



# Harbours Act 1964

## 1964 CHAPTER 40

An Act to establish a National Ports Council; to provide for the control of harbour development and for giving financial assistance for the improvement of harbours; to make other provision respecting the construction, improvement, maintenance and management of harbours; to make provision with respect to charges of certain harbour authorities and lighthouse authorities; and for purposes connected with the matters aforesaid. [10th June 1964]

### Modifications etc. (not altering text)

- C1 Act extended by [Docks and Harbours Act 1966 \(c. 28\)](#), [s. 50\(1\)](#)
- C2 So far as may be necessary for the purposes of any amendment by [Transport Act 1981 \(c. 56, SIF 58\)](#) references in this Act to the Minister shall be construed as references to the Secretary of State: [Transport Act 1981 \(c. 56, SIF 58\)](#), ss. 15–17, 18(4), [Sch. 5 para. 4\(1\)\(b\)](#).
- C3 Act amended (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 25 para. 31\(1\)](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\), 58](#)  
Act amended (1.4.1996) by S.I. 1996/593, reg. 2, [Sch. 1](#)
- C4 Act amended (E.W.) (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(1), 4(2), [Sch. 1 para. 13\(1\)](#)  
Certain functions of the Act transferred (8.2.1993) by S.I. 1993/321, [arts. 1\(2\), 3\(1\)](#).  
Act: functions transferred (3.12.2001) by S.I. 2001/3503, [arts. 2\(1\)\(b\), 3](#)
- C5 Act: transfer of functions (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), [art. 2](#), [Sch. 1](#) (with arts. 4–6)

### Commencement Information

- I1 Act partly in force at Royal Assent see s. 63(4); Act wholly in force at 1.10.1964

*The National Ports Council*

*Status: Point in time view as at 01/01/2024.*

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**Textual Amendments**

**F1** Ss. 1–8, 12 repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**

*Control of harbour Development*

**9** ..... **F2**

**Textual Amendments**

**F2** S. 9 repealed by [Ports \(Finance\) Act 1985 \(c. 30, SIF 58\)](#), s. 6(1)(2), **Sch.**

**10** ..... **F3**

**Textual Amendments**

**F3** S. 10 repealed by [Ports \(Finance\) Act 1985 \(c. 30, SIF 58\)](#), s. 6(2), **Sch.**

*Exchequer Assistance for Execution of harbour Works, &c.*

**11 Loans for execution of harbour works, &c.**

- (1) Subject to the provisions of this section, the Minister, with the approval of the Treasury . . . <sup>F4</sup> may, out of moneys which, by virtue of the following provisions of this Act, are issued to him for the purpose out of the [<sup>F5</sup>National Loans Fund,] give to a harbour authority assistance by way of loan—
  - (a) in respect of expenses incurred by them—
    - (i) in executing, at a harbour which in the exercise and performance of statutory powers and duties they are engaged in improving, maintaining or managing, works for the improvement, maintenance or management of the harbour;
    - (ii) in acquiring plant or equipment required for the carrying out at the harbour of harbour operations;
    - (iii) in acquiring land required for the purposes of the harbour or an extension thereof;
  - (b) to enable them to repay the whole or part of the principal of, or to pay the whole or part of a sum due by way of the payment of interest on, a loan made to them by virtue of the foregoing paragraph,

provided that, in the case of assistance in respect of expenses incurred, he is satisfied that the expenses are such as ought properly to be regarded as being of a capital nature.
- (2) Assistance given under the foregoing subsection in respect of expenses incurred in the execution of any works may include a sum in respect of costs in, or in connection with, the preparation of plans and specifications of the works, reports with respect thereto and estimates of the expenses to be incurred for the purposes of the execution thereof and a sum in respect of the remuneration of any architect, engineer or other person

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employed in an advisory or supervisory capacity in connection with the execution of the works.

- (3) No assistance shall be given under subsection (1) of this section for the repayment of any such part of the principal of a loan as falls due for repayment more than five years from the date on which the loan was made or for the payment of interest on a loan for any period beginning more than five years from that date.
- (4) No assistance shall at any time be given under subsection (1) of this section by the Minister to a harbour authority in respect of expenses incurred by them in relation to a harbour or to enable them to repay the principal of, or to pay interest on, a loan unless at that time the harbour is neither a fishery harbour nor a marine work.

**Textual Amendments**

- F4** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**
- F5** Words substituted by [National Loans Act 1968 \(c. 13, SIF 99:3\)](#), **Sch. 1**

**Modifications etc. (not altering text)**

- C6** S. 11 amended by [Harbours \(Loans\) Act 1972 \(c. 16, SIF 58\)](#), **s. 4(1)**
- C7** [S. 11](#): transfer of functions (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 29(2)(b)(i)**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), **reg. 3(g)** (with transitional provisions and savings in [S.I. 2018/278](#), **reg. 2**, [Sch.](#))
- C8** S. 11(1) extended by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), **s. 40(5)**

**12** ..... <sup>F6</sup>

**Textual Amendments**

- F6** Ss. 1–8, 12 repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**

**13** **Maximum amount of loans and grants under sections 11 and 12, and cesser of certain other powers to give financial assistance.**

- (1) ..... <sup>F7</sup>
  - (2) No advance shall be made after the passing of this Act under section 17(1) of the <sup>M1</sup>Ministry of Transport Act 1919 by the Minister for the construction, improvement or maintenance of a harbour, dock or pier, and no advance or loan shall be made—
    - (a) under section 3 of the <sup>M2</sup>Harbours and Passing Tolls, &c. Act 1861 . . . <sup>F8</sup>by the [<sup>F9</sup>Treasury] for carrying any shipping purpose into effect at a harbour which is not for the time being a fishery harbour or marine work;
    - (b) ..... <sup>F10</sup>
- <sup>F11</sup> ...

