may execute, place and keep in, over or under the Firth of Tay and elsewhere, either permanently or temporarily, all such caissons, cofferdams, piles, piers, abutments, embankments, excavation, approaches, gantries, ways, access works, pumping works, wharves, walls, fences, drains, sewers, tunnels, fenders, mooring posts, bollards, booms, dolphins, pontoons, barges, scaffolding, stagings, stairs, subways, buildings and other works and conveniences as they may find necessary or expedient for or in connection with the maintenance or use of the authorised works:

Provided that the Joint Board shall ensure that any works executed or kept under the powers of this section shall not unnecessarily narrow or obstruct the navigable waterway of the Firth of Tay or otherwise interfere with or impede navigation or unnecessarily obstruct the flow of water and any difference arising between the Joint Board and the port authority as to whether or not any such works are unnecessarily obstructing the flow of water shall be referred to and determined by an arbiter to be mutually agreed upon or, failing agreement to be appointed on the application of either party by the President of the Institution of Civil Engineers.

#### **Subsidiary works in connection with roads, etc**

- 15 (1) In addition, and without prejudice to the powers conferred on the Joint Board by the immediately preceding section of this Order and subject to the provisions of this Order, the Joint Board may, in maintaining and improving the authorised works—
- (a) make junctions with any road or way interfered with by or contiguous to the authorised works;
  - (b) alter the line or level of any such road or way;
  - (c) alter and interfere with any steps, walls, gateways, railings, passages, pipes, cables and pavements; and
  - (d) execute any works for the protection of any adjoining land or buildings.
- (2) In the exercise of the powers conferred by this section the Joint Board shall—
- (a) cause as little detriment and inconvenience to any person as circumstances allow; and

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- (b) make compensation to the owners and occupiers of any lands injuriously affected and to the owners and occupiers of any apparatus who suffer loss by the exercise of such powers.
- (3) Such compensation, in case of difference, shall be determined under the Land Compensation (Scotland) Act 1963.

#### **Connection of drains, etc., with streams, etc**

- 16 (1) For the purpose of draining or carrying away surface water from the bridge or any connecting roadway belonging to the Joint Board, the Joint Board may maintain and alter or remove any drains, sewers, conduits, pipes and other works and make any convenient connections with any available river, stream or watercourse, or with any sewer or drain.
- (2) Nothing in this section shall derogate from the provisions of section 34 of the Control of Pollution Act 1974.

#### **Power to erect fenders, etc**

- 17 Subject to the provisions of this Order, the Joint Board may from time to time set up and erect, maintain and repair proper fenders, jetties or other works for the protection of the bridge.

#### **Power to dredge, etc**

- 18 Subject to section 82 (Crown rights) of this Order the Joint Board may for the purposes of the maintenance of the authorised works at and in the vicinity thereof—
  - (a) excavate, dredge, scour, deepen and remove to such extent as they may deem necessary the shore and bed of the Firth of Tay;
  - (b) carry out such borings in the shore and bed of the Firth of Tay as they may think fit; and
  - (c) take such measures as they may deem necessary for the safety of the bridge to replace material eroded or otherwise scoured naturally from the shore or bed of the Firth of Tay.

#### **Tidal works not to be executed without approval of Secretary of State**

- 19 (1) A tidal work shall not be constructed except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of State before the work is begun.
- (2) If a tidal work is constructed in contravention of this section or of any condition or restriction imposed under this section—
  - (a) the Secretary of State may by notice in writing require the Joint Board at their own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition; and if on the expiration of 30 days from the date when the notice is served upon the Joint Board they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; or
  - (b) if it appears to the Secretary of State urgently necessary so to do he may himself remove the tidal work or part of it and restore the site to its former

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condition; and any expenditure incurred by the Secretary of State in so doing shall be recoverable by him from the Joint Board.

### **Survey of works by Secretary of State**

- 20 The Secretary of State, at any time at which he deems it expedient for the purposes of this Order, may order a survey and examination of any work constructed by the former Joint Board under the powers of the Order of 1962 or by the Joint Board under the powers of this Order which shall be on, in, under or over tidal waters or tidal lands below the level of high water, or of the site upon which it is proposed to construct any such work, and the Joint Board shall defray the expense of the survey and examination and the amount thereof shall be a debt due from the Joint Board to the Crown.

### **Abatement of work abandoned or decayed**

- 21 (1) Where any work constructed by the former Joint Board under the powers of the Order of 1962 or by the Joint Board under the powers of this Order on, in, under or over tidal waters or tidal lands below the level of high water is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing either require the Joint Board to repair and restore such part of such work as is situated below high-water mark or any portion thereof, or require them to abate or remove the same and restore the site thereof to its former condition to such an extent and within such limits as the Secretary of State may think proper.
- (2) Where any part of any such work which has been abandoned or suffered to fall into decay is situated above high-water mark and is in such condition as to interfere or to cause reasonable apprehension that the same may interfere with navigation or the exercise of public rights over the foreshore, the Secretary of State may include any such part of such work or any portion thereof in any notice under this section.
- (3) If the Joint Board fail to comply with any notice under this section within thirty days from the date when the notice is served upon them, the Secretary of State may execute the works specified in the notice and the amount of such expense shall be a debt due from the Joint Board to the Crown.

### **Permanent lights on works**

- 22 (1) The Joint Board, after consultation with the port authority, shall, at or near the bridge and the authorised works below high-water mark, exhibit and keep burning every night from sunset to sunrise such lights and take such other steps for the prevention of danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.
- (2) All street lamps or other lights upon the bridge which are not required in connection with the navigation of the Firth of Tay shall be subject to the approval of the Commissioners of Northern Lighthouses.
- (3) If the Joint Board fail to comply with any directions given in terms of subsection (1) above, they shall be guilty of an offence and shall be liable to a fine not exceeding level 5 on the standard scale.

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### **Provision against danger to navigation**

- 23 (1) In the event of damage to, or destruction or decay of, the authorised works, or any part thereof so far as the same are constructed on, in, under or over any tidal waters or tidal lands below high-water mark, the Joint Board, after consultation with the port authority, shall apply to the Commissioners of Northern Lighthouses for directions, and shall lay down such buoys, exhibit such lights, or take such other precautions as may be directed by the said Commissioners for the prevention of danger to navigation.
- (2) If the Joint Board fail to apply for or to comply with any such directions, they shall be guilty of an offence and shall be liable to a fine not exceeding level 5 on the standard scale.

### **Policing, etc., of bridge**

- 24 Notwithstanding any provisions to the contrary in this Order, the bridge shall be deemed to be within Tayside Region for the purposes of the Police (Scotland) Act 1967, and Tayside Regional Council shall have and may exercise over the bridge the powers and duties conferred or imposed upon police authorities by the said Act and in consideration of the watching and policing of the bridge being undertaken by the said council the Joint Board shall pay to the said council annually such sum as may be agreed between the said council and the Joint Board as representing the reasonable cost incurred by the said council in policing and watching the bridge and in the event of any difference arising between the said council and the Joint Board in any year as to the amount of the payment to be made to the said council by the Joint Board as aforesaid, such difference shall be referred to the decision of an arbiter appointed by the President for the time being of the Institute of Chartered Accountants of Scotland and the decision of such arbiter shall be final.

### **Lighting of bridge, etc**

- 25 (1) The Joint Board may, to such extent and in such manner as they may consider appropriate, but subject to the provisions of section 22 (Permanent lights on works) of this Order, light the bridge or may cause the same to be lighted and for that purpose the Joint Board may provide, install and maintain such lighting equipment as may be requisite.
- (2) Any lighting equipment provided, installed or maintained under the powers of this section shall be so provided or installed and so maintained and used as not to cause any interference with any electric lines or works as defined in section 32 of the Electric Lighting Act 1882, or any mains, pipes, and other apparatus from time to time installed in the bridge under the provisions of section 30 (Accommodation for water main on bridge, etc.) of this Order.

### **Provision of fire-fighting equipment**

- 26 The Joint Board may, in the maintenance of the bridge, provide and accommodate at such places on the bridge as they may deem desirable, fire-fighting equipment for the use of which they may make such charges as they deem fit.

### **Cleansing of bridge and relative works**

- 27 The Joint Board shall be responsible for the scavenging and cleansing of the bridge and shall themselves scavenge and keep clean the bridge and for such purposes may



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provide and maintain all such depots, works, materials, equipment and vehicles as they consider requisite, or they may enter into agreements with any local authority or person with respect to the scavenging and keeping clean of the bridge.

#### **As to closing of bridge**

28 The Joint Board may, whenever in their opinion it is necessary so to do for the purposes of the maintenance, repair or improvement of the bridge or in case of emergency, wholly or partially close the bridge or any portion thereof to traffic along or over the bridge:

Provided that when the bridge is to be wholly closed, the Joint Board shall, except in cases of emergency, not less than seven days before closing the bridge publish a notice stating the day and time when the bridge will be closed and the period during which it is estimated it will remain closed in a newspaper circulating in the areas of the councils and in such other manner (if any) as the Joint Board consider desirable.

