



Workington Harbour Act 1974

CHAPTER xxviii

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short and collective titles.
2. Division of Act into Parts.
3. Interpretation.
4. Incorporation of Harbours, Docks and Piers Clauses Act 1847.

PART II

TRANSFER OF UNDERTAKING

5. Transfer of undertaking.
6. Information to be supplied by Company.
7. Recovery of charges due to Company.
8. Saving of agreements, etc.
9. Continuance of proceedings.

Section

10. Books, etc., to remain evidence.
11. Existing byelaws to remain in force.
12. National Ports Council levy.
13. Transfer of employees.
14. Compensation for loss of employment, etc.

PART III

FUNCTIONS AND POWERS OF COUNCIL AS HARBOUR AUTHORITY

15. Jurisdiction and powers of Council as harbour authority.
16. Amendment of Act of 1957.
17. Lights detrimental to navigation.
18. Licensing of moorings.
19. Power to supply water.
20. Power to hire out plant.
21. Arrangements for the provision of warehouses and other facilities.
22. Maintenance of railway bridge.
23. Power to make general byelaws.
24. Power to make byelaws as to lights and signals.
25. Byelaws relating to certain dangerous goods.
26. Confirming authority for byelaws.
27. Power to contract for harbour police.
28. Appropriation of berths.
29. Charges.
30. As to payment of dues and charges.
31. Penalty for evading payment of dues or charges.
32. Claims for repayment of charges.

PART IV

FINANCE

33. Power to borrow.
34. Accounts of harbour undertaking.
35. Income and expenditure.
36. Application of revenue of harbour undertaking.
37. Power to make grants.

PART V

GENERAL

38. Repeal and amendment of enactments.
39. Application of general provisions of Public Health Act 1936.

Section

- 40. Saving for Trinity House.
- 41. Crown rights.
- 42. Protection of members and officers of Council from personal liability.
- 43. Costs of Act.

SCHEDULES:

Schedule 1—Increase of fines.

Schedule 2—Repeals coming into force on date of transfer.

Schedule 3—Sections of Public Health Act 1936 applied.

ELIZABETH II



1974 CHAPTER xxviii

An Act to transfer to the Cumbria County Council the undertaking of the Workington Harbour and Dock Company Limited; to empower the County Council to manage Workington Harbour; and for other purposes.

[31st July 1974]

WHEREAS—

(1) The port and harbour of Workington in the county of Cumbria is under the jurisdiction and management of the Workington Harbour and Dock Company Limited (hereinafter referred to as “the Company”) under the provisions of the Workington Harbour and Dock (Transfer) Act 1957 and the 1957 c. xxxii. harbour and all lands, docks, wharves, quays, jetties, railways, works and appliances comprising the harbour undertaking referred to in that Act are vested in the Company as successors, in respect of the said undertaking, to the United Steel Companies Limited:

(2) The Company is a company incorporated under the Companies Act 1948 as a company limited by shares and is a 1948 c. 38. wholly-owned subsidiary of the British Steel Corporation (hereinafter referred to as “the Corporation”):

(3) Upon termination of the use by the Corporation of Workington Harbour for the import of iron ores the revenues of the harbour undertaking would be insufficient to meet outgoings incurred in the operation and management of the harbour but, in accordance with recommendations made by a working party on the future of Workington Harbour convened by the Northern Economic Planning Board, it is desirable, for the purpose of promoting the prosperity of West Cumberland, to maintain Workington Harbour for the handling of other business for which the harbour is now used and for such other business as may arise within a limited period of years:

(4) The Cumbria County Council (hereinafter referred to as "the Council") are willing to accept the transfer of the Workington Harbour undertaking and to undertake the operation and management of Workington Harbour for such period, and the Corporation and the Company are willing to transfer the harbour undertaking to the Council in accordance with the provisions of this Act:

(5) It is accordingly expedient that provision be made for the transfer of the Workington Harbour undertaking to the Council, to empower the Council to operate and manage the harbour and to confer upon the Council jurisdiction and powers with respect to Workington Harbour and that the other provisions in this Act be enacted:

(6) The purposes of this Act cannot be effected without the authority of Parliament:

(7) In relation to the promotion of the Bill for this Act by the Cumberland County Council the requirements of Part XIII of the Local Government Act 1933 have been observed and the Cumbria County Council have concurred in the promotion of the said Bill by the Cumberland County Council:

1933 c. 51.

May it therefore please your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows, that is to say:—

PART I

PRELIMINARY

1.—(1) This Act may be cited as the Workington Harbour Act 1974.

(2) The Workington Harbour and Dock (Transfer) Act 1957 and this Act may be cited together as the Workington Harbour Acts 1957 and 1974.

Short and collective titles.

1957 c. xxxii.

(3) The provisions of section 4 (Incorporation of Harbours, Docks and Piers Clauses Act 1847), Part III (Functions and powers of Council as harbour authority) and Part IV (Finance) of this Act shall come into operation on the date of transfer. PART I
—cont.
1847 c. 27.

2. This Act is divided into Parts as follows:—

Part I.—Preliminary.

Part II.—Transfer of undertaking.