**Textual Amendments**

- F7** S. 13(1) repealed by [Harbours \(Amendment\) Act 1970 \(c. 53\)](#), **s. 1(2)**
- F8** Words repealed, except in relation to any loans made before 1.4.1968, by [National Loans Act 1968 \(c. 13, SIF 99:3\)](#), **Sch. 6 Pt. II**

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- F9** Word in s. 13(2)(a) substituted (25.2.2020) by [The Public Bodies \(Abolition of Public Works Loan Commissioners\) Order 2020 \(S.I. 2020/176\)](#), art. 1(2), **Sch. 1 para. 59(2)(a)** (with art. 9)
- F10** S. 13(2)(b) repealed, except in relation to any loans made before 1.4.1968, by [National Loans Act 1968 \(c. 13, SIF 99:3\)](#), **Sch. 6 Pt. II**
- F11** Words in s. 13(2) omitted (25.2.2020) by virtue of [The Public Bodies \(Abolition of Public Works Loan Commissioners\) Order 2020 \(S.I. 2020/176\)](#), art. 1(2), **Sch. 1 para. 59(2)(b)** (with art. 9)

#### Marginal Citations

- M1** [1919 c. 50 \(126\)](#).
- M2** [1861 c. 47 \(58\)](#).

### *Harbour Revision and Empowerment Orders*

#### **14 Ministers' powers, on application of harbour authorities, or others, to make orders for securing harbour efficiency, &c.**

- (1) Subject to the provisions of this section and to the following provisions of this Act, there may, in relation to a harbour which is being improved, maintained or managed by a harbour authority in the exercise and performance of statutory powers and duties, be made by the appropriate Minister an order (in this Act referred to as a "harbour revision order") for achieving all or any of the objects specified in Schedule 2 to this Act.

[<sup>F12</sup>(1A) Subsection (1) is subject to—

- (a) section 33(2) of the Planning Act 2008 (exclusion of powers to authorise development);
- (b) section 120(9) of that Act (exclusion of power to include ancillary provision in orders).]

- (2) Subject to the next following section, a harbour revision order shall not be made in relation to a harbour by the appropriate Minister—

- (a) except upon written application in that behalf made to him by the authority engaged in improving, maintaining or managing it or by a person appearing to him to have a substantial interest or body representative of persons appearing to him to have such an interest; and
- (b) unless the appropriate Minister is satisfied that the making of the order is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers by sea [<sup>F13</sup>or in the interests of the recreational use of sea-going ships].

<sup>F14</sup>[(2A) The objects for achieving all or any of which a harbour revision order may be made in relation to a harbour include repealing superseded, obsolete or otherwise unnecessary statutory provisions of local application affecting the harbour, or consolidating any statutory provisions of local application affecting the harbour; and subsection (2)(b) of this section does not apply to an order in so far as it is made for objects mentioned in this subsection.]

<sup>F15</sup>[(2B) Nothing in subsection (2)(b) of this section shall prevent the making of an order for facilitating—

- (a) the closing of part of the harbour,
- (b) a reduction in the facilities available in the harbour, or

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- (c) the disposal of property not required for the purposes of the harbour, if the appropriate Minister is satisfied that the making of the order is desirable on grounds other than those specified in that subsection.]
- (3) A harbour revision order may include all such provisions as appear to the appropriate Minister to be requisite or expedient for rendering of full effect [F16 any other provision of the order] and any [F17 supplementary, consequential or incidental] provisions appearing to him to be requisite or expedient for the purposes of [F18, or in connection with,] the order, including, but without prejudice to the generality of the foregoing words, penal provisions and provisions incorporating, with or without modifications, any provision of the Lands Clauses Acts or any other enactment and provisions for [F19 excluding or modifying any provision of any Act or of any instrument made under any Act (including this Act) and for repealing] any statutory provision of local application affecting the harbour to which the order relates; but no penal provision of a harbour revision order shall be so framed as to permit of a person's being punished otherwise than on his conviction or as to permit—
- (a) on his being summarily convicted, of the infliction on him of a penalty other than a fine or of [F20 —
- (i) in the case of an offence triable either summarily or on indictment, the infliction on him of a fine exceeding the prescribed sum within the meaning of section 32 of the M3 Magistrates' Courts Act 1980 or section 289B of the M4 Criminal Procedure (Scotland) Act 1975;
- (ii) in the case of an offence triable only summarily, the infliction on him of a fine exceeding [F21 level 4 on the standard scale] or, in the case of a continuing offence, a daily fine exceeding £50 for each day on which the offence continues after conviction;]
- (b) on his being convicted on indictment, of the infliction on him of [F22 a penalty other than a fine].
- (4) In the case of a harbour revision order that provides for the establishment of a body as the harbour authority for the harbour to which the order relates in lieu of the existing one, references in paragraphs 2 to 17 of Schedule 2 to this Act to the authority (except in the case of the reference in paragraph 3 the references, other than the second, in paragraph 5 and the second reference in paragraph 11) shall be construed as referring to the body established by the order as the harbour authority, and in the said excepted case shall be construed as referring to the existing one.
- F23 [(4A) Where two or more harbours are being improved, maintained or managed by the same harbour authority or by harbour authorities which are members of the same group, a harbour revision order may relate to more than one of the harbours; and for this purpose two authorities are members of the same group if one is a subsidiary (within the meaning of [F24 the Companies Acts (see section 1159 of the Companies Act 2006)]) of the other or both are subsidiaries of another company (within the meaning of [F25 that section]).]
- (5) Where a harbour revision order includes provision for the compulsory acquisition of land, there must, in the case of each parcel of land proposed to be acquired compulsorily, be annexed to the order a [F26 map of a scale not less than 1:2500] on which the boundaries of that parcel are plainly delineated.
- F27 [(5A) Where a harbour revision order includes provision for extinguishing or diverting a public right of way over a footpath [F28 or bridleway] [F28, bridleway or restricted byway], there must be annexed to the order a map of a scale not less than 1:2500 on

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which the path or way concerned, and in the case of a diversion the new path or way, are plainly delineated.]

<sup>F29</sup>(6) . . . . .