#### **Prohibiting works on bridge**

29 (1) Notwithstanding anything to the contrary in any enactment it shall not be lawful, except as provided in this Order, for any person to enter upon or interfere with any part of the bridge or of Work No. 2 or to break up the carriageways and footways of the same for the purpose of executing any work whatsoever therein, thereon or thereunder except—

- (a) with the written consent of the Joint Board which consent shall not be unreasonably withheld; and
- (b) in accordance with such reasonable terms and conditions either as to the payment of money or other valuable consideration or otherwise as the Joint Board may determine.

(2) Any difference as to whether a consent under the provisions of this section has or has not been unreasonably withheld or as to the reasonableness or otherwise of the aforementioned terms and conditions shall be determined by the Secretary of State.

(3) Nothing in this section shall affect any rights and powers of a public telecommunications operator.

#### **Accommodation for water main on bridge, etc**

30 (1) The Joint Board shall continue to maintain the accommodation facilities provided by the former Joint Board under the Order of 1962 for a water main not exceeding twenty-four inches in diameter together with ancillary apparatus (hereinafter in this section referred to as “the water main”) for the purposes of the water undertaking of the water authorities.

(2) The Joint Board shall maintain the accommodation facilities in good order and repair and the cost of so doing shall be shared by the Joint Board and the water authorities in such proportions as may be mutually agreed or, failing agreement, as may be determined by an arbiter as hereinafter provided.

(3) (a) The water authorities shall install and fix on the water main at the expense of, and as may from time to time be required by, the Joint Board, fire hydrants, together with such branch pipes and boxes and such other fittings as may be necessary for the connection of fire-fighting equipment, at such intervals along the bridge as the Joint Board may require but the water authorities shall have

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- the free use of the said hydrants and fittings for the purposes of their water undertaking.
- (b) Nothing in this subsection shall authorise the Joint Board to use any water from the water main for any purposes other than fire fighting without the prior consent of the water authorities (which consent shall not be unreasonably withheld) and upon such terms and conditions as may be agreed between the Joint Board and the water authorities.
  - (c) The water authorities shall at the expense of the Joint Board, undertake and carry out the works of maintenance and replacement of the said hydrants and fittings.
- (4) The water authorities shall be entitled at all times to use, on such terms as the Joint Board may prescribe, the accommodation facilities provided pursuant to the foregoing provisions of this section for the purpose of installing, inspecting, repairing, maintaining, altering (otherwise than by increasing the dimensions or weight), removing or renewing the water main:

Provided that—

- (a) nothing in this section shall entitle the water authorities to break up, interfere with or obstruct (other than as may result from the opening of valve covers and manways for the purposes of inspection) the surface of the road and footway of the bridge or of Work No. 2;
  - (b) the water main shall, at all times, conform in design and construction with the reasonable requirements of the Joint Board;
  - (c) except in case of emergency, the water authorities shall give to the Joint Board not less than fourteen days' clear notice in writing of their intention to execute works on the water main and, except as aforesaid shall conform with the reasonable requirements of the Joint Board as to the time or times at which they exercise the right of entering upon and executing such works and as to the manner in which such works are executed and the Joint Board shall be entitled to superintend the execution of such works. The costs reasonably incurred by the Joint Board in such superintendence shall be repaid to them by the water authorities.
- (5) (a) The water authorities shall maintain in good repair and to the reasonable satisfaction of the Joint Board the water main and shall from time to time carry out and maintain such works thereon as the Joint Board may reasonably require by notice in writing to be done or provided for ensuring the safety and stability of the bridge and of Work No. 2 and the safety and convenience of persons using the bridge and Work No. 2, being works reasonably required to be done in consequence of the exercise by the water authorities of the rights conferred upon them by this section and in default the Joint Board may carry out and maintain such works and the water authorities shall repay to the Joint Board any expenses reasonably incurred by the Joint Board in so doing.
- (b) The water authorities shall repay to the Joint Board any loss, damage or expenses suffered or incurred by the Joint Board by reason of the failure of the water authorities to comply with the provisions of this section, or by reason of any fault in, or accident occurring in relation to, the water main, the accommodation facilities, or to any mains, pipes, cables or other apparatus or material placed on the bridge or on Work No. 2 by the water authorities for their own use (unless such fault or accident was occasioned by any wrongful act or default of the Joint Board, their servants or agents) and shall indemnify the Joint Board against any actions, proceedings, costs, claims or demands arising

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out of, or in any way attributable to, the exercise by the water authorities of the rights conferred upon them by this section, unless such actions, proceedings, costs, claims or demands shall arise by reason of the wrongful act or default of the Joint Board, their servants or agents:

Provided that the Joint Board shall give to the water authorities reasonable notice of any such claim or demand as aforesaid and no settlement or compromise thereof shall be made without the written agreement of the water authorities.

- (6) Any question or difference between the Joint Board and or either or both of the water authorities arising under this section shall be referred to and determined by an arbiter to be mutually agreed upon or, failing agreement, to be appointed on the application of either party (after notice in writing to the other of them) by the sheriff principal of the sheriffdom of Tayside, Central and Fife.

### **Accommodation for telecommunication apparatus on bridge, etc**

- 31 (1) The Joint Board shall continue to provide for accommodation of telecommunication apparatus of a public telecommunications operator space sufficient for eight ducts each having an external diameter not exceeding one hundred and thirty millimetres and shall continue to provide the accesses, gangways, brackets, fixings, handrails, fittings and other things necessary to permit the said accommodation and the inspection, maintenance and repair from time to time of the telecommunication apparatus together with such facilities therefor as a public telecommunications operator may reasonably require:

Provided that any expense which the Joint Board may reasonably incur in complying with the provisions of this subsection shall be borne and paid by a public telecommunications operator and by the water authorities using the accommodation facilities in pursuance of section 30 (Accommodation for water main on bridge, etc.) of this Order in such proportions as may be mutually agreed or, failing agreement as may be determined by an arbiter as hereinafter provided.

- (2) The Joint Board shall maintain the accommodation facilities in good order and repair and the cost of so doing shall be shared by the Joint Board, a public telecommunications operator and the water authorities using the accommodation facilities in pursuance of the said section 30 in such proportions as may be mutually agreed or, failing agreement, as may be determined by an arbiter as hereinafter provided.
- (3) Before installing telecommunication apparatus, a public telecommunications operator shall submit to the Joint Board for their approval plans, specifications and other particulars of the installation (including the dimensions and weight of the telecommunication apparatus) with such other information as may be required by the Joint Board including information as to the manner in which the installation is to be carried out, the names of the contractors, the time necessary or estimated for completing the installation and the tests to be applied to the installation on the completion thereof.
- (4) A public telecommunications operator shall be entitled at all times to use the accommodation facilities provided pursuant to the foregoing provisions of this section for the purpose of installing, inspecting, repairing, maintaining, altering (otherwise than by increasing the dimensions or weight), removing or renewing the telecommunication apparatus:

Provided that—

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- (a) nothing in this section contained shall entitle a public telecommunications operator to break up, interfere with or obstruct (other than as may result from the opening of inspection covers and manways for the purposes of inspection) the surface of the road and footway of the bridge or of Work No. 2;
  - (b) except in case of emergency a public telecommunications operator shall give to the Joint Board not less than fourteen days' clear notice in writing of its intention to execute works on their telecommunication apparatus and, except as aforesaid, shall conform with the reasonable requirements of the Joint Board as to the time or times at which it exercises the right of entering upon and executing such works and as to the manner in which such works are executed and the Joint Board shall be entitled to superintend the execution of such works. The costs reasonably incurred by the Joint Board in such superintendence shall be repaid to them by a public telecommunications operator.
- (5) (a) A public telecommunications operator shall from time to time carry out and maintain such works on the telecommunication apparatus as the Joint Board may reasonably require by notice in writing to be done or provided for ensuring the safety and stability of the bridge and of Work No. 2 and the safety and convenience of persons using the bridge and Work No. 2 being works reasonably required to be done in consequence of the exercise by a public telecommunications operator of the rights conferred upon it by this section and in default the Joint Board may carry out and maintain such works and a public telecommunications operator shall repay to the Joint Board any expenses reasonably incurred by the Joint Board in so doing.
- (b) For the avoidance of doubt it is hereby declared that the provisions of paragraphs 11 and 12 of Schedule 2 to the Telecommunications Act 1984 shall with any necessary modifications apply and have effect with respect to the placing, repair and maintenance of telecommunication apparatus in the accommodation provided by the Joint Board pursuant to subsection (1) of this section.
- (6) Any question or difference between the Joint Board and a public telecommunications operator and the water authority or any of them arising under this section shall be referred to and determined by an arbiter to be mutually agreed upon or, failing agreement, to be appointed on the application of either party (after notice in writing to the other of them) by the sheriff principal of the sheriffdom of Tayside, Central and Fife.
- (7) In this section unless the context otherwise requires:—
- “lines” has the meaning assigned to that expression in paragraph 1 of Schedule 2 to the Telecommunications Act 1984;
  - “telecommunication apparatus” has the meaning assigned to that expression in paragraph 1 of Schedule 2 to the Telecommunications Act 1984.