Part III.—Functions and powers of Council as harbour authority.

Part IV.—Finance.

Part V.—General.

Division of
Act into
Parts.

3.—(1) In this Act, unless the context otherwise requires— Interpretation.

“ the Act of 1847 ” means the Harbours, Docks and Piers Clauses Act 1847;

“ the Act of 1957 ” means the Workington Harbour and Dock (Transfer) Act 1957;

1957 c. xxxii.

“ the Company ” means the Workington Harbour and Dock Company Limited;

“ contravention ” includes a failure to comply and “ contravene ” shall be construed accordingly;

“ the Corporation ” means the British Steel Corporation;

“ the Council ” means the Cumbria County Council;

“ daily fine ” means a fine for each day on which an offence is committed after conviction thereof;

“ dangerous goods ” means any goods declared by the rules made under section 23 of the Merchant Shipping (Safety Convention) Act 1949 to be dangerous in their nature;

1949 c. 43.

“ the date of transfer ” means the 1st April, 1975, or such later date as may be agreed between the Corporation and the Council and notified in accordance with subsection (2) of this section;

“ the docks ” has the same meaning as in the Act of 1957;

“ enactment ” means any enactment, whether public general or local, and includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of any enactment;

“ goods ” has the same meaning as in the Act of 1957;

“ the harbour ” means the port and harbour of Workington in the county of Cumbria within the limits of the harbour prescribed by section 12 (Harbour limits) of the Act of 1957;

PART I
—cont.

“ the harbour master ” means the harbour master of the Council and includes his authorised deputies and assistants and any person authorised by the Council to act in that capacity;

“ the harbour undertaking ” means the transferred undertaking as altered, enlarged, improved or extended by or under this Act and includes any land acquired by the Council after the date of transfer and for the time being held by them for the purposes of the harbour;

“ Trinity House ” means the Corporation of Trinity House of Deptford Strond;

“ the transferred undertaking ” means the undertaking of the Company as existing on the date of transfer, including—

(a) all lands, buildings, works, vessels, plant, railways, apparatus, vehicles, stores and chattels;

(b) the benefits of, and liabilities under, all agreements (other than contracts for the employment of employees in force immediately before the date of transfer);

(c) all registers, books of account and vouchers relating thereto, maps, plans, specifications, engineering or other reports and documents;

(d) all rights, powers, easements, interests, exemptions and privileges; and

(e) all other real and personal property, assets and effects then belonging to, or vested in, the Company as part of their said undertaking;

but excluding any bank balances or cash or other balances then in the hands of the Company or the Corporation or their bankers, agents or employees;

“ vessel ” has the meaning assigned thereto by subsection (3) of this section.

(2) If the Council and the Corporation agree that the date for the transfer of the transferred undertaking to the Council under this Act should be deferred, the date of transfer shall be such date, after 1st April, 1975, as may be so agreed, being a date of which notice is given by the Council in the London Gazette on or before 1st January, 1975.

(3) In this Act and the enactments incorporated therewith and in the Act of 1957 “ vessel ” means every description of vessel, however propelled or moved, and includes anything constructed or used to carry persons or goods by water and—

(a) without prejudice to the generality of the foregoing, includes a hovercraft (as defined in section 4 of the Hovercraft Act 1968) on, in or over the water; and

(b) except for the purpose of levying rates, includes a seaplane on or in the water;

PART I
—cont.

and “pleasure craft” means any vessel used wholly or mainly for recreation, not being a vessel used for the carriage of passengers or goods for reward.

(4) Except where the context otherwise requires any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by, or by virtue of, any enactment, including this Act.

4.—(1) Subject to the provisions of subsection (4) of this section, the provisions of the Act of 1847 (except sections 6 to 13, 16 to 19, 23, 25 and 26, 42, 43, 48, 49, 50, 84 to 90, 95, 97 and 98 and 101), so far as the same are applicable for the purposes of, and are not inconsistent with the provisions of, the Workington Harbour Acts 1957 and 1974, are hereby incorporated with, and form part of, each of the enactments comprising those Acts.

Incorporation
of Harbours,
Docks and
Piers Clauses
Act 1847.

(2) In construing the provisions so incorporated the expressions “the promoters of the undertaking” and “the undertakers” shall mean the Council, the expression “the harbour, dock or pier” shall mean the harbour and the expression “the special Act” shall mean the Act of 1957 and this Act.

(3) The purposes for which the Council may purchase lands by agreement under the provisions of section 20 of the Act of 1847 shall include the erection of piers, quays and jetties within the limits of the harbour and the enlargement of the docks.

(4) In their application to the harbour by virtue of this section, each provision of the Act of 1847 specified in columns (1) and (2) of Schedule 1 to this Act shall have effect as if the maximum fine which may be imposed on summary conviction of any offence under that provision were a fine not exceeding the amount specified in column (4) of that schedule instead of a fine of, or not exceeding, the amount specified in column (3) of that schedule.

PART II

TRANSFER OF UNDERTAKING

5. On the date of transfer the transferred undertaking shall, by virtue of this Act and without any deed of conveyance or other assurance, become and be vested in the Council and accordingly, as from that date, subject to section 38 (Repeal and amendment

Transfer of
undertaking.