- (7) In this section and in Schedule 2 to this Act “the appropriate Minister”, in the case of an order to be made in relation to a harbour not being a fishery harbour or a marine work means the Minister, in the case of an order to be made in relation to a fishery harbour means the Minister of Agriculture, Fisheries and Food, and in the case of an order to be made in relation to a marine work means the Secretary of State.

### Textual Amendments

- F12** S. 14(1A) inserted (1.3.2010) by [Planning Act 2008 \(c. 29\)](#), s. 241(8), **Sch. 2 para. 9** (with s. 226); S.I. 2010/101, art. 2 (with art. 6)
- F13** Words in s. 14(2)(b) added (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), **Sch. 3 para. 1(2)**; S.I. 1992/1347, art. 2, Sch. (subject as mentioned in art. 3)
- F14** S. 14(2A) inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 6 para. 2**
- F15** S. 14(2B) inserted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), **Sch. 3 para. 1(3)**; S.I. 1992/1347, art. 2, Sch. (subject as mentioned in art. 3)
- F16** Words in s. 14(3) substituted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), **Sch. 3 para. 1(4)(a)**; S.I. 1992/1347, art. 2, Sch. (subject as mentioned in art. 3)
- F17** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 6 para. 3**.
- F18** Words in s. 14(3) inserted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), **Sch. 3 para. 1(4)(b)**; S.I. 1992/1347, art. 2, Sch. (subject as mentioned in art. 3)
- F19** Words in s. 14(3) expressed to be substituted (15.7.1992) for the words 'repealing and amending' by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), **Sch. 3 para. 1(4)(c)**; S.I. 1992/1347, art. 2, Sch. (subject as mentioned in art. 3)
- F20** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 6 para. 14(2)**
- F21** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46 and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. 289G (as inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s.54)
- F22** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 6 para. 14(3)**
- F23** S. 14(4A) inserted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), **Sch. 3 para. 1(5)**; S.I. 1992/1347, art. 2, Sch. (subject as mentioned in art. 3)
- F24** Words in s. 14(4A) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 12(2)(a)** (with art. 10)
- F25** Words in s. 14(4A) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 12(2)(b)** (with art. 10)
- F26** Words in s. 14(5) substituted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), **Sch. 3 para. 1(6)**; S.I. 1992/1347, art. 2, Sch. (subject as mentioned in art. 3)
- F27** S. 14(5A) inserted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), **Sch. 3 para. 1(7)**; S.I. 1992/1347, art. 2, Sch. (subject as mentioned in art. 3)
- F28** Words in s. 14(5A) substituted (E.W.) (2.5.2006 for E., 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), reg. 1(2)(4), **Sch. Pt. I** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))
- F29** S. 14(6) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), Sch. 6 para. 4(1)(8), **Sch. 12 Pt. II** except as to a harbour revision or empowerment order in relation to which the notices required by para. 3(a) or 7(a) of Sch. 3 to this Act have been published before 1.10.1981

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**Modifications etc. (not altering text)**

- C9** S. 14 amended by [Docks and Harbours Act 1966 \(c. 28, SIF 58\), s. 36\(4\)](#)
- C10** Functions of Minister of Agriculture, Fisheries and Food under s. 14 now exercisable (W.) by Secretary of State or by Minister of Agriculture, Fisheries and Food and Secretary of State for Wales jointly: [S.I. 1969/388, art. 3, Sch. 2](#) and [1978/272, art. 2 Sch. 1](#)
- C11** S. 14 applied (E.W.) (2.5.2006 for E., 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\), reg. 1\(2\)\(4\), 2\(1\), Sch. Pt. I](#) (see [S.I. 2006/1172, art. 2\(a\)-\(d\) \(with art. 3\)](#) and [S.I. 2006/1279, art. 2\(a\)-\(d\) \(with art. 3\)](#))
- C12** Ss. 14-17: transfer of functions (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 29\(2\)\(b\)\(ii\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6, 9](#)); [S.I. 2017/1179, reg. 3\(g\)](#) (with transitional provisions and savings in [S.I. 2018/278, reg. 2, Sch.](#))
- C13** S. 14(2)(b) excluded by [Docks and Harbours Act 1966 \(c. 28, SIF 58\), s. 36\(2\)](#)
- C14** S. 14(3) extended by [Docks and Harbours Act 1966 \(c. 28, SIF 58\), s. 43\(3\)](#); explained by [Docks and Harbours Act 1966 \(c. 28, SIF 58\), s. 45](#)

**Marginal Citations**

- M3** [1980 c. 43 \(82\)](#).
- M4** [1975 c. 21 \(39:1\)](#).

**15 Ministers' powers to make, of their own motion, orders for limited purposes for securing harbour efficiency, &c.**

(1) If, with respect to a harbour, the appropriate Minister is satisfied, . . . <sup>F30</sup> that a harbour revision order ought to be made for the purpose of achieving, in relation to the harbour, either or both of the following objects, namely,—

- (a) reconstituting the harbour authority by whom the harbour is being improved, maintained or managed or altering their constitution; and
- (b) regulating (in whole or to a less extent) the procedure of, or of any committee of, the authority and fixing the quorum at a meeting of, or of any committee of, the authority;

he may, if he is satisfied as mentioned in subsection (2)(b) of the last foregoing section, make the order despite the fact that no application to him for the making of it is forthcoming from the authority engaged in improving, maintaining or managing the harbour or from any such person or representative body as is mentioned in subsection (2)(a) of that section.

(2) . . . . . <sup>F31</sup>

(3) In this section “the appropriate Minister”, in relation to a harbour not being a fishery harbour or a marine work means the Minister, in relation to a fishery harbour means the Minister of Agriculture, Fisheries and Food, and in relation to a marine work means the Secretary of State.