## PART V

### FINANCE

#### Definitions for Part V of Order

32 For the purposes of this Part of this Order—

“councils' contribution towards the capital expenditure” means the sum or sums advanced or to be advanced by the councils to the Joint Board in pursuance

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of the provisions of section 33 (Advances by councils to Joint Board) of this Order and “council’s contribution towards the capital expenditure” in relation to either of the councils means the sum or sums advanced or to be advanced to the Joint Board by that council towards the capital expenditure;

“capital expenditure” has the same meaning as the phrase “capital expenses” has for the time being in section 94 of the Local Government (Scotland) Act 1973.

### **Advances by councils to Joint Board**

33 (1) The councils, in pursuance of their powers under Schedule 3 to the Local Government (Scotland) Act 1975, shall advance to the Joint Board such sums for the purpose of capital expenditure as may from time to time be requested by the Joint Board.

(2) Unless otherwise agreed by the councils, the said sums shall hereafter be advanced by the councils, in the proportions (in this Order referred to as “the agreed proportions”) following, that is to say:—

In the case of—

- (a) Tayside Regional Council—fifty-eight per centum;
- (b) Fife Regional Council—forty-two per centum.

(3) The Joint Board shall pay to the councils interest on the sums advanced from time to time by the councils to the Joint Board as may be agreed by the Joint Board and the councils so as to reimburse the councils for all interest payments borne by them on the moneys borrowed by them for the purpose of making the advances.

### **Requests for councils' contributions towards capital expenditure**

34 (1) Subject to the provisions of this Order, the Joint Board shall at such times as they deem expedient cause a request to be sent to each of the councils.

(2) Such request shall—

- (a) specify the amount required to be advanced to the Joint Board by that council as part of that council’s contribution towards the capital expenditure;
- (b) state the purpose for which the money requested is required; and
- (c) specify the time at which the money so requested is to be remitted to the Joint Board.

(3) The amount specified in any such request shall, at or before the date for remitting the same specified in the request (being a date not later than one month after the date of the request), be remitted by the council concerned to the Joint Board and shall be deemed to be a debt due to that council by the Joint Board as from the said date.

### **Temporary borrowing by Joint Board**

35 (1) The Joint Board may borrow such sums as may be required by the Joint Board to provide temporarily for—

- (a) current expenditure of an annual nature; and
- (b) capital expenditure pending the receipt of advances from the councils or grants; required to be incurred for the purposes of the undertaking.

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- (2) All moneys borrowed under paragraph (a) of subsection (1) of this section shall be repaid before the expiry of the financial year in which such moneys have been borrowed and all moneys borrowed under paragraph (b) of subsection (1) of this section shall be repaid as soon as reasonably practicable after the advances or grants, in anticipation of which the moneys have been so borrowed, have been received by the Joint Board.

#### **Repayment by Joint Board of moneys borrowed from councils**

- 36 (1) All moneys advanced by the councils to the Joint Board in pursuance of section 33 (Advances by councils to Joint Board) of this Order, together with interest accrued thereon and expenses incurred by the councils relative thereto, shall be repaid by the Joint Board to the councils within a period of fifty years from the opening of the bridge on an annuity basis (that is to say) by yearly or half-yearly instalments of capital and interest combined except that the initial instalment may by agreement with the councils be for a lesser period and for interest only.
- (2) The payments to be made by the Joint Board to the councils under subsection (1) of this section in respect of the repayment of advances shall be made not later than the dates on which the corresponding payments fall to be made by the councils in respect of the redemption of moneys borrowed by them for the purpose of making the advances.

#### **Financial year of Joint Board**

- 37 The financial year of the Joint Board shall be the year commencing on the first day of April and ending on the thirty-first day of March in the year immediately following.

#### **General fund**

- 38 (1) The Joint Board shall establish and administer a fund to be called “the general fund”.
- (2) All money received by the Joint Board whether on capital or revenue account shall be credited to and form part of the general fund.
- (3) The money received and to be credited as aforesaid shall include (but without prejudice to the generality of the preceding subsection) interest and other annual proceeds from time to time received by the Joint Board on the investments or balances forming part of any funds established by them.
- (4) Subject to section 39 (4) of this Order, all interest on moneys borrowed and other payments, whether on capital or revenue account, made and incurred by the Joint Board in carrying into execution the powers and provisions of this Order shall be paid or transferred out of the general fund.
- (5) Such payments or transfers shall include (but without prejudice to the generality of the preceding subsection) all sums required by law to be paid, applied or transferred or which the Joint Board may determine to apply or transfer to any funds established by them.
- (6) Nothing in this section shall authorise the Joint Board to apply capital money to any purpose other than a purpose to which capital money is properly applicable.

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### **General reserve fund**

- 39 (1) The Joint Board may establish and maintain a fund to be called “the general reserve fund”.
- (2) There shall be transferred to the general reserve fund, out of the general fund, such sums as the Joint Board may, from time to time determine.
- (3) The amount standing to the credit of the general reserve fund shall not exceed three million pounds, or such other amount as may be agreed between the Joint Board and the Secretary of State.
- (4) The general reserve fund shall be applicable to meet the cost of major works or improvement or renewal of the undertaking in the event that the revenues of the undertaking are insufficient to meet these costs and any deficit on revenue account.

### **Investment of general reserve fund**

- 40 Moneys at any time standing to the credit of the general reserve fund shall, from time to time, be invested in or upon any investments in which trustees are for the time being authorised to invest trust funds.

### **Application of revenues of undertaking**

- 41 (1) Subject to section 42 (2) of this Order the revenue received by the Joint Board from tolls under this Order, and all other income of the Joint Board, shall be applied for the purposes and in the order following and not otherwise and, so far as appropriate, in the agreed proportions:—
- (a) in defraying the expense of the administration, management, carrying on, operation, maintenance and repair of the undertaking, including when appropriate major works of improvement or renewal including the payment of any sums to be paid to the port authority in accordance with the provisions of section 121 (Joint Board to meet cost of additional dredging due to existence of bridge or works) of the Order of 1962 or of section 78 of this Order in respect of additional dredging carried out after the opening of the bridge;
- (b) in payment of the interest on money borrowed by the Joint Board under the powers of section 35 (Temporary borrowing by Joint Board) of this Order;
- (c) in payment of any sums to be paid to the port authority under the provisions of section 46(5)(ii) (Abandonment of ferry) of the Order of 1962;
- (d) in repayment of the loan charges on the sum of £2,500,000, together with the interest accrued and expenses incurred by the councils in connection therewith from the date or dates of borrowing to the opening of the bridge, advanced to the former Joint Board by the councils under the provisions of section 66 (Advances by councils to Joint Board) of the Order of 1962;
- (e) in repayment of the loan charges on the sum of £500,000, together with the interest accrued and expenses incurred by the councils in connection therewith from the date or dates of borrowing to the opening of the bridge, advanced to the former Joint Board by the councils under the provisions of section 66 (Advances by councils to Joint Board) of the Order of 1962;
- (f) in repayment of the loan charges on any sum advanced to the former Joint Board by the councils under the provisions of section 2 (Advances by councils to Joint Board) of the scheme of 1966, together with the interest accrued and

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- the expenses incurred by the councils in connection therewith, from the date or dates of borrowing to the opening of the bridge;
- (g) in repayment of the loan charges on any sum advanced to the former Joint Board by the councils under the provisions of section 2 (Advances by councils to Joint Board) of the scheme of 1969, together with the interest accrued and the expenses incurred by the councils in connection therewith from the date or dates of borrowing;
  - (h) in repayment of the loan charges on any sum advanced to the former Joint Board by the councils under the provision of section 2 (Advances by councils to Joint Board) of the scheme of 1985 together with the interest accrued and expenses incurred by the councils in connection therewith from the date or dates of borrowing;
  - (i) in repayment of the loan charges on any sum advanced to the Joint Board by the councils under the provisions of section 75 (2) (As to excess capital expenditure and deficiencies in revenue) of the Order of 1962, together with the interest accrued and expenses incurred by the councils in connection with such advances;
  - (j) in repayment of the loan charges on any sums advanced to the Joint Board by the councils under section 33 (Advances by councils to Joint Board) of this Order;
  - (k) in payment of annual sums for the repayment in accordance with the provisions of section 74 (4) (Repayment by Joint Board of moneys borrowed from councils and from Secretary of State) of the Order of 1962 of moneys lent by the Secretary of State to the former Joint Board under the provisions of section 72 (Borrowing by Joint Board from Secretary of State) of the Order of 1962, together with the interest accrued thereon from the date or dates of lending to such date or dates as the revenues received are sufficient to meet such interest;
  - (l) in payment of annual sums for the repayment in accordance with the provisions of section 5 (2) (Repayment by Joint Board of moneys borrowed from councils and Secretary of State) of the scheme of 1966 of moneys lent by the Secretary of State to the former Joint Board under the provisions of section 4 (1) (Advances by Secretary of State) of the said scheme, together with the interest accrued thereon from the date or dates of lending to such date or dates as the revenues received are sufficient to meet such interest;
  - (m) in payment of annual sums for the repayment in accordance with the provisions of section 5 (2) (Repayment by Joint Board of moneys borrowed from councils and Secretary of State) of the scheme of 1969 of moneys lent by the Secretary of State to the former Joint Board under the provisions of section 4 (1) (Advances by Secretary of State) of the said scheme, together with the interest accrued thereon from the date or dates of lending to such date or dates as the revenues received are sufficient to meet such interest;
  - (n) in payment of annual sums for the repayment in accordance with the provisions of section 5 (2) (Repayment by Joint Board of moneys borrowed from councils and Secretary of State) of the scheme of 1985 of moneys lent by the Secretary of State to the former Joint Board under the provision of section 4 (1) (Advances by Secretary of State) of the said scheme, together with the interest accrued thereon from the date or dates of lending to such date or dates as the revenues received are sufficient to meet such interest;
  - (o) in making contributions to any general reserve fund established by the Joint Board under section 39 (General reserve fund) of this Order;