PART II
—cont.

of enactments) of this Act, any provision in the Act of 1957 or in any other enactment shall, in so far as it relates to the harbour and with any necessary modifications, apply in relation to the Council as if for references therein to the Company or their predecessors as the harbour authority for the time being for the harbour there were substituted (except where the context otherwise requires) references to the Council.

Information
to be
supplied by
Company.

6.—(1) On or before the date of transfer, the secretary to the Company shall send to the clerk of the Council a statement giving particulars of the things comprising the transferred undertaking as described in section 3 (Interpretation) of this Act.

(2) The particulars set out in the statement as agreed between the Company and the Council, or, failing agreement, determined by arbitration under subsection (3) of this section, shall be conclusive of the things comprised in the transferred undertaking.

(3) Any question arising between the Council and the Company (or, after the winding up of the Company, the Corporation) as to the correctness of the said statement shall be determined by an arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other of them) by the President of the Institution of Civil Engineers.

Recovery of
charges due to
Company.

7. All charges and moneys which immediately before the date of transfer were due or payable to the Company in respect of the transferred undertaking may be levied, collected, sued for and recovered by the Council in the same manner as they might have been levied, collected, sued for, and recovered by, the Company if this Act had not been passed.

Saving of
agreements,
etc.

8. Except as in this Act otherwise provided all conveyances, grants, assurances, deeds, contracts (other than contracts for the employment of the employees of the Company), bonds, agreements and other instruments affecting the transferred undertaking and in force immediately before the date of transfer shall, as from that date, be as binding and of as full force and effect in every respect against or in favour of the Council and may be enforced as fully and effectually as if, instead of the Company, the Council had been a party thereto or been bound thereby or entitled to the benefit thereof but nothing in this Act or done thereunder shall prejudice or affect the right of the Council to terminate any such contract, agreement or instrument at such time and in such manner as it might have been terminated if this Act had not been passed.

9. Except as otherwise provided in this Act, nothing in this Act shall release, discharge or suspend any action, arbitration or other proceeding, or any cause of action, arbitration or other proceeding, pending or existing immediately before the date of transfer by, or in favour of, or against the Company in relation to the transferred undertaking and any such action, arbitration or proceeding, or cause of action, arbitration or proceeding, pending or existing by, or in favour of, or against the Company may be maintained, prosecuted or continued by, or in favour of, or against the Council as fully and effectually as it could have been maintained, prosecuted or continued by, or in favour of, or against the Company if this Act had not been passed.

PART II
—cont.

Continuance
of
proceedings.

10.—(1) All books and documents which, if this Act had not been passed, would have been evidence in respect of any matter for or against the Company in respect of the transferred undertaking shall, on and after the date of transfer, be admitted in evidence in respect of the same or like matter for or against the Council.

Books, etc.,
to remain
evidence.

(2) All persons who at the date of transfer have in their possession or under their control any books, documents, papers, money or effects forming part of the transferred undertaking or relating exclusively thereto or to which the Company would, but for the transfer of the transferred undertaking to the Council have been entitled, shall be liable to account for, and deliver them up to, the Council or to such person as the Council may appoint to receive them, and shall be subject to the same consequences on refusal or neglect as if they had been appointed by, and become possessed thereof for, the Council:

Provided that the Company or the Corporation may retain, for the purposes of the winding up of the Company, the books, documents and papers which relate exclusively to the shareholders and the constitution of the Company.

11. All byelaws, rules and regulations made by the Company in pursuance of any enactment, whether or not repealed by this Act, and in force immediately before the date of transfer shall, until amended or revoked by the Council, continue in full force and effect within the area to which they apply immediately before the date of transfer, and such byelaws, rules and regulations may be enforced and all fines incurred thereunder may be recovered in the same manner and to the same effect as byelaws made by the Company may be enforced and fines incurred thereunder recovered.

Existing
byelaws to
remain in
force.

PART II
—cont.

National
Ports Council
levy.

12. As from the date of transfer the liability of the Company under the provisions of the National Ports Council Provision of Funds Scheme 1965 to pay any sum for which a demand has been issued to them under article 3 of that scheme shall be transferred to, and become the liability of, the Council.

Transfer of
employees.

13.—(1) On the date of transfer the Council shall take over and employ every person who immediately before that date was employed whole time by the Company exclusively for the purposes of the transferred undertaking in so far as such persons are willing to enter the service of the Council.

(2) Every person entering the service of the Council under subsection (1) of this section shall, so long as he is engaged in duties reasonably comparable to those in which he was engaged in his employment by the Company immediately before the date of transfer, be entitled to terms and conditions of employment not less favourable than those of his employment by the Company; and any such terms and conditions of employment shall be treated as including any restriction on the termination of that employment imposed by or under any enactment.

(3) Any question arising under subsection (2) of this section shall be determined by a tribunal established under section 12 of the Industrial Training Act 1964.

1964 c. 16.

Compensation
for loss of
employment,
etc.