**Textual Amendments**

- F30** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\), Sch. 12 Pt. II](#)
- F31** S. 15(2) repealed by [Transport Act 1981 \(c. 56, SIF 58\), Sch. 12 Pt. II](#)



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#### Modifications etc. (not altering text)

- C12** Ss. 14-17: transfer of functions (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 29\(2\)\(b\)\(ii\)](#), 71(4) (with [Sch. 7 paras. 1, 6, 9](#)); [S.I. 2017/1179](#), [reg. 3\(g\)](#) (with transitional provisions and savings in [S.I. 2018/278](#), [reg. 2](#), [Sch.](#))
- C15** Functions of Minister of Agriculture, Fisheries and Food under s. 15 now exercisable (W.) by Secretary of State or by Minister of Agriculture, Fisheries and Food and Secretary of State for Wales jointly: [S.I. 1969/388](#), [art. 3](#), [Sch. 2](#) and 1978/272, [art. 2](#) [Sch. 1](#)
- C16** S. 15: transfer of certain functions (1.7.1999) by [S.I. 1999/672](#), [art. 2](#), [Sch. 1](#)

### [<sup>F32</sup>15A Ministers' powers to make orders about port appointments.

- (1) Each of the Ministers may, subject to subsection (2) of this section, by order vary the constitution of a harbour authority so far as it provides for the appointment by him of any member or members of the authority—
- (a) so as to abolish the power of appointment (except where the power is to appoint the chairman of the authority); or
  - (b) so as to provide for the power of appointment to be exercised by such other person or persons as may be specified in the order.
- (2) No order under this section may be made by the Secretary of State with respect to the constitution of a harbour authority if under the constitution all the members of the authority, apart from *ex officio* and co-opted members, are appointed by him.
- (3) An order under this section—
- (a) may relate to more than one harbour authority; and
  - (b) may contain such supplementary, incidental and consequential provisions as appear to the Minister making the order to be necessary or expedient;
- and where the constitution of a harbour authority provides for the appointment by the Minister making the order of more than one member, an order under this section may make different provision for each member falling to be so appointed and may make provision for some only of those members.
- (4) A Minister proposing to make an order under this section shall before doing so consult the harbour authority concerned and such other persons affected, or bodies representative of such persons, as he thinks fit.
- (5) In this section “the Ministers” means the Secretary of State and the Minister of Agriculture, Fisheries and Food.]

#### Textual Amendments

- F32** S. 15A inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 5\(1\)](#)

#### Modifications etc. (not altering text)

- C12** Ss. 14-17: transfer of functions (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 29\(2\)\(b\)\(ii\)](#), 71(4) (with [Sch. 7 paras. 1, 6, 9](#)); [S.I. 2017/1179](#), [reg. 3\(g\)](#) (with transitional provisions and savings in [S.I. 2018/278](#), [reg. 2](#), [Sch.](#))
- C17** S. 15A: transfer of certain functions (1.7.1999) by [S.I. 1999/672](#), [art. 2](#), [Sch. 1](#)



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## **16 Ministers' powers, on application of intending undertakers, or others, to make orders conferring powers for improvement, construction, &c., of harbours.**

(1) In a case where a person is desirous of securing the achievement of any of the following objects, namely,—

- (a) the improvement, maintenance or management of a harbour (whether natural or artificial) navigated by sea-going ships (not being a fishery harbour or a marine work) or of a port, haven, estuary, tidal or other river or inland waterway so navigated (not being a fishery harbour or a marine work);
- (b) the construction of an artificial harbour navigable by sea-going ships or an inland waterway so navigable, other than a harbour or waterway which, in the opinion of the Minister and the Secretary of State, will, on completion, be a marine work; and
- (c) the construction, improvement, maintenance or management of a dock elsewhere than at a fishery harbour or marine work or of a wharf elsewhere than at such a harbour or work;

but neither he nor any other person has powers, or sufficient powers, to secure it, or to do so effectively, he may make a written application to the Minister for the making by him of an order conferring on the applicant, some other designated person or a body to be constituted for the purpose by the order (according as may be specified in the application) all such powers (including, in particular, power to acquire land compulsorily and to levy charges other than ship, passenger and goods dues) as are requisite for enabling that object to be achieved.

(2) In a case where a person is desirous of securing the achievement of either or both of the following objects, namely,—

- (a) the improvement, maintenance or management of a fishery harbour; and
- (b) the construction, improvement, maintenance or management of a dock at a fishery harbour or of a wharf at such a harbour;

but neither he nor any other person has powers, or sufficient powers, to secure it, or to do so effectively, he may make a written application to the Minister of Agriculture, Fisheries and Food for the making by him of such an order as aforesaid.

(3) In a case where a person is desirous of securing the achievement of any of the following objects, namely,—

- (a) the improvement, maintenance or management of a marine work, being a harbour (whether natural or artificial) navigated by sea-going ships or being a port, haven, estuary, tidal or other river or inland waterway so navigated;
- (b) the construction of an artificial harbour navigable by sea-going ships which, in the opinion of the Minister and the Secretary of State, will, on completion, be a marine work or an inland waterway so navigable which, in the opinion of the Minister and the Secretary of State, will, on completion, be a marine work; and
- (c) the construction, improvement, maintenance or management of a dock at a marine work or of a wharf at such a work;

but neither he nor any other person has powers, or sufficient powers, to secure it, or to do so effectively, he may make a written application to the Secretary of State for the making by him of such an order as is mentioned subsection (1) of this section.