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- (p) if the Joint Board think fit in acceleration of the redemption of capital moneys advanced by the councils in accordance with section 36 (Repayment by Joint Board of moneys borrowed from councils) of this Order.
- (2) For the purposes of this section “loan charges” means the annual payments in respect of the redemption of moneys borrowed by the councils, including the interest thereon and expenses of the councils in connection therewith.

### **Accounts**

- 42 (1) The Joint Board shall cause the accounts of the general fund and of all other funds established by them to be kept in such manner as—
  - (a) to distinguish capital from revenue; and
  - (b) to show all revenue and expenditure, whether on capital or revenue account, in respect of the financial year to which the accounts relate.
- (2) In the accounts of the Joint Board there shall be carried to the credit of the general reserve fund established by them sums equivalent to the interest received by them on the investments or balances forming part of that fund.
- (3) Further sums in respect of such interest shall not be so carried to the credit of the general reserve fund as from the date upon which that fund reaches the maximum amount authorised by this Order.

## **PART VI**

### **TOLLS**

#### **Tolls**

- 43 As from the commencement of this Order and subject to its provisions the Joint Board may demand, take and recover in respect of traffic using the bridge, in both directions or in one direction only, the tolls authorised to be demanded, taken and recovered by virtue of the Order of 1962 or by virtue of any order made under section 44 (Revision of tolls) of this Order.

#### **Revision of tolls**

- 44 (1) If at any time—
  - (a) the Secretary of State, after consultation with the Joint Board and after taking into consideration any representations made to him by the Joint Board, is of the opinion; or
  - (b) it is represented in writing to the Secretary of State—
    - (i) by any representative body of traders or of owners or users of vehicles or by any person who in the opinion of the Secretary of State is a proper person for the purpose; or
    - (ii) by either of the councils; or
    - (iii) by the Joint Board; that, in the circumstances then existing, all or any of the authorised tolls should be revised, the Secretary of State may, if he thinks fit, make an order revising all or any of the authorised tolls and may fix the date from which such order shall take effect.

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- (2) As soon as may be after the receipt by the Secretary of State of a representation pursuant to paragraph (b) of subsection (1) of this section from any body or person other than the Joint Board, the Secretary of State shall send a copy of the representation to the Joint Board.
- (3) Before making an order under the provisions of this section, the Secretary of State shall give to the Joint Board notice of his intention to make such order and of the effect thereof.
- (4) Every such order shall remain in force until it expires or is revoked or modified by a further order made by the Secretary of State in pursuance of this section.
- (5) An order in terms of subsection (1) may provide that tolls shall be levied in respect of traffic using the bridge in one direction only.
- (6) If an order is in force specifying tolls which does not provide that tolls shall be levied in respect of traffic using the bridge in one direction only, the Secretary of State may, on the application of the Joint Board, approve the levying of tolls from traffic travelling in one direction only and such approval shall without other procedure authorise the Joint Board to levy tolls on traffic travelling in one direction only in amounts double the tolls specified in the said Order.

#### **Notice of revision of tolls and inquiries**

- 45 (1) The Joint Board shall as soon as may be after the making of any representation by them or the receipt by them of a copy of any representation made in pursuance of subsection (1) of section 44 (Revision of tolls) of this Order publish a notice with respect thereto in the Edinburgh Gazette and in such one or more newspapers as the Secretary of State may specify.
- (2) Such notice shall state—
  - (a) that a representation has been made to the Secretary of State as aforesaid and the general effect thereof; and
  - (b) the date (being not less than forty-two days and not more than forty-eight days after the first publication of the notice) by which objection to the proposal of the Secretary of State, or to the representation (as the case may be), may be made in writing to the Secretary of State.
- (3) Before making an order under the said section 44 the Secretary of State shall if requested to do so in writing by the Joint Board, or by either of the councils, or by any body who made objection as aforesaid and has not withdrawn such objection, and in any other case if he thinks it necessary or desirable, cause a local inquiry to be held, and the provisions of section 210 of the Act of 1973 shall apply to any such inquiry.

#### **Schedule of tolls to be exhibited**

- 46 The Joint Board shall keep continuously exhibited in a conspicuous place at or near the places where the authorised tolls shall be payable, a schedule of the tolls in force for the time being.

#### **Special charges, etc., for vehicles in special circumstances**

- 47 Notwithstanding anything in this Part of this Order, the Joint Board may demand, take and recover in respect of vehicles using the bridge in special circumstances or for any

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special services rendered in connection therewith such reasonable fees or charges as may from time to time be fixed by the Joint Board.

#### **As to payment of tolls**

- 48 (1) The authorised tolls shall be paid to such persons and at such places and in such manner as the Joint Board may determine.
- (2) The Joint Board may recover such tolls by action in the Dundee sheriff court, together with such additional sum as may represent the administrative costs incurred by the Joint Board in recovering such tolls.

#### **Tickets**

- 49 The Joint Board may in exchange for the advance payment of any toll hand a ticket to any person intending to pass over or on the bridge, and any person to whom a ticket is so handed may be required, on demand, to deliver up or display such ticket to the toll collector or other person appointed by the Joint Board to collect the same at the place where the authorised tolls are payable.

#### **Persons may be prevented from using bridge on refusal to pay tolls**

- 50 If a collector appointed by the Joint Board to receive the authorised tolls requires any person before using the bridge to pay the tolls due by him for the use he proposes to make of the bridge and that person refuses or neglects to pay such tolls or any part thereof the collector may refuse to permit the person so in default to use the bridge and may by himself, or with such assistance as he shall think necessary, stop and prevent the person so in default from using the bridge.

#### **Composition agreements**

- 51 (1) The Joint Board may enter into agreements (“composition agreements”) under which persons compound in advance, on such terms as may be provided by the agreement, for the payment of the authorised tolls in respect of the use of the bridge by them, by other persons or by any vehicles.
- (2) A composition agreement may relate to use on such number of occasions or during such period as may be provided by the agreement.
- (3) Composition agreements offered by the Joint Board to persons seeking to compound in advance for the payment of the authorised tolls must be offered on the same terms with respect to the same description of use of the bridge to all persons seeking so to compound in respect of that description.

#### **Power to provide toll houses, etc**

- 52 The Joint Board may, from time to time, provide, set up, maintain and remove such toll houses, offices and other conveniences at or upon the bridge and the approaches thereto as they may consider to be necessary or convenient for the purposes of the undertaking.

#### **Penalty for failure to pay tolls**

- 53 If any person fails without reasonable excuse to pay any toll due from him by virtue of this Order, he shall, without prejudice to any remedy of the Joint Board for the recovery

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of such toll, be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

### **Exemption from tolls**

- 54 (1) Without prejudice to the generality of section 82, nothing in this Part of this Order shall prejudice any existing right of Her Majesty (including the exemptions and rights contained in section 184 of the Army Act 1955 and section 184 of the Air Force Act 1955).
- (2) Nothing in this Order shall extend to authorise any tolls to be demanded or received from any person—
- (a) when on duty as a constable as defined in the Police (Scotland) Act 1967;
  - (b) when on duty as a member of a fire brigade maintained in pursuance of the Fire Services Act 1947;
  - (c) when on duty as an authorised officer or employee of a council in connection with the inspection, maintenance, repair, renewal or replacement of any apparatus on the bridge belonging to a council;
  - (d) when in charge of a mail bag (as defined by the Post Office Act 1953);
  - (e) when using a vehicle which is displaying a badge issued by a local authority in exercise of its powers under section 21 of the Chronically Sick and Disabled Persons Act 1970 and conveying as driver or as passenger the disabled person in respect of whom such badge was issued.
- (3) The exemption conferred by this section shall also apply to—
- (a) any vehicle when being used in the service of the naval forces of the Crown or returning after being so used;
  - (b) any other vehicle when being used in the service of the Crown or of the authority in whose service the person is engaged (as the case may be) by a person to whom exemption is granted by the last foregoing subsection or returning after being so used; and
  - (c) any ambulance or other means of transport provided by the Secretary of State under the National Health Service (Scotland) Act 1978.
- (4) Nothing in this Order shall extend to authorise any tolls to be demanded, taken or received—
- (a) from any member or any officer or servant of the Joint Board; or
  - (b) in respect of any vehicle of which he is in charge; on any occasion on which the member, officer or servant (as the case may be) is engaged in carrying out the duties of his office or employment.
- (5) If any person claims or takes the benefit of any exemption conferred by this section knowing he is not entitled to it, he shall be guilty of an offence and shall for every such offence be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

### **Cesser of tolls**

- 55 So soon as all the payments comprehended in paragraphs (c) to (o) inclusive of subsection (1) of section 41 (Application of revenues of undertaking) of this Order have been made, the power to demand, take and recover tolls conferred by this Order shall cease and determine:

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Provided that the said power shall not be determined unless and until the Secretary of State is satisfied that adequate provision has been made for the continued administration, management, carrying on, operation, maintenance and repair of the undertaking, including the payment of any sums to be paid to the port authority in accordance with the provisions of section 78 (Joint Board to meet cost of additional dredging due to existence of bridge or works) of this Order, in respect of additional dredging carried out after the opening of the bridge.