14.—(1) Any person who immediately before the date of transfer was an employee of the Company and who suffers any loss of employment, or loss or diminution of emoluments or pension rights, in consequence of this Act shall be entitled to make a claim for compensation to be determined in accordance with the Harbour Reorganisation (Compensation to Employees) Regulations 1967, or such other regulations made under section 19 (1) of the Harbours Act 1964 as are for the time being in force, in the same manner as if this Act were a harbour reorganisation scheme within the meaning of section 18 of the said Act of 1964.

1964 c. 40.

(2) For the purposes of the said regulations of 1967 the compensating authority shall be—

(a) in the case of any employee of the Company who in pursuance of section 13 (Transfer of employees) of this Act enters the service of the Council, the Council;

(b) in the case of any other employee of the Company, the Corporation;

and the material date shall be, in the case of regulation 3, the date of the passing of this Act, and, in the case of any other of the regulations, the date of transfer.

PART III

FUNCTIONS AND POWERS OF COUNCIL AS HARBOUR
AUTHORITY

15.—(1) The Council are authorised to carry on the harbour undertaking and are constituted the harbour authority for the harbour.

Jurisdiction and powers of Council as harbour authority.

(2) The Council and the harbour master shall accordingly exercise jurisdiction within the harbour and, in accordance with section 5 (Transfer of undertaking) of this Act, shall have and may exercise all or any of the powers conferred upon the Company or the harbour master (as the case may be) by or under the unrepealed provisions of the Act of 1957.

(3) The Council shall have power—

(a) to manage, regulate, improve and maintain the harbour;

(b) to provide, maintain, operate and improve such harbour facilities in, or in the vicinity of, the harbour as they consider necessary or desirable and to take such action as they consider incidental to the provision of such facilities;

(c) to take such action as they consider necessary or desirable for, or incidental to, the maintenance, operation, development and improvement of the harbour or for the purpose of turning their resources to account so far as not required for the purposes of the harbour undertaking.

16. Section 32 (Directions of harbour master) of the Act of Amendment 1957 shall have effect as if after paragraph (a) in subsection (1) of Act of 1957. thereof there were inserted the following paragraph:—

“(aa) shall, notwithstanding the provisions of section 33 of the Act of 1847, extend to empower the harbour master to impose terms and conditions upon which a pleasure craft or hydrofoil vessel may enter the harbour or any part thereof.”

17.—(1) The Council may by notice in writing require a person placing or using in or near the harbour a light which is, in their opinion, likely to mislead persons navigating in or near the harbour or to interfere with the safe navigation of vessels, to screen, alter, extinguish or remove the light within a reasonable time specified in the notice.

Lights detrimental to navigation.

PART III
—cont.

(2) A person who—

- (a) fails to comply with a notice given under this section; or
- (b) after complying replaces, or again uses, the light, or places or uses another light in respect of which the Council would be entitled to give a notice under this section;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50 and to a daily fine not exceeding £5.

Licensing of
moorings.

18.—(1) No person other than the Council shall place, lay down, alter, renew or extend moorings, buoys and similar apparatus within the harbour unless he is licensed to do so by a licence granted under this section and except in accordance with any terms and conditions upon which the licence is granted.

(2) The Council may from time to time grant licences to any person to place, lay down, alter, renew or extend, or maintain, and use moorings, buoys and similar apparatus for vessels in the harbour:

Provided that the Council shall not unreasonably refuse to grant a licence to an owner or lessee of any land not owned or leased by the Council to place, lay down, alter, renew or extend, or maintain, and use moorings, buoys and similar apparatus on that land, and any question whether the grant of a licence has or has not been unreasonably refused shall be determined by the Secretary of State for the Environment.

(3) Any licence granted under this section shall be valid only for a period of three years commencing with the date on which it takes effect.

(4) The Council may charge a reasonable fee for granting a licence under this section.

(5) Without prejudice to the provisions of subsection (1) of this section, in the case of any existing moorings, buoys or similar apparatus which may have been placed or laid down within the harbour before the passing of this Act without the permission of the harbour authority for the harbour, the Council may, by notice to the person using any such mooring, buoy or similar apparatus, require the same to be removed unless, on an application made under this section, the Council grant a licence in respect of the maintenance and use thereof.

(6) Any person who contravenes the provisions of this section or any term or condition upon which a licence is granted under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200 and to a daily fine not exceeding £20.

PART III
—cont.

(7) Nothing in this section shall prejudice or affect the requirements of section 31 of the Land Drainage Act 1961 or any byelaw for the time being in force under section 47 of the Land Drainage Act 1930 as extended by section 19 of the said Act of 1961.

1961 c. 48.

1930 c. 44.

19. The Council may supply, or contract with statutory water undertakers for the supply of, water to vessels entering and using the harbour, and for use on the docks.

20. The Council may let upon hire (with or without the services of their employees) on such terms as they think fit any vessel, plant, equipment or other property provided for the purposes of all or any of their functions as the harbour authority.