[<sup>F33</sup>(3A) Subsections (1) to (3) are subject to—

- (a) section 33(2) of the Planning Act 2008 (exclusion of powers to authorise development);

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- (b) section 120(9) of that Act (exclusion of power to include ancillary provision in orders).]
- (4) An order under this section is in this Act referred to as a “harbour empowerment order”.
- (5) Neither the Minister, nor the Minister of Agriculture, Fisheries and Food nor the Secretary of State shall make a harbour empowerment order unless he is satisfied that the making thereof is desirable in the interests of facilitating the efficient and economic transport of goods or passengers by sea [<sup>F34</sup>or in the interests of the recreational use of sea-going ships].
- (6) A harbour empowerment order may include all such provisions as appear to the Minister of the Crown by whom it is made to be requisite or expedient for giving full effect to any provision included in the order by virtue of the foregoing provisions of this section and any [<sup>F35</sup>supplementary, consequential or incidental] provisions appearing to him to be requisite or expedient for the purposes of, or in connection with, the order, including, but without prejudice to the generality of the foregoing words, penal provisions and provisions incorporating, with or without modifications, any provision of the Lands Clauses Acts or any other enactment [<sup>F36</sup>and provisions for excluding or modifying any provision of any Act or of any instrument made under any Act (including this Act)] [<sup>F37</sup>and for repealing any statutory provision of local application affecting the area in relation to which the powers are intended to be exercised]; but no penal provision of a harbour empowerment order shall be so framed as to permit of a person’s being punished otherwise than on his conviction or as to permit—
- (a) on his being summarily convicted, of the infliction on him of a penalty other than a fine or of [<sup>F38</sup>—
- (i) in the case of an offence triable either summarily or on indictment, the infliction on him of a fine exceeding the prescribed sum within the meaning of section 32 of the <sup>M5</sup>Magistrates’ Courts Act 1980 or section 289B of the <sup>M6</sup>Criminal Procedure (Scotland) Act 1975;
- (ii) in the case of an offence triable only summarily, the infliction on him of a fine exceeding [<sup>F39</sup>level 4 on the standard scale] or, in the case of a continuing offence, a daily fine exceeding £50 for each day on which the offence continues after conviction;]
- (b) on his being convicted on indictment, of the infliction on him of [<sup>F40</sup>a penalty other than a fine].
- (7) Where a harbour empowerment order includes provision for the compulsory acquisition of land, there must, in the case of each parcel of land proposed to be acquired compulsorily, be annexed to the order a [<sup>F41</sup>map of a scale not less than 1:2500] on which the boundaries of that parcel are plainly delineated.
- <sup>F42</sup>[(7A) Where a harbour empowerment order includes provision for extinguishing or diverting a public right of way over a footpath [<sup>F43</sup>or bridleway] [<sup>F43</sup>, bridleway or restricted byway], there must be annexed to the order a map of a scale not less than 1:2500 on which the path or way concerned, and in the case of a diversion the new path or way, are plainly delineated.]
- (8) ..... <sup>F44</sup>

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### Textual Amendments

- F33** S. 16(3A) inserted (1.3.2010) by [Planning Act 2008 \(c. 29\)](#), s. 241(8), **Sch. 2 para. 10** (with s. 226); [S.I. 2010/101](#), **art. 2** (with **art. 6**)
- F34** Words in s. 16(5) added (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), **Sch. 3 para. 2(2)**; [S.I. 1992/1347](#), **art. 2**, Sch. (subject as mentioned in art. 3)
- F35** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 6 para. 3**
- F36** Words in s. 16(6) inserted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), **Sch. 3 para. 2(3)**; [S.I. 1992/1347](#), **art. 2**, Sch. (subject as mentioned in art. 3)
- F37** Words in s. 16(6) inserted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), **Sch. 21 para. 2(2)**; [S.I. 2009/3345](#), **art. 2**, Sch. para. 26
- F38** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 6 para. 14(2)**
- F39** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46 and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. 289G (as inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s.54)
- F40** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 6 para. 14(3)**
- F41** Words in s. 16(7) substituted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), **Sch. 3 para. 2(4)**; [S.I. 1992/1347](#), **art. 2**, Sch. (subject as mentioned in art. 3)
- F42** S. 16(7A) inserted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), **Sch. 3 para. 2(5)**; [S.I. 1992/1347](#), **art. 2**, **Sch.** (subject as mentioned in art. 3)
- F43** Words in s. 16(7A) substituted (E.W.) (2.5.2006 for E., 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), reg. 1(2)(4), **Sch. Pt. I** (see [S.I. 2006/1172](#), art. 2(a)-(d) (with art. 3) and [S.I. 2006/1279](#), art. 2(a)-(d) (with art. 3))
- F44** S. 16(8) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 6 para. 4(1)(8)**, **Sch. 12 Pt. II** except as to a harbour revision or empowerment order in relation to which the notices required by para. 3(a) or 7(a) of Sch. 3 to this Act have been published before 1.10.1981

### Modifications etc. (not altering text)

- C12** Ss. 14-17: transfer of functions (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 29(2)(b)(ii)**, 71(4) (with [Sch. 7 paras. 1, 6, 9](#)); [S.I. 2017/1179](#), **reg. 3(g)** (with transitional provisions and savings in [S.I. 2018/278](#), reg. 2, Sch.)
- C18** Functions of Minister of Agriculture, Fisheries and Food under s. 16 now exercisable (W.) by Secretary of State or by Minister of Agriculture, Fisheries and Food and Secretary of State for Wales jointly: [S.I. 1969/388](#), **art. 3**, **Sch. 2** and 1978/272, art.2, Sch. 1
- C19** S. 16: transfer of certain functions (1.7.1999) by [S.I. 1999/672](#), **art. 2**, **Sch. 1**
- C20** S. 16 applied (E.W.) (2.5.2006 for E., 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), reg. 1(2)(4), 2(1), **Sch. Pt. I** (see [S.I. 2006/1172](#), art. 2(a)-(d) (with art. 3) and [S.I. 2006/1279](#), art. 2(a)-(d) (with art. 3))
- C21** References in s. 16(1)(b), (3)(b) to Minister and Secretary of State to have effect as references to Secretary of State for the time being concerned with harbours generally and Secretary of State for Scotland: [S.I. 1970/1681](#), **Sch. 3 para. 11(1)**
- C22** S. 16(5) excluded by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), s. 36(2)
- C23** S. 16(6) explained by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), s. 45

### Marginal Citations

- M5** [1980 c. 43 \(82\)](#).
- M6** [1975 c. 21 \(39:1\)](#).

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**17 Procedure for making harbour revision and empowerment orders, and substitution thereof, in general, for provisional orders.**

(1) The provisions of Schedule 3 to this Act shall have effect as follows with respect to the procedure for making harbour revision and empowerment orders:—

- (a) Part I of that Schedule shall have effect with respect to the procedure for making harbour revision orders upon application therefor to [<sup>F45</sup>the Secretary of State];
- (b) Part II of that Schedule shall have effect with respect to the procedure for the making of harbour revision orders by [<sup>F45</sup>the Secretary of State] of his own motion;
- (c) .....<sup>F46</sup>
- (g) Part I of that Schedule shall, subject to the modifications specified in Part [<sup>F47</sup>III] thereof, have effect with respect to the procedure for the making of harbour empowerment orders by [<sup>F45</sup>the Secretary of State];
- (h) .....<sup>F48</sup>

[<sup>F49</sup>and the said Parts I, II and [<sup>F47</sup>III] shall have effect with respect to the procedure for the making of orders by the Minister of Agriculture, Fisheries and Food with the substitution <sup>F50</sup> . . . of references to him for references to the Secretary of State.]

(2) Neither the Minister nor the Minister of Agriculture, Fisheries and Food nor the Secretary of State shall make a harbour revision or empowerment order including provision authorising the compulsory acquisition of land unless it also includes provision for the payment of compensation in respect of the acquisition.

<sup>F51</sup>[(2A) Neither the Secretary of State nor the Minister of Agriculture, Fisheries and Food shall make a harbour revision or empowerment order which provides for extinguishing a public right of way over a footpath [<sup>F52</sup>or bridleway][<sup>F52</sup>, bridleway or restricted byway] unless he is satisfied—

- (a) that an alternative right of way has been or will be provided, or
- (b) that the provision of an alternative right of way is not required.

(2B) Neither the Secretary of State nor the Minister of Agriculture, Fisheries and Food shall make a harbour revision or empowerment order which provides for diverting a public right of way over a footpath [<sup>F52</sup>or bridleway][<sup>F52</sup>, bridleway or restricted byway] unless he is satisfied that the path or way will not be substantially less convenient to the public in consequence of the diversion.]

<sup>F53</sup>(2C) In this section and in Schedule 3 to this Act (except in [<sup>F54</sup>paragraphs 20A and] 25(6) (c) of Schedule 3), references to “the Secretary of State” are to be construed, in relation to a [<sup>F55</sup>harbour that is wholly in Wales, other than a reserved trust port, as references to the Welsh Ministers], and in relation to Scotland, as references to the Scottish Ministers.]

<sup>F56</sup>(3) .....

<sup>F56</sup>(4) .....

**Textual Amendments**

**F45** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 5 para. 14(2)**

**F46** S. 17(1)(c)—(f) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**

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- F47** Words in s. 17(1) substituted (1.2.2000) by S.I. 1999/3445, **reg. 15(1)(a)**
- F48** S. 17(1)(h)(i) repealed by Transport Act 1981 (c. 56, SIF 58), **Sch. 12 Pt. II**
- F49** Words inserted by Transport Act 1981 (c. 56, SIF 58), **Sch. 5 para. 14(1)(3)**
- F50** Words in S. 17(1) omitted (1.2.2000) by S.I. 1999/3445, **reg. 15(1)(b)**
- F51** S. 17(2A)(2B) inserted (15.7.1992) by Transport and Works Act 1992 (c. 42), s. 63(1), **Sch. 3 para. 3**; S.I. 1992/1347, **art. 2, Sch.** (subject as mentioned in art. 3)
- F52** Words in s. 17(2A)(2B) substituted (E.W.) (2.5.2006 for E., 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), **reg. 1(2)(4), Sch. Pt. I** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))
- F53** S. 17(2C) added (1.2.2000) by S.I. 1999/3445, **reg. 15(2)**
- F54** Words in s. 17(2C) substituted (5.12.2017) by The Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017 (S.I. 2017/1070), **reg. 1(1), Sch. 1 para. 2** (with Sch. 6 para. 2(2))
- F55** Words in s. 17(2C) substituted (1.4.2018) by Wales Act 2017 (c. 4), **ss. 30(2), 71(4)** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, **reg. 3(g)**
- F56** S. 17(3)(4) repealed (15.7.1992) by Transport and Works Act 1992 (c. 42), s. 68(1), **Sch. 4 Pt. II**; S.I. 1992/1347, **art. 2, Sch.** (subject as mentioned in art. 3)

#### Modifications etc. (not altering text)

- C12** Ss. 14-17: transfer of functions (1.4.2018) by Wales Act 2017 (c. 4), **ss. 29(2)(b)(ii), 71(4)** (with Sch. 7 paras. 1, 6, 9); S.I. 2017/1179, **reg. 3(g)** (with transitional provisions and savings in S.I. 2018/278, **reg. 2, Sch.**)
- C24** S. 17 applied (E.W.) (2.5.2006 for E., 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), **reg. 1(2)(4), 2(1), Sch. Pt. I** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))

### *<sup>F57</sup>Harbour closure orders*

#### Textual Amendments

- F57** Ss. 17A-17F and cross-heading inserted (1.10.2013) by Marine Navigation Act 2013 (c. 23), **ss. 6(1), 13**; S.S.I. 2013/254, **art. 2**; S.I. 2013/1489, **art. 3**; S.I. 2013/2006, **art. 2**

## 17A Power to make closure order

- (1) The Secretary of State may make an order under this section in respect of a harbour (a “closure order”)—
  - (a) on the application of the harbour authority,
  - (b) with the consent of the harbour authority, or
  - (c) if the Secretary of State has consulted the harbour authority and is satisfied that they are unlikely to object.
- (2) The Secretary of State must publish guidance about the circumstances in which a closure order will be made. The guidance—
  - (a) must require the Secretary of State to have regard to the underlying purpose, and
  - (b) must be reviewed and (if appropriate) revised from time to time.
- (3) In this section—

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- (a) “the underlying purpose” means the purpose of permitting or requiring harbour authorities to cease to maintain harbours which are no longer commercially viable or necessary;
- (b) “the harbour authority” in relation to a harbour means any harbour authority which has statutory duties to manage, maintain or improve the harbour.

### **17B Content of closure order**

- (1) A closure order must relieve the harbour authority of—
  - (a) all statutory functions in respect of the harbour, or
  - (b) specified statutory functions in respect of the harbour.
- (2) A closure order may transfer specified functions of the harbour authority to a specified body (with the body's consent).
- (3) A closure order must include transitional provision about the cessation of the harbour authority's functions (including provision about rights and liabilities in relation to the performance of functions before the closure order takes effect).
- (4) A closure order may—
  - (a) permit or require the harbour authority to carry out works in respect of the harbour;
  - (b) permit the Secretary of State to carry out works in respect of the harbour;
  - (c) require a harbour authority to pay for works carried out under paragraph (b);
  - (d) confer on the harbour authority or the Secretary of State power to acquire (whether by agreement or compulsorily) land described in the order as the site of works to be carried out under paragraph (a) or (b).

### **17C Harbour closure orders: property etc**

- (1) A closure order may include provision for the transfer of property, rights and liabilities of the harbour authority.
- (2) In particular, a closure order may include provision—
  - (a) transferring things that would otherwise not be capable of being transferred;
  - (b) creating interests, rights or liabilities in relation to things transferred or in connection with a transfer;
  - (c) for enforcement of rights or liabilities (whether transferred or created by the order);
  - (d) about the transfer of rights and liabilities in relation to employment (including provision for deemed continuity);
  - (e) about pension schemes (including provision for amending schemes, winding them up, transferring their administration, and saving rights existing before a transfer takes effect);
  - (f) terminating appointments;
  - (g) for compensation for loss of employment (or office).
- (3) A closure order may include provision—
  - (a) extinguishing liabilities to the Secretary of State;
  - (b) about the winding up of the harbour authority's affairs;
  - (c) about the winding up of any company wholly owned by the harbour authority;

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- (d) about the dissolution of the harbour authority.
- (4) A provision of a closure order transferring property, rights or liabilities may—
  - (a) make the transfer subject to a condition (such as the grant of an interest in favour of a third party), and
  - (b) include provision about the effect of failure to comply with the condition.
- (5) Provision under this section may confer a function on the Secretary of State.

## **17D Harbour closure orders: procedure**

- (1) Part 1 of Schedule 3 has effect in relation to closure orders as in relation to harbour revision orders.
- (2) In relation to closure orders made otherwise than on the application of the harbour authority Part 1 of Schedule 3 has effect with any necessary modifications, in particular—
  - [<sup>F58</sup>(a) ignore paragraphs 3, 4A, 4B(2), 4C(2), 5(2), 6(2)(a) and (c), (3) and (4), 7, 8A, 9, 10(6) to (8), 13 and 14,]
  - (b) treat a reference to the applicant as a reference to the Secretary of State,
  - (c) treat a reference to the application for an order as a reference to the proposal to make an order,
  - (d) treat a reference to being notified of a proposed application as a reference to proposing to make an order, <sup>F59</sup>...
  - [<sup>F60</sup>(e) paragraph 4B applies as if for sub-paragraph (1) there were substituted—
    - “(1) The Secretary of State must make a screening decision in respect of the proposed order—
      - (a) as soon as possible, and
      - (b) in any event within the period of 90 days beginning with the day on which the Secretary of State has all of the information needed to make the decision.”,
  - (f) paragraph 8 applies if the Secretary of State decides that the order would relate to a project which requires an environment impact assessment, in which case—
    - (i) the Secretary of State, having consulted bodies with environmental responsibilities, must arrange for the preparation of an environmental statement by competent experts,
    - (ii) the environmental statement must include the information specified in sub-paragraphs (2)(b) and (3) (and may include other information),
    - (iii) the environmental statement must take into account the results of any relevant environmental assessment which are reasonably available to the Secretary of State, and
    - (iv) the environmental statement must include a statement setting out the relevant expertise or qualifications of the experts who prepared the environmental statement,
  - (g) where paragraph 8 applies, treat a reference to an environmental statement supplied under paragraph 8(1)(a) as a reference to the environment statement prepared on behalf of the Secretary of State, and
  - (h) paragraph 10ZA applies if the Secretary of State decides that the order would relate to a project which requires an environmental impact assessment, in



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which case, treat a reference to the notice received under paragraph 10(6) as a reference to the notice published under paragraph 10(1).]

(3) Section 44 applies in relation to closure orders as in relation to harbour revision orders.

#### Textual Amendments

- F58** S. 17D(2)(a) substituted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 3(a)** (with Sch. 6 para. 2(2))
- F59** Word in s. 17D(2)(d) omitted (5.12.2017) by virtue of [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 3(b)** (with Sch. 6 para. 2(2))
- F60** Ss. 17D(2)(e)-(h) substituted for s. 17D(2)(e) (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 3(c)** (with Sch. 6 paras. 2(2), 3(1))

### 17E Harbour closure orders: devolution

- (1) In relation to [<sup>F61</sup>harbours that are wholly in Wales, other than reserved trust ports]—
- (a) the power to make closure orders vests in the Welsh Ministers, and
  - (b) a reference in this group of sections to the Secretary of State is to be treated as a reference to the Welsh Ministers.

[ Before making a closure order that transfers functions to a harbour authority for a <sup>F62</sup>(1A) harbour that is wholly or partly in England or a reserved trust port, the Welsh Ministers must obtain the consent of the Secretary of State.]

- (2) In relation to harbours in Scotland—
- (a) the power to make closure orders vests in the Scottish Ministers,
  - (b) a reference in this group of sections to the Secretary of State is to be treated as a reference to the Scottish Ministers, and
  - (c) the reference in section 17D(1) to Schedule 3 is a reference to that Schedule as it has effect in relation to Scotland.

#### Textual Amendments

- F61** Words in s. 17E(1) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 30(3)(a)**, 71(4) (with Sch. 7 paras. 1, 6); [S.I. 2017/1179](#), reg. 3(g)
- F62** S. 17E(1A) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 30(3)(b)**, 71(4) (with Sch. 7 paras. 1, 6); [S.I. 2017/1179](#), reg. 3(g)

### 17F Supplemental

- (1) A closure order may include incidental, consequential, transitional or saving provisions.
- (2) In particular, a closure order—
- (a) may amend, repeal or revoke an enactment of local application, and
  - (b) may disapply or modify the application of any other enactment.

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- (3) A closure order—
- (a) may make provision generally or only for specified purposes, and
  - (b) may make different provision for different purposes.]

### *Harbour Reorganisation Schemes*

## **18 Harbour reorganisation schemes.**

- (1) With a view to securing the efficient and economical development of a group of harbours each of which is being improved, maintained or managed by a harbour authority in the exercise and performance of statutory powers and duties, a scheme (in this Act referred to as a “harbour reorganisation scheme”) with respect to the group, providing for all or any of the matters mentioned in subsection (2) below, may be submitted to the Minister . . . <sup>F63</sup> by all or any of the authorities who between them are engaged, in the exercise and performance of statutory powers and duties, in improving, maintaining or managing the several harbours comprised in the group (hereafter in this section referred to as “the relevant authorities”).

[<sup>F64</sup>(1A) If the Secretary of State is of opinion that, with a view to securing the efficient and economical development of any such group of harbours as is mentioned in subsection (1) of this section, a harbour reorganisation scheme ought to be made providing for all or any of the matters for which provision may be made by such a scheme, he may by order make a harbour reorganisation scheme providing for those matters.]

- (2) The said matters are the following, that is to say,—
- (a) transferring powers or duties conferred or imposed by a statutory provision of local application on any of the relevant authorities for the purpose of, or in connection with, the improvement, maintenance or management of a harbour comprised in the group to another of those authorities or to a body constituted by the scheme;
  - (b) transferring interests of any of the relevant authorities in fixed or movable property used by them for the purposes of the harbour in question and rights or liabilities enjoyed or incurred by them for those purposes to another of those authorities or to such a body as aforesaid;
  - (c) transferring powers or duties conferred or imposed by a statutory provision of local application on any of the relevant authorities (other than powers or duties falling within paragraph (a) above), or powers or duties so conferred or imposed in relation to a harbour comprised in the group on a local lighthouse authority who are not one of the relevant authorities, to another person (whether one of those authorities or not) or to such a body as aforesaid;
  - (d) transferring interests of any of the relevant authorities or of a local lighthouse authority in fixed or movable property used by them for the purposes of, or in connection with, the exercise or performance of any powers or duties transferred by a provision of the scheme having effect by virtue of paragraph (c) above to the person to whom the powers or duties are transferred, and transferring to that person rights or liabilities enjoyed or incurred by the authority from whom the powers or duties are transferred in, or in connection with, the exercise or performance of the transferred powers or duties;

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- (e) transferring to any of the relevant authorities or to a body constituted by the scheme interests of a person in fixed or movable property used by him for carrying out harbour operations at a harbour that is comprised in the group or is adjacent to any of the harbours so comprised, not being a person engaged in improving, maintaining or managing that harbour in the exercise and performance of statutory powers and duties;
  - (f) transferring to the service of a person or body to whom any powers, duties, interests, rights or liabilities are transferred by a provision of the scheme having effect by virtue of any of the foregoing paragraphs officers or servants employed by the person from whom the powers, duties, interests, rights or liabilities are transferred;
  - (g) dissolving any body of constables maintained by any of the relevant authorities, and transferring—
    - (i) the members of that body to another such body or bodies (whether or not maintained by another or other of those authorities or by a body constituted by the scheme);
    - (ii) property, rights or liabilities vested for the purposes of the dissolved body in the authority by whom it was maintained to an authority by whom is or is to be maintained a body of constables to which any of the members of the dissolved body are transferred;
  - (h) preserving (with or without adjustment) [<sup>F65</sup>or otherwise securing] the rights, as respects pensions, gratuities or other like benefits, of persons transferred by the scheme and their spouses [<sup>F66</sup>, civil partners] and dependents and of persons who are determined in accordance with the scheme to be such as would have been transferred thereby had they been serving when it comes into operation and their spouses [<sup>F66</sup>, civil partners] and dependents;
  - (i) making such provision as appears to the Minister necessary of expedient for rendering of full effect any provision of the scheme having effect by virtue of any of the foregoing paragraphs and such other [<sup>F67</sup>supplementary, consequential or incidental] provision as appears to him necessary or expedient for any of the purposes of the scheme, including, but without prejudice to the generality of the foregoing words, provision for repealing or amending any statutory provision of local application affecting the group or any of the harbours comprised therein.
- (3) Where a harbour reorganisation scheme provides for transferring interests in land, there must, in the case of each parcel of land interests in which are proposed to be transferred, be annexed to the scheme a [<sup>F68</sup>map of a scale not less than 1:2500] on which the boundaries of that parcel are plainly delineated.
- [<sup>F69</sup>(4) The provisions of Schedule 4 to this Act shall have effect as follows with respect to the procedure for confirming and making harbour reorganisation schemes—
- (a) Part I of that Schedule shall have effect with respect to the procedure for confirming schemes submitted to the Secretary of State;
  - (b) Part 1 of that Schedule shall, subject to the modifications specified in Part II thereof, have effect with respect to the procedure for the making of schemes by the Secretary of State of his own motion;
- [<sup>F70</sup>and a harbour reorganisation scheme as confirmed or made by the Secretary of State shall be subject to special parliamentary procedure].]
- (5) The Minister shall not confirm [<sup>F71</sup>or make] a harbour reorganisation scheme containing such provision as is authorised by subsection (2)(e) above unless it also

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includes provision for the payment of compensation in respect of the transfer of the interests in question.

- (6) The Minister shall not confirm [<sup>F71</sup>or make] a harbour reorganisation scheme if any harbour comprised in the group to which the scheme relates is a fishery harbour or marine work.
- (7) If at any time it appears to the Minister that any such provision of a harbour reorganisation scