

## SCHEDULE 2

### Amendments to Transport Act 1962 and Transport Act 1968

#### Transport Act 1968

- 39.**—(1) Section 105(1) (maintenance of the Board’s waterways) is amended as follows.
- (2) In the heading, omit “the Board’s”.
- (3) In subsection (1), after “Board” insert “and of Canal & River Trust, in relation to the waterways comprised in their respective undertakings”.
- (4) In subsection (2), after “the Board” insert “or Canal & River Trust”.
- (5) In subsection (3)—
- (a) after “or any part thereof,” insert “or to any other reason the Minister considers relevant to the duty under subsection (1),”;
- (b) for “the Board”, in each place occurring, substitute “Canal & River Trust”.
- (6) After subsection (3) insert—
- “(3ZA) Canal & River Trust may apply to the Minister for the making of an order under subsection (3).
- (3ZB) In deciding whether to make any order under subsection (3), the Minister must have regard to the financial position of Canal & River Trust.”.
- (7) For subsection (3A), substitute—
- “(3A) If it appears to the Scottish Ministers that, having regard to any change in the size, design or type of vessel customarily using any commercial waterway or cruising waterway, or any part of such waterway, it is desirable to exercise their powers under this subsection, they may (after consultation with the Board) by order substitute for the duty imposed on the Board by subsection (1) in respect of that waterway (or part) such duty in respect of the maintenance of such waterway (or part) as they consider appropriate having regard to that change, and may by that order make such incidental or transitional provision as they think necessary or expedient in connection therewith.”.
- (8) In subsection (4)—
- (a) after “(3)” insert “or (3A)”;
- (b) after “such order” insert “made by the Minister under subsection (3)”;
- (c) after “Parliament” insert “, and an order made by the Scottish Ministers under subsection (3A) is subject to the negative procedure”.
- (9) In subsection (6), after “the Board” insert “or Canal & River Trust”.
- (10) In subsections (7) and (8), after “Board”, in each place occurring, insert “or, as the case may be, Canal & River Trust”.

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(1) Section 105 was amended by [S.I. 2000/3251](#) and modified by [S.I. 1993/119](#).