21. The Council may, for the purposes of the harbour under-taking, enter into arrangements with any person for the construction, upon lands of the Council, by the Council and any such person jointly or severally, of warehouses, sheds, railway lines, sidings, turntables, cranes and machinery and all such conveniences, connections and appliances as may be necessary or suitable for the transit, passage or interchange of traffic upon, to or from the lands of the Council, or for the use and maintenance by, or appropriation to, any such person of any such works, and may enter into arrangements with any person respecting the loading and unloading and transmission of their goods and minerals upon, to or from any such lands and works and the employment of persons for any such purposes, and as to the payment of tolls, rents, rates, duties and charges in respect of any of the matters aforesaid to which such arrangements relate.

Arrangements for the provision of warehouses and other facilities.

22. Except so far as may be otherwise agreed between the Council and the Corporation, the Council shall maintain, and be responsible for the operation of, the existing railway bridge forming part of the transferred undertaking for so long as that bridge is, on and after the date of transfer, reasonably required for the passage of rail traffic between the docks and the works of the Corporation in the district of Allerdale south of the river Derwent.

Maintenance of railway bridge.

PART III
—cont.Power to
make general
byelaws.

23.—(1) Subject to the provisions of this Act the Council may make byelaws for all or any of the following purposes:—

- (a) for the purposes specified in section 83 of the Act of 1847;
- (b) for regulating the navigation, berthing and mooring of vessels within the harbour, including their speed and manner of navigation, and the use of tugs within the harbour and the duties and conduct of the masters and crews of such tugs;
- (c) for regulating the launching of vessels within the harbour;
- (d) for regulating the use of ferries within the harbour;
- (e) for regulating the use of yachts, sailing boats, rowing boats, pleasure craft and other small craft and the holding of regattas within the harbour;
- (f) for prohibiting motor boats (which expression for the purposes of this paragraph means a small craft propelled by mechanical power other than steam) plying for hire within the harbour without a licence from the Council, and for regulating the grant, suspension, and revocation of and the charge to be made for such licences;
- (g) for regulating the use of pontoons, dry docks, slipways and cargo handling appliances within the harbour;
- (h) for regulating the shipping, transshipping and unshipping, warehousing, stowing, depositing and removing of timber within the docks and the placing of the same in timber ponds or depots, and regulating the manner and limiting the period of use of such ponds or depots and of entering or leaving the same;
- (i) for regulating the use of coal staiths;
- (j) for regulating generally the use of the docks, berths, wharves, quays, piers, jetties, staiths, warehouses, sheds, landing places and other works and conveniences within the harbour and the conduct of persons on board any vessel lying thereat;
- (k) for prohibiting or regulating the discharge or deposit of ballast, ashes, refuse, rubbish or other material (including any polluting liquid) into the harbour;
- (l) for preventing and removing obstructions or impediments within the harbour;
- (m) for regulating traffic on railways within the docks and the use of locomotives thereon;

- (n) for regulating the movement, speed and parking of vehicles within the docks;
- (o) for regulating the admittance of persons to the docks;
- (p) for regulating the movement of goods into, in and out of the docks;
- (q) for prohibiting all persons working or employed in or entering the docks or any part thereof from smoking therein.

(2) Any person aggrieved by the withholding, suspension or revocation of a licence under the provisions of byelaws made by virtue of subsection (1) of this section may appeal to a magistrates' court within twenty-one days after such withholding, suspension or revocation.

(3) In this section " vessel " includes any floating manufactured article.

24.—(1) Subject to the provisions of this Act, the Council may make byelaws for all or any of the following purposes:—

Power to
make byelaws
as to lights
and signals.

- (a) for prescribing the lights and signals to be carried, exhibited or made by vessels while being used, navigated or moored within the harbour;
- (b) for prescribing the lights and signals to be exhibited or made by vessels aground within the harbour;
- (c) for prescribing the lights and signals to be exhibited or made by wreck-marking vessels or by other devices used for marking obstructions within the harbour;
- (d) for prescribing steering and sailing rules for the regulation of vessels used or navigated within or entering or leaving the harbour;
- (e) for prescribing the lights and signals to be exhibited or made at the entrance to any dock or at any wharf, quay, pier, jetty or other work for assisting the navigation of vessels within the harbour.

(2) In this section " signals " includes sound signals and " vessel " includes any floating manufactured article.

(3) Different byelaws may be made under this section in relation to different classes of vessel.

PART III
—cont.

Byelaws
relating to
certain
dangerous
goods.

25.—(1) The Council may make byelaws as to the loading and discharging by vessels within the harbour of dangerous goods, and as to the bringing, handling, transport or storage of such goods within the harbour, and generally as to the precautions to be observed with respect to such goods while within the harbour, and such byelaws may in particular provide—

- (a) for regulating the places at which vessels are to load or discharge dangerous goods and the time and mode of, and the precautions to be taken on, such loading and discharging;
- (b) for regulating the places at which vessels carrying dangerous goods are to be moored; and
- (c) for the due enforcement of the byelaws.

(2) Where a person is charged with an offence against a byelaw in force under this section it shall be a defence for him to prove that the offence was not caused or facilitated by any act or neglect on his part, or on the part of any person engaged or employed by him, and, if the person charged is the owner or master of a vessel, that all reasonable steps were taken by the master to prevent the commission of the offence.

(3) Byelaws made under this section may make provision for imposing on persons offending against any of the byelaws penalties not exceeding, on summary conviction, a fine of £100 and, on conviction on indictment, a fine.

(4) This section does not apply to dangerous goods to which byelaws made by the Council under the Explosives Act 1875 or the Petroleum (Consolidation) Act 1928 for the time being apply.

1875 c. 17.
1928 c. 32.

Confirming
authority
for byelaws.
1972 c. 70.

26. As respects byelaws made under this Act the confirming authority for the purpose of section 236 of the Local Government Act 1972 shall be the Secretary of State for the Environment.

Power to
contract for
harbour
police.

27.—(1) The Council may from time to time make agreements with the chief constable and police authority for the employment by the Council of any members of the police establishment of that police authority for police duty within the harbour.

(2) Any such agreement may contain such terms and conditions and provide for such payment or consideration as the Council shall think proper and shall agree with the police authority.

1964 c. 48.

(3) In this section “ police authority ” has the same meaning as in the Police Act 1964.

28.—(1) Notwithstanding the provisions of section 33 of the Act of 1847, the Council may appropriate a particular berth or berths in the docks for the use of vessels of a particular owner or engaged in particular trades; and where either—

PART III
—cont.
Appropriation
of berths.

- (a) a charge for the appropriation is made pursuant to subsection (2) of this section; or
- (b) the appropriation relates only to a berth or berths at a dock or wharf which the Council in exercise of the powers conferred on them by section 40 (Power to sell and lease lands, etc.) of the Act of 1957 have leased or licensed to the owner of the vessels;

any vessel covered by the appropriation shall, to such extent as the Council may determine, have priority in the use of the berth or berths as against other vessels.

(2) The Council may make a reasonable charge against the owner of a vessel for the appropriation of a particular berth or berths.

29.—(1) In addition to their power to demand, take and recover ship, passenger and goods dues under section 26 of the Harbours Act 1964, the Council may demand, take and recover in respect of any floating article, which is not a ship within the meaning of the said Act of 1964, entering, using or leaving the harbour such dues as they think fit; and the provisions of sections 30, 31, 32 and 34 of the said Act of 1964 (which require lists of charges to be available for inspection and sale, give a right of objection to ship, passenger and goods dues, empower the Secretary of State to revise such dues, and make supplementary provision in relation to those matters) shall, with any necessary modifications, apply to the dues authorised by this section as they apply to ship, passenger and goods dues.

(2) The Council may demand, take and recover such reasonable charges for harbour facilities provided by them as they may from time to time determine and such charges shall be payable subject to such conditions as they may from time to time specify in their published list of charges.

30.—(1) The dues and charges which the Council are for the time being authorised to demand, take and recover in respect of vessels and goods under any enactment shall be payable before the removal from the harbour of any vessel or goods in respect of which they are payable and may be demanded, taken and recovered by such persons, at such places, at such times and under such regulations as the Council may appoint.

As to
payment of
dues and
charges.

PART III
—cont.

(2) An officer of Her Majesty's Customs and Excise may refuse clearance of any vessel if he is satisfied that any dues or charges payable to the Council in respect of that vessel or any goods therein have not been paid.

(3) Dues or charges payable to the Council shall be payable by the owner of any vessel or goods in relation to which the charges are payable.

(4) The owner or person having the charge of any goods warehoused, placed, stored or yarded in a warehouse, transit shed or area, store or yard of the Council shall, before the removal of those goods from the warehouse, transit shed or area, store or yard and at such date or dates as shall be fixed by the Council, pay such charges as shall be then due and payable on those goods.

(5) Where dues or charges payable to the Council may be recovered by them from more than one person, the said persons shall be jointly and severally liable.

(6) The Council may, if they think fit, require any person, who is or will become liable to pay dues or charges to the Council, to deposit with them or to guarantee such sum as, in the opinion of the Council, is reasonable having regard to the probable amount thereof.

1964 c. 40.

(7) Nothing in section 30 of the Harbours Act 1964 shall require the Council to include, in the list of ship, passenger and goods dues to be kept as required by subsection (1) of that section, any charge reduced by virtue of a compounding arrangement in respect of, or any rebate allowed on, a due included in the said list.

Penalty for evading payment of dues or charges.

31. If the owner of any vessel or goods or any other person at any time eludes or evades or attempts to elude or evade payment of, or refuses or without lawful excuse fails to pay, any dues or charges payable by such owner or person to the Council at the time when the same become due and payable, he shall be liable to pay to the Council a sum equal to three times the amount of such dues or charges, which sum shall be a debt due to the Council and shall be recoverable by the Council in any court of competent jurisdiction.

Claims for repayment of charges.

32. Any person claiming the return of the whole or any part of any charges paid to the Council shall make his claim, and produce all documents and give all information required by the Council in proof thereof, within three years from the time of payment; and in default thereof the claim shall cease to be enforceable.

PART IV

FINANCE

33.—(1) The Council may borrow—

Power to borrow.

- (a) such sums as may be necessary for any of the purposes of this Act;
- (b) without the consent of any sanctioning authority, such sums as may be necessary for the payment of the costs, charges and expenses of this Act;

and, subject to the provisions of this section, section 172 of, and Part I of Schedule 13 to, the Local Government Act 1972 shall have effect as if money borrowed under this section were borrowed under that Part. 1972 c. 70.

(2) The Council shall repay sums borrowed under paragraph (b) of the foregoing subsection within ten years from the date of borrowing.

(3) It shall not be lawful to exercise the powers of borrowing conferred by subsection (1) (a) of this section except in compliance with any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act 1946. 1946 c. 58.

34.—(1) The Council shall keep separate accounts of the harbour undertaking distinguishing capital from revenue and, as regards revenue, showing under a separate heading or division on the one side all income in respect of the harbour undertaking (including the interest on any reserve fund which the Council may set up when the said fund amounts to the prescribed maximum) and on the other side all expenditure in respect of the harbour undertaking, such expenditure being divided to show the amounts representing— Accounts of harbour undertaking.

- (a) the working and establishment expenses and cost of maintenance of the harbour undertaking;
- (b) the interest on moneys borrowed by the Council for purposes of, or connected with, the harbour undertaking;
- (c) the requisite appropriations, instalments or sinking fund payments in respect of moneys borrowed;
- (d) all other expenses (if any) of the harbour undertaking properly chargeable to revenue; and
- (e) any money expended on any of the purposes mentioned in section 36 (Application of revenue of harbour undertaking) of this Act.

(2) The Council shall show in their accounts relating to the harbour undertaking all items (including receipts and payment, in respect of loans applicable thereto) which ought to be entered therein in order to show the financial position of the harbour undertaking.

PART IV
—cont.

(3) In all cases in which the Council keep separate accounts in relation to the harbour undertaking for separate purposes they shall, so far as is reasonably practicable, apportion between those accounts, or carry to any of them, any income and expenditure which from time to time ought to be so apportioned or carried.

Income and
expenditure.

35.—(1) All moneys received by the Council in connection with the harbour undertaking, whether on capital or revenue account, including (but without prejudice to the generality of the foregoing)—

- (a) all money received on account of the revenue of the harbour undertaking; and
- (b) interest and other annual proceeds received on the investments forming part of any fund accumulated for the redemption of debt or as a reserve, renewals, repairs, contingency or other similar fund in connection with the harbour undertaking, including any interest payable on any such fund;

shall be carried to and form part of the county fund as receipts for general county purposes; and all payments and expenses made and incurred by the Council in respect of the harbour undertaking or in carrying into execution the powers and provisions of this Act (including interest on moneys borrowed by the Council and all sums required by law to be paid or transferred or which the Council may determine to pay or transfer to any such fund as is referred to in paragraph (b) of this subsection) shall be paid or transferred out of the county fund:

Provided that an amount equivalent to the interest and other annual proceeds as aforesaid shall (subject in the case of any of the said funds to any prescribed limit on the amount thereof) be credited in the accounts to the fund on the investments of which the same is received.

(2) Nothing in this section shall authorise the Council to apply capital money to any purpose other than a purpose to which capital money is properly applicable.

Application
of revenue
of harbour
undertaking.

36.—(1) If in respect of any financial year the moneys received by the Council on account of the revenue of the harbour undertaking (including the interest and other annual proceeds received by the Council in that year on the investments representing or forming part of any such funds as are referred to in subsection (1) of section 35 (Income and expenditure) of this Act provided in connection with the harbour undertaking) shall exceed the moneys expended or applied by the Council in respect of the harbour undertaking for the several purposes mentioned in paragraphs (a), (b), (c) and (d) of subsection (1) of section 34 (Accounts of harbour undertaking) of this Act, the Council may in respect of that year

(if they think fit but subject to the provisions hereinafter contained) apply out of the county fund a sum not exceeding the amount of such excess to any of the following purposes:—

PART IV
—cont.

- (a) in reduction of capital moneys borrowed for the purposes of the harbour undertaking;
- (b) in the renewal, construction, extension or improvement of any works and conveniences for the purposes of the harbour undertaking or in payment of any expenses in respect of the harbour undertaking which might otherwise have been defrayed out of capital moneys;
- (c) in providing a reserve fund in respect of the harbour undertaking by setting aside such an amount as they may from time to time think reasonable which (unless the amounts so set aside are applied in any other manner authorised by any enactment) may be invested in statutory securities until the fund so formed amounts to the maximum reserve fund from time to time prescribed by the Council.

(2) Any reserve fund provided under this section may be applied—

- (a) in making good to the county fund any deficiency at any time happening in the income of the Council from the harbour undertaking; or
- (b) in meeting any extraordinary claim or demand at any time arising against the Council in respect of the harbour undertaking; or
- (c) for defraying any expenditure in connection with the harbour undertaking for which capital is properly applicable, or in providing money for repayment of loans (but not in making any annual payment required to be made in respect of loans); or
- (d) for defraying expenditure to be incurred from time to time in repairing, maintaining, replacing and renewing any buildings, works, plant, equipment or article forming part of the harbour undertaking;

and so that if that fund be at any time reduced it may thereafter be again restored to the prescribed maximum and so from time to time as often as such reduction happens.

37. Without prejudice to the foregoing provisions in this Part of this Act, the powers of section 21 (Power to make grants to harbour authorities) of the Cumberland County Council Act 1964 shall be exercisable for the purpose of the maintenance, extension, adaptation or improvement of the harbour undertaking. Power to make grants. 1964 c. xxxiv.

PART V

GENERAL

Repeal and amendment of enactments.

38.—(1) The enactment specified in columns (1) and (2) of Schedule 2 to this Act shall on the date of transfer be repealed to the extent specified in column (3) of that Schedule.

1964 c. 40.

(2) Without prejudice to the power of the Secretary of State to rescind, revoke, vary or amend regulations under section 42 of the Harbours Act 1964, as from the date of transfer, the following regulations made under that section and now in force shall have effect as follows:—

- (a) The Statutory Harbour Undertakings (Form of Accounts etc.) (Companies) Regulations 1969 shall have effect as if in Schedule 1 thereof the reference to the Company were omitted;
- (b) The Statutory Harbour Undertakings (Form of Accounts etc.) (Local Authorities) Regulations 1969 shall have effect as if in Schedule 1 thereof reference to the Council were inserted.

Application of general provisions of Public Health Act 1936.
1936 c. 49.

39. The sections of the Public Health Act 1936 mentioned in Schedule 3 to this Act shall have effect as if references therein to that Act included references to this Act:

Provided that any sum exceeding £50 shall not be recovered summarily as a civil debt under the powers of section 293 of the Public Health Act 1936 as applied by this section.

Saving for Trinity House.

40. Nothing in this Act contained shall extend or be construed to extend to prejudice or derogate from any of the rights, duties or privileges of Trinity House.

Crown rights.

41. Nothing in this Act shall affect prejudicially any estate, right, power, privilege or exemption of the Crown, and, in particular, nothing herein contained shall authorise the Council to take, use or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary or any land, hereditaments, subjects or rights of whatsoever description belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners or belonging to a government department or held in trust for Her Majesty for the purpose of a government department without the consent in writing of such commissioners on behalf of Her Majesty or, as the case may be, the consent in writing of that government department first had and obtained for that purpose.

42. Section 265 of the Public Health Act 1875 shall apply to the Council as if any reference in that section to the said Act of 1875 included a reference to this Act and as if any reference in that section to a member of a local authority included a reference to a member of a committee of a local authority.

PART V
—cont.

Protection of members and officers of Council from personal liability.
1875 c. 55.

43. All the costs, charges and expenses preliminary to and of and incidental to the preparing, applying for, obtaining and passing of this Act, or otherwise in relation thereto, shall be paid, in the first instance, by the Council out of the county fund, or out of moneys to be borrowed under this Act.

Costs of Act

SCHEDULES

SCHEDULE 1

INCREASE OF FINES

Section 4.

Section of Act of 1847 (1)	Description of offence (2)	Old fine or maximum fine (3)	New maximum fine (4)
35	Failing to report arrival of vessel	£10	£50
36	Failing to produce on demand certificate	£20	£100
53	Failing to comply with directions of harbour master	£20	£100
54	Misbehaviour of harbour master	£5	£20
55	Offering or taking bribes	£20	£100
59	Failing to dismantle vessel as directed	£10	£50
60	Navigating a vessel under sail into or in dock	£10	£50
62	Wilfully cutting moorings	£5	£20
63	Placing vessels near entrance of dock without permission	£5 and 20/- per hour	£20 and £1 per hour
64	Failing to remove vessel after notice	£10	£50
66	Failing to remove vessel after notice	£10	£50
67	Wharfinger giving undue preference	£5	£20
69	Failing to move combustible material after notice	40/- per hour	£20
71	Committing any offence mentioned in section	£10	£50
72	Obstructing entry by harbour master into vessel in case of fire, etc.	£10	£50
73	Throwing ballast, etc., into dock	£5	£20
82	Weighing or measuring goods without a licence	£5	£20

SCHEDULE 2

Section 38.

REPEALS COMING INTO FORCE ON DATE OF TRANSFER

Chapter (1)	Short title (2)	Extent of repeal (3)
5 & 6 Eliz. 2 c. xxxii	Workington Harbour and Dock (Transfer) Act 1957	Section 3. Part II. Section 34. Sections 47 to 49. Sections 51 and 52. Section 54 (2). Section 55. Sections 57 and 58. Section 61. Sections 67 and 68. Schedules 1 to 4.

Section 39.
1936 c. 49.

SCHEDULE 3
SECTIONS OF PUBLIC HEALTH ACT 1936 APPLIED

Section	Marginal note
277	Power of councils to require information as to ownership of premises.
283	Notices to be in writing; forms of notices, &c.
285	Service of notices, &c.
286	Proof of resolutions, &c.
293	Recovery of expenses, &c.
296	Summary proceedings for offences.
297	Continuing offences and penalties.
299	Inclusion of several sums in one complaint, &c.
304	Judges and justices not to be disqualified by liability to rates.
328	Powers of Act to be cumulative.

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