### **Interpretation of authorised tolls**

- 56 For the purposes of this Part of this Order “authorised tolls” means the tolls for the time being authorised to be demanded, taken and received by the Joint Board in pursuance of this Order, or any order made under this Part.

## **PART VII**

### **BYELAWS**

#### **Power to make byelaws**

- 57 The Joint Board may make byelaws (in this Part of this Order referred to as “the byelaws”)—
- (a) for preventing injury or damage to the bridge;
  - (b) for regulating the conduct of persons using the bridge;
  - (c) for regulating the use of the bridge and for prohibiting the use thereof in certain cases and by certain engines, vehicles and animals or other classes of traffic and for ensuring that road traffic shall not be unreasonably delayed;
  - (d) for prohibiting the conveyance upon the bridge of any goods which may in the opinion of the Joint Board be injurious to or prejudicially affect the use of the same or the traffic to be carried thereon or endanger the safety of the bridge or the passenger and other traffic carried thereon;
  - (e) for authorising the closure of the bridge in an emergency;
  - (f) relating to the issue and inspection of tickets or tokens and the collection of tolls; and
  - (g) generally for regulating and controlling the use of the bridge.

#### **Procedure for making byelaws, etc**

- 58 (1) The byelaws shall be authenticated by being sealed with the common seal of the Joint Board and signed by the clerk of the Joint Board.
- (2) Byelaws made under this Part of this Order shall not have effect until confirmed by the Secretary of State and the provisions of sections 202, 203 and 204 of the Act of 1973 shall have effect in relation to such byelaws as if they were byelaws made under section 201 of that Act provided that the maximum penalty which may be imposed under the said section 203 in relation to such byelaws shall be a fine not exceeding level 2 on the standard scale.
- (3) A copy of the byelaws, when confirmed, shall be printed and deposited at the offices of the Joint Board and at the offices of each of the councils and shall at all reasonable hours be open to public inspection without payment and a copy thereof shall on application

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be furnished by the Joint Board to any person on payment of such reasonable sum as the Joint Board may determine.

### **Saving for existing byelaws**

- 59 (1) Until such time as byelaws are made by the Joint Board and confirmed in pursuance of this Order the existing byelaws shall remain in full force and effect.
- (2) For the purpose of this section “existing byelaws” means the byelaws made by the former Joint Board and in force at the commencement of this Order.

### **Management rules**

- 60 (1) The Joint Board may in accordance with this section make rules to be known as “management rules” to regulate—
- (a) the use of; and
  - (b) the conduct of persons while on or in; the bridge or any land or premises which is owned, occupied or managed by the Joint Board or is otherwise under their control and to which the public have access.
- (2) Management rules may be made notwithstanding any power under any enactment to make byelaws, whether exercised or not.

### **Application of Civic Government (Scotland) Act 1982**

- 61 Sections 112 to 118 of the Civic Government (Scotland) Act 1982 shall with the necessary modifications apply and have effect with respect to the making of management rules by the Joint Board as if the Joint Board were a local authority.

### **Saving for Health and Safety at Work etc. Act 1974**

- 62 Nothing in this Order affects the operation of any relevant statutory provisions as defined by section 53 of the Health and Safety at Work etc. Act 1974.

## **PART VIII**

### **MISCELLANEOUS**

#### **Services to Joint Board**

- 63 The provisions of section 65 (Placing of staff of local authorities at disposal of other local authorities) of the Act of 1973 shall apply in relation to the councils and the Joint Board as if the Joint Board were a local authority.

#### **Power to provide car parks, etc**

- 64 (1) The Joint Board may, on any land for the time being vested in or leased by them, provide, maintain and manage car parks and may exercise all or any of the following powers upon and in respect of the whole or any part of any such land and upon and in respect of any car park provided by them under the powers of this section—
- (a) they may lay out such land and adapt the same for use as a car park and construct and provide roads, paths, ramps, steps and gardens;

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- (b) they may provide and maintain cloakrooms, shelters, offices, information bureaux and displays, lavatories and conveniences;
  - (c) they may make reasonable charges for the use of any car park provided by them as aforesaid or of any building or structure provided in connection therewith;
  - (d) they may make byelaws as to the use of any such car park and, in particular, as to the vehicles or classes of vehicles which may be entitled to use the same, or any part thereof, and the conditions upon which any such car park may be used;
  - (e) they may set aside part of such lands for the purpose of a station for public service vehicles; and
  - (f) they may provide, maintain, equip and carry on refreshment rooms and—
    - (i) manage the same themselves and provide and sell refreshments of all kinds (other than exciseable liquors); or
    - (ii) grant to any person on such terms and conditions and for such period as they think fit the right to provide and sell such refreshments of all kinds at such refreshment rooms.
- (2) The Joint Board may enter into and carry into effect agreements with the roads authority of the area in which any such car park is situated or other person for the maintenance and management of such car park by such roads authority or other person and may delegate their powers under this section to such roads authority and they may lease, sell, feu or otherwise dispose of any such car park to such roads authority or other person.
- (3) The powers conferred on the Joint Board by this section shall be exercisable only with the consent of the Secretary of State.

### **Power of Joint Board to regulate traffic on bridge**

- 65 For the purpose of regulating traffic on the road carried by the bridge and associated approach roads to the bridge constructed under the powers of section 11 (Power to execute works) of the Order of 1962 so far as vested in the roads authorities the Joint Board shall be deemed to be a roads authority as defined in the Roads (Scotland) Act 1984 and shall be the roads authority for the said roads and as such may make traffic regulation orders under sections 1, 2 and 4 of the Road Traffic Regulation Act 1984 (in this section referred to as “the Act of 1984”) experimental traffic orders under section 9 and temporary regulations under section 14 of the said Act and may give directions and make orders under section 82(2) and section 84 respectively of the Act of 1984, and the Act of 1984 shall, with any necessary adaptations, apply to all such orders and directions made by the Joint Board as aforesaid.

### **Subsidiary powers**

- 66 Subject to the provisions of this Order the Joint Board shall have power to do anything which is calculated to facilitate or is conducive or incidental to the discharge of any of their functions.

### **Payment by Joint Board of travelling expenses, etc., of members**

- 67 (1) The Joint Board may, if they think fit, pay allowances at such rates as they may fix in respect of travelling and other personal expenses necessarily incurred and time necessarily lost from ordinary employment by members of the Joint Board in attending meetings of the Joint Board or of any committee or sub-committee thereof.

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- (2) In fixing allowances under this section, the Joint Board shall comply with the provisions of sections 45 to 50 of the Act of 1973.

### **Recovery and application of penalties**

- 68 All proceedings for the recovery of fines authorised to be imposed for offences against this Order, or against any byelaw made under this Order, may be proceeded with and conducted under and in conformity with Part II of the Criminal Procedure (Scotland) Act 1975.

### **Undertaking to be exempt from rates**

- 69 Notwithstanding anything contained in any Act, the undertaking shall not be assessed to any rate as defined in section 43 of the Valuation and Rating (Scotland) Act 1956:

Provided that this section shall not extend to any refreshment rooms provided under paragraph (f) of subsection (1) of section 64 (Power to provide car parks, etc.) of this Order or so far as relating to non-domestic water rate to any other subjects provided under the said section 64.

### **Provisions as to local inquiries, etc**

- 70 The Secretary of State may cause a local inquiry to be held for the purpose of the exercise of any of his functions under this Order and the provisions of section 210 of the Act of 1973 shall have effect with regard to any such inquiry.

### **Authentication of notices by Joint Board**

- 71 Any notice, order, demand, requisition or other such document required or authorised by this Order, or by any Act incorporated with or any byelaw made under this Order, to be sent, delivered or served by the Joint Board shall be signed by the clerk of the Joint Board, or authenticated in such other manner as the Joint Board may direct.

### **Service of notices by Joint Board**

- 72 (1) Any notice, order, demand, requisition or other such document by the Joint Board, required or authorised by this Order or by any Act incorporated with or any byelaw made under this Order may be served—
- (a) by being sent by post or delivered to or at the residence, or place of business, of the person to whom it is addressed: Provided that in the case of a person employed on any ship or vessel it shall be delivered to some person on board thereof and connected therewith;
  - (b) where the notice or other document as aforesaid relates to premises and the Joint Board are unable, after reasonable inquiry, to ascertain the address of the person upon whom it should be served, by addressing it to him—
    - (i) by name, if his name is known; or
    - (ii) if his name is not known, by the description of “owner” or “occupier” of the premises (naming them) to which it relates; and by delivering it to some person on the premises or, if there is not a person on the premises to whom it can be delivered, by affixing it or a copy thereof to some conspicuous part of the premises.



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- (2) Service of a copy of any such notice, order, demand, requisition or other document shall be deemed to be service of the principal document.
- (3) Service of any such notice, order, demand, requisition or other document may be proved by a certificate under the hand of the person who posted or delivered or affixed the same attested by one witness who was present at such posting, delivery or affixing.

### **Service of legal proceedings and notices on Joint Board**

- 73 (1) Any legal proceedings against the Joint Board shall be deemed to have been duly served on the Joint Board if served on the clerk to the Joint Board.
- (2) Any notice, order, demand, requisition or other document required or authorised by this Order, or by any Act incorporated with this Order, to be sent, delivered or served to or upon the Joint Board or to or upon the clerk to the Joint Board shall be addressed to the Joint Board, or to the clerk to the Joint Board (as the case may be), and shall be left at or sent by post to the office of the clerk to the Joint Board.

### **Power to promote and oppose private legislation, etc**

- 74 The Joint Board shall have power to promote or oppose—
- (a) any private legislation; and
  - (b) any special or other statutory order; which, in their judgment, it is expedient in the interests of the Joint Board or the undertaking to promote or oppose as the case may be and may defray the expenses incurred in relation thereto.

### **Resolution of Joint Board to promote private legislation**

- 75 (1) The Joint Board shall not promote private legislation under the powers conferred by this Order unless a resolution to that effect is passed by at least 7 of the members of the Joint Board at a meeting thereof held after ten clear days' notice of the meeting and of the purpose thereof has been given by advertisement in one or more newspapers circulating in the respective areas of the councils.
- (2) Such notice shall be in addition to the ordinary notice required to be given for the convening of a meeting of the Joint Board.
- (3) The resolution shall forthwith be submitted to the Secretary of State for authority to proceed.
- (4) The Joint Board shall not proceed with the promotion until the Secretary of State notifies the Joint Board that authority is given.
- (5) The Secretary of State shall cause intimation to be given to the Joint Board of his decision within one month after the submission to him of the resolution.
- (6) Where, under section 2 of the Private Legislation Procedure (Scotland) Act 1936, the Chairman of Committees of the House of Lords and the Chairman of Ways and Means in the House of Commons are of the opinion that provisions contained in a draft Provisional Order under the said Act ought to be dealt with by Private Bill and not by Provisional Order, all steps taken under this section with respect to the promotion of the Provisional Order under this section shall be deemed to have been taken with respect to the promotion of such a Private Bill.

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### **Agreements**

- 76 The Joint Board, and the councils or either of them, may enter into and carry into effect agreements for or with respect to any of the purposes or provisions of this Order.

### **Settlement of differences**

- 77 Subject to the provisions of this Order, any difference which arises between the councils or either of them and the Joint Board under the provisions of this Order, shall be referred to and determined by an arbiter to be agreed upon between the parties or, failing agreement, to be appointed by the sheriff principal of the sheriffdom of Tayside, Central and Fife.

### **Joint Board to meet cost of additional dredging due to existence of bridge or works**

- 78 (1) If at any time it is necessary for the port authority, in order to maintain the depth of water in the channels leading to their quays and docks or at the berths alongside such quays which obtained before the construction of the bridge, to carry out dredging operations additional to those which would normally have been carried out by them before the construction of the bridge, and such additional dredging operations are necessitated by reason of the existence of the bridge they shall give notice in writing to the Joint Board of the cost of such additional dredging and the additional expense reasonably incurred by the port authority in carrying out such additional dredging shall be recoverable from the Joint Board by the port authority.
- (2) In the event of any difference arising between the Joint Board and the port authority under subsection (1) of this section such difference shall be referred to an arbiter to be agreed upon between the parties or, in case of failure to agree, to be appointed on the application of either party by the President for the time being of the Institution of Civil Engineers.

### **For protection of port authority**

- 79 For the protection of the port authority the following provisions shall, without prejudice to anything in this Order, and unless otherwise agreed in writing between the port authority and the Joint Board, apply and have effect (that is to say):—
- (1) If at any time the port authority reasonably deem it necessary due to the existence of the bridge or to any works of the Joint Board below high-water mark to carry out any alterations to the lighting and buoying of the navigation channel of the Firth of Tay and carry out such alterations the reasonable cost incurred by the port authority in carrying out such alterations shall be paid by the Joint Board.
- (2) If for any reason the carrying out or completion of any work of the Joint Board below high-water mark has to be suspended the Joint Board shall take all reasonable and practicable measures to ensure that such work is left and maintained so that no greater interference would be caused to the navigation channels of the Firth of Tay than would result from the existence of the bridge.
- (3) The port authority shall not be liable in respect of any damage which may be occasioned to the bridge or to any works of the Joint Board below high-water mark by the port authority, their officers or servants, arising from any dredging operations conducted by the port authority for the maintenance of the channels leading to their quays and docks or at the berths alongside such quays:

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Provided always that nothing in this section shall absolve the port authority in respect of any such damage arising from negligence or carelessness on the part of their officers or servants or others duly appointed by the port authority to carry out the said operations.

- (4) If any difference arises between the port authority and the Joint Board under this section, the same shall be determined by an arbiter to be agreed upon between the parties or, in case of failure to agree, to be appointed on the application of either party by the President for the time being of the Institution of Civil Engineers.

### **For protection of British Railways Board**

80 For the protection of the British Railways Board (in this section referred to as “the railways board”) the following provisions shall, unless otherwise agreed in writing between the Joint Board and the railways board, apply and have effect:—

- (1) In this section—

“appropriate authority” means in respect of—

- (a) Work No. 1 of the Order of 1962, Tayside Regional Council;
- (b) Work No. 2 of the Order of 1962, the Joint Board; and
- (c) Work No. 9 of the Order of 1962, Fife Regional Council;

“the engineer” means an engineer to be appointed by the railways board;

“the overline bridge” means the bridge forming part of Work No. 9 constructed over the East Coast Main Line railway of the railways board;

“railway property” means any land, railway, siding, road, building or other property or work belonging to the railways board; and

“the relevant works” means Works Nos. 1, 2 and 9 authorised by the Order of 1962 and constructed by the former Joint Board and all works and conveniences connected therewith.

- (n) (a) the appropriate authority shall continue to maintain—

(i) the decking of the Dock Street Tunnel of the railways board at or near the existing level of Dock Street, Dundee, to a strength adequate for the support of Work No. 1 and its traffic;

(ii) Work No. 2 wholly on a viaduct structure founded and carried independently of, and in such a manner as will place no additional loading on Dock Street Tunnel; and

(iii) the overline bridge as a single span over the lines of rails comprised in the East Coast Main Line railway of the railways board with a clear headway of not less than 16 feet from the highest rail to the lowest part of the bridge decking and with a lateral clearance of not less than 6 feet from the outside edge of the eastmost and westmost rails respectively and the outside edge of the scarcement or foundation of the bridge abutments nearest to those rails;

- (b) All work which shall be considered necessary by the engineer for the support and protection of the existing decking and walls of Dock Street Tunnel shall continue to be undertaken by and at the expense of the appropriate authority when so required by the railways board.

- (3) Any abutments, piers and supports of the overline bridge which are placed on railway property shall be subject to such terms and conditions as shall be reasonably prescribed by the railways board.

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- (4) Notwithstanding the repeal by this Order of the Order of 1962, paragraphs (4) and (7) to (18) of section 48 (for protection of British Transport Commission) of that Order shall, in so far as they relate to the maintenance, repair or use of the relevant works, continue to have effect, with necessary modifications, for the protection of the railways board and as if references therein to the former Joint Board were references to the appropriate authority.

#### **For protection of Scottish Hydro-Electric plc**

81 For the protection of Scottish Hydro-Electric plc the following provisions shall, except as may be otherwise agreed in writing between the Joint Board and the Company, apply and have effect:—

- (1) In this section unless the subject or context otherwise requires—“apparatus” means—
- (a) any electrical plant or electric line as respectively defined in section 64 of the Electricity Act 1989; and
  - (b) any meter used for ascertaining the quantity of electricity supplied to any premises, not being a meter which is under the control of a consumer;
    - “the company” means Scottish Hydro-Electric plc;
    - “in” in a context referring to apparatus includes under, over, across, along or upon;
    - “plan” includes a section and description;
    - “position” includes depth.
- (2) (a) Nothing in this Order shall relieve the Joint Board from the liability for damage caused by them to any apparatus in the exercise of the powers conferred on them by this Order and the Joint Board shall indemnify the company against all claims, demands, costs, damages and expenses made or taken against or recovered from or incurred by the company by reason or in consequence of any damage done by the Joint Board to any apparatus or of any interruption in the supply by the company of electricity which may without the written authority of the company be in any way occasioned either by reason of the exercise of any of the powers of this Order or by the acts or defaults (in, or in connection with, such exercise) of the Joint Board;
- (b) If in consequence of the exercise by the Joint Board of the powers of this Order the access to any apparatus is materially obstructed, the Joint Board shall provide an alternative means of access to such apparatus:
- (3) (a) Before exercising the powers of section 18 of this Order, at, over, under, or near to any apparatus the Joint Board shall give to the company not less than 28 days' notice in writing of their intention so to do, stating the position of the proposed operation, and shall furnish such further particulars with respect thereto as the company may reasonably require;
- (b) If within 21 days of receipt of such notice as is provided for by the preceding paragraph the company notify the Joint Board in writing of the need to take measures of which the company shall be sole judge to protect apparatus from possible harm caused by the proposed operation and specify the reasonable requirements subject to which the proposed operation may be carried out, the Joint Board shall—
- (i) carry out such operation only in accordance with such requirements;

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- (ii) pay to the company the expenses reasonably incurred by them in and in connection with the carrying out of any of the said protective measures:
- (4) If the Joint Board in exercise of the powers of sections 12, 14, 15, 17 or 64 of this Order require to cross over or under, remove, alter or otherwise interfere with any apparatus, or if the exercise of such powers is likely to affect any apparatus, the Joint Board shall—
- (a) give to the company not less than 28 days' prior notice in writing of such requirement or (as the case may be) of their intention to exercise such powers, together with a plan of the work proposed, and shall execute the work only in accordance with such plan and in accordance with such reasonable requirements as may within 21 days of the receipt of the plan be made by the company, and the company may under such requirements alter or otherwise protect the apparatus or provide alternative apparatus adequate to enable them to fulfil their statutory functions not less efficiently than before (hereinafter referred to as “alternative apparatus”);
  - (b) afford to the company, where possible, any necessary facilities and rights for the construction, use, maintenance, repair, renewal and inspection of any alternative apparatus;
  - (c) pay to the company the expenses reasonably incurred by them in and in connection with removing, re-laying, replacing, altering or protecting the apparatus or providing alternative apparatus less (in a case where alternative apparatus is provided) the value of any apparatus removed pursuant to this section.
- (5) Alternative apparatus, if provided under this section, shall be constructed in such manner and in such line or position as may be agreed between the Joint Board and the company, and no apparatus shall be removed, altered or interfered with until any protective works required have been carried out or until alternative apparatus required has been provided and is operating to the reasonable satisfaction of the company.
- (6) (a) Any difference arising between the Joint Board and the company under this section shall be referred to and determined by an arbiter to be mutually agreed upon, or failing such agreement to be appointed on the application of either party (after notice in writing by the other) by the President of the Institution of Electrical Engineers.
- (b) In settling any difference under this section the arbiter shall have regard to any duties or obligations which the company may be under in respect of any apparatus and may if he thinks fit require the Joint Board to execute any temporary or other works so as to avoid so far as may be reasonably possible interference with any purpose for which the apparatus is used.

### **Crown rights**

- 82 (1) Nothing in this Order shall affect prejudicially any estate, right, power, privilege or exemption of the Crown and in particular and without prejudice to the generality of the foregoing nothing herein contained shall authorise the Joint Board to take, use or in any way interfere with any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary or any land, heritages, subjects or rights of whatsoever description—
- (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those commissioners on behalf of Her Majesty; or

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- (b) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.
- (2) A consent under subsection (1) above may be given unconditionally or subject to terms and conditions.

### **Repeal**

- 83 (1) The Tay Road Bridge Orders 1962 to 1985 are hereby repealed.
- (2) The transitional provisions in Schedule 2 to this Order shall have effect.

### **Costs of Order**

- 84 The costs, charges and expenses of and incidental to the preparing for, obtaining and confirming of this Order, shall be paid by the Joint Board.

## SCHEDULE 1

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### *II.*

#### ***PART I Provisions with respect to the appointment, tenure of office and qualifications of members of the Joint Board, etc.***

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| 1.  | Appointment and term of office of members.             |
| 2.  | Intimation of appointment of members.                  |
| 3.  | Qualification of members.                              |
| 4.  | Members of both councils to represent one only.        |
| 5.  | Restriction on voting.                                 |
| 6.  | Resignation of members.                                |
| 7.  | Failure of member to attend meetings.                  |
| 8.  | Removal of members.                                    |
| 9.  | Casual vacancies.                                      |
| 10. | Tenure of office, etc., of chairman and vice-chairman. |
| 11. | Eligibility for re-election.                           |

### *II.*

#### ***PART II Provisions as to meetings and proceedings***

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|----|-----------------------------|
| 1. | Place and time of meetings. |
| 2. | Special meetings.           |
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5.	Chairman of meetings.
6.	Decisions on questions.
7.	Minutes.
8.	Standing orders.
9.	Contracts of the Joint Board.
10.	Committees and sub-committees.
11.	Execution of deeds.
12.	Vacancies, etc., not to invalidate proceedings.
13.	Revision of Part II of Schedule.

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## PART I

### PROVISIONS WITH RESPECT TO THE APPOINTMENT, TENURE OF OFFICE AND QUALIFICATIONS OF MEMBERS OF THE JOINT BOARD, ETC.

#### **Appointment and term of office of members**

- (1) Subject to the provisions of this Order the term of office of a member of the Joint Board shall be four years commencing on the first day of June and ending on the thirty-first day of May and not later than the month of May in every year in which a member of the Joint Board falls to retire in ordinary course the council by which such member was appointed shall appoint a member to hold office for the four years next following the expiry of the period of office of the retiring member. Provided that in the case of a member appointed at the first appointment of members following the commencement of this Order such members shall hold office until the 31st May following the next election of regional councillors held in terms of section 4 of the Act of 1973.
- (2) If by reason of the failure of either of the councils to appoint a member of the Joint Board, it consists of fewer than 12 members its members may nonetheless act as if there were no vacancy and if a council fails to appoint a member of the Joint Board at the proper time for his appointment the member of the Joint Board appointed by such council who then falls to retire shall continue in office until his successor is appointed so long always as he is qualified to be a member of the Joint Board.

#### **Intimation of appointment of members**

- (1) Where an appointment of a member of the Joint Board has been made, the chief executive or other proper officer of the council by which the appointment was made shall by writing under his hand certify the appointment to the clerk of the Joint Board and every such certificate shall be evidence of such appointment.
- (2) A council may nominate in writing under the hand of the chief executive or other proper officer of the council a deputy for any member appointed by them to attend and speak and vote at any meeting of the Joint Board in place of a member so appointed who for any reason is unable to attend that meeting.

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### **Qualification of members**

- 3 A person shall be qualified to be a member of the Joint Board if he is a member of the council by which he is appointed and if a member of the Joint Board ceases to be a member of the council by which he was appointed, or is disqualified from being a member of such council, he shall cease to be a member of the Joint Board.

### **Members of both councils to represent one only**

- 4 A person who is a member of both councils shall not be qualified to represent more than one of them and, if the same person shall be appointed a member of the Joint Board by both councils he shall, within one month after the second appointment, choose under which appointment he shall serve and, on notification of such choice to the Joint Board and the councils, the other appointment shall be deemed void.

### **Restriction on voting**

- 5 The provisions of section 60 of the Act of 1973 shall apply to members of the Joint Board in like manner as they apply to members of a council to which those sections apply.

### **Resignation of members**

- 6 A member of the Joint Board may resign his office as such member by notice in writing addressed to the clerk of the Joint Board.

### **Failure of member to attend meetings**

- 7 (1) If a member of the Joint Board fails to attend any meeting of the Joint Board for nine consecutive months (beginning with the date of the meeting from which he first absented himself), he shall unless the failure was due to some reason approved by the Joint Board be deemed to have resigned his office as a member of the Joint Board at the expiration of that period.
- (2) Attendance as a member at a meeting of any committee or sub-committee of the Joint Board, and attendance as representative of the Joint Board at a meeting of any body or persons shall be deemed for the purpose of subsection (1) above to be attendance at a meeting of the Joint Board.

### **Removal of members**

- 8 Any member of the Joint Board may be removed at any time by resolution of the council by which he was appointed.

### **Casual vacancies**

- 9 If any member of the Joint Board dies, or resigns, or is removed from office or ceases to be qualified to be a member of the Joint Board, the council by which he was appointed may, at any time after the happening of such event, appoint another person to be a member of the Joint Board in his place and the person so appointed shall continue in office for the remainder of the period in respect of which the member was appointed.



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### **Tenure of office, etc., of chairman and vice-chairman**

10 The chairman and vice-chairman of the Joint Board (who shall each hold office for four years) shall be elected by the Joint Board from among their members in the month of June following the regional council elections held in terms of section 4 of the Act of 1973 and in case of an equality of votes the chairmanship and vice-chairmanship shall be determined by lot as between those who received an equal number of votes:

Provided that—

- (1) the Joint Board shall, at their first meeting, elect a chairman and vice-chairman to hold office respectively until a chairman and vice-chairman are elected at the meeting of the Joint Board to be held in the month of June first occurring after the next election of regional councillors held in terms of section 4 of the Act of 1973;
- (2) in the event of a casual vacancy occurring in either of the said offices, the Joint Board may elect a member to fill the vacancy and the member so elected shall hold office until his successor is elected.

### **Eligibility for re-election**

11 A person ceasing to hold office to which he is appointed or elected by virtue of the provisions of this Order shall, if otherwise qualified, be eligible for re-appointment or re-election.

## **PART II**

### **PROVISIONS AS TO MEETINGS AND PROCEEDINGS**

#### **Place and time of meetings**

1 The ordinary meetings of the Joint Board shall be held at such places, on such days and at such times as the Joint Board may from time to time appoint.

#### **Special meetings**

2 The clerk of the Joint Board shall call a meeting of the Joint Board at any time, on being required so to do by the chairman or on receiving a requisition in writing for that purpose specifying the business proposed to be transacted at the meeting and signed by three members of the Joint Board.

#### **Convening meetings**

3 (1) Meetings of the Joint Board shall be convened by the clerk of the Joint Board and in the case of the first meeting of the Joint Board by the clerk of the former Joint Board.

(2) Every meeting shall be convened by circular delivered to each member of the Joint Board, or sent by post to his residence, three clear days at least before the day of the meeting:

Provided that want of notice to any member of the Joint Board shall not affect the validity of a meeting.

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### **Quorum**

- 4 To constitute a meeting of the Joint Board there shall be present not less than five members.

### **Chairman of meetings**

- 5 At every meeting of the Joint Board the chairman of the Joint Board, if present, shall preside but, if he is not present at the time appointed for the meeting, the vice-chairman, if present, shall preside and, if neither the chairman nor the vice-chairman is present, the members then present shall choose one of their number to preside at that meeting.

### **Decisions on questions**

- 6 (1) All acts of, and all questions coming and arising before, the Joint Board or any committee or sub-committee of the Joint Board shall be done and decided by a majority of the members of the Joint Board or committee or sub-committee as the case may be present and voting at a meeting of the Joint Board or committee or sub-committee as the case may be.
- (2) In the case of an equality of votes, the person presiding at the meeting shall have a casting vote as well as a deliberative vote:

Provided that if at any meeting neither the chairman nor the vice-chairman be present and there be an equality of votes in choosing the member to preside at such meeting, it shall be decided by lot which of the members having an equal number of votes shall so preside.

### **Minutes**

- 7 (1) Minutes of the proceedings of a meeting of the Joint Board shall be drawn up by or on behalf of the clerk to the Joint Board.
- (2) Such minutes shall be signed at the meeting by the person presiding thereat or shall be submitted to the next ensuing ordinary meeting of the Joint Board for approval as a record of the meeting and signed by the person presiding at that next ensuing meeting.
- (3) Any minute purporting to be signed as aforesaid shall be received in evidence without further proof.
- (4) Subject to any standing orders of or other directions by the Joint Board, the provisions of the preceding sub-paragraphs shall apply with respect to any committee or sub-committee of the Joint Board in like manner as they apply with respect to the Joint Board.
- (5) Until the contrary is proved—
- (a) a meeting of the Joint Board, or of any committee or sub-committee thereof, in respect of the proceedings whereof a minute has been made and signed in manner above provided shall be deemed to have been duly convened and held;
  - (b) all the members present at the meeting shall be deemed to have been duly qualified; and
  - (c) where the proceedings are proceedings of a committee or sub-committee, the committee or sub-committee as the case may be shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minutes.

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### **Standing orders**

- 8 Subject to the provisions of this Order, the Joint Board may make or adopt standing orders for the regulation of their proceedings and business and may vary or revoke such standing orders.

### **Contracts of the Joint Board**

- 9 (1) The Joint Board may make standing orders with respect to the making of contracts by them or on their behalf.
- (2) A person entering into a contract with the Joint Board shall not be bound to enquire whether the standing orders of the Joint Board which apply to the contract have been complied with, and non-compliance with such orders shall not invalidate any contract entered into by or on behalf of the Joint Board.
- (3) In this section the expression “contracts” includes, in relation to the execution of works, arrangements for the execution of those works by persons employed by the Joint Board.

### **Committees and sub-committees**

- 10 (1) Subject to sub-paragraph (2) below, the Joint Board may arrange for the discharge of any of their functions by a committee or sub-committee consisting of such numbers of persons as they think fit, or an officer of the Joint Board.
- (2) The following functions namely:—
- (a) the power of requisitioning moneys from the councils;
  - (b) the power of incurring capital expenditure;
  - (c) the incurring of any expenditure not provided for in the annual estimates of the Joint Board, unless and until such expenditure is reported to and approved of by the Joint Board in the form of a supplementary estimate;
  - (d) the enactment, alteration or revocation of any byelaws;
  - (e) the power to make representations to the Secretary of State with respect to the revision of tolls;
  - (f) the appointment or dismissal of the clerk, treasurer or engineer of the Joint Board;
- shall be discharged only by the Joint Board.
- (3) In case of emergency the chairman and vice-chairman of the Joint Board may authorise the incurring of expenditure not exceeding the sum of £10,000 subject to a report to the Joint Board.
- (4) Where by virtue of this section any functions of the Joint Board may be discharged by any committee or sub-committee, then, unless the Joint Board otherwise direct—
- (a) the committee may arrange for the discharge of any of those functions by a sub-committee or an officer of the Joint Board; and
  - (b) the sub-committee, whether assigned the discharge of functions by the Joint Board or by a committee, may arrange for the discharge of any such functions by an officer of the Joint Board.
- (5) Any arrangement made by the Joint Board, committee or sub-committee under this section for the discharge of functions by a committee or sub-committee or officer of the Joint Board shall not prevent the Joint Board committee or sub-committee by whom the arrangement is made from exercising those functions.

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- (6) An arrangement under this section may include or comprise a remit for consideration and report to the Joint Board, committee or sub-committee making the arrangement.

#### **Execution of deeds**

- 11 A deed to which the Joint Board are a party shall be held to be validly executed on behalf of the Joint Board if it is sealed with the common seal of the Joint Board and subscribed on behalf of the Joint Board by two members and the clerk thereof, whether attested by witnesses or not.

#### **Vacancies, etc., not to invalidate proceedings**

- 12 (1) The proceedings of the Joint Board, or of a committee or sub-committee thereof, shall not be invalidated by any vacancy among their number or by any defect in the election or qualification of any member thereof or by any member voting on or taking part in the consideration or discussion of any question when he is not entitled to do so.
- (2) If the proceedings of a meeting of the Joint Board, or of a committee or sub-committee thereof, are, notwithstanding anything in this Order, open to challenge on the ground that the meeting has not been duly convened, such proceedings shall be validated if the minutes of the meeting are confirmed at a subsequent meeting duly convened by the Joint Board, committee or sub-committee as the case may be.

#### **Revision of Part II of Schedule**

- 13 (1) The Secretary of State may, at the request of the Joint Board, by order make such additions or other alterations to Part II of this Schedule as may be found necessary or desirable.
- (2) The power to make orders conferred on the Secretary of State by this paragraph shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## SCHEDULE 2

### TRANSITIONAL PROVISIONS AND SAVINGS

- 1 All acts, works, matters and things which before the commencement of this Order were done or commenced under the powers of the Order of 1962 and which were immediately before the commencement of this Order valid or available or in progress and all existing notices, notices to treat, agreements, awards, conveyances, contracts, covenants, deeds, instruments, leases, obligations, rights and remedies shall be and continue valid and available for all purposes and for and against all parties, and may be continued, enforced and completed as if the Joint Board were the former Joint Board.
- 2 All actions, arbitrations, prosecutions and proceedings by, with or against the former Joint Board by reason of any matter or thing done before the commencement of this Order in execution of or in relation to the Order of 1962 may be continued, commenced or prosecuted by or against the Joint Board as if the Joint Board were the former Joint Board.

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- 3 All agreements, whether in writing or not, and other documents to which the former Joint Board were a party shall continue to have effect as if—
  - (1) the Joint Board rather than the former Joint Board had been party thereto;
  - (2) for any reference (however worded and whether express or implied) to the former Joint Board there were substituted a reference to the Joint Board.
- 4 All tolls, charges and other sums due or accruing due to the former Joint Board at the commencement of this Order shall be payable to and may be collected and recovered by the Joint Board.
- 5 All sums borrowed by the former Joint Board under any statutory borrowing power and not repaid before the commencement of this Order shall, notwithstanding the repeal of any enactment by or under which such statutory borrowing power was created or authorised, be repaid by the Joint Board within the respective periods within which they were required to be repaid and on the terms and conditions on which they were borrowed by or under that repealed enactment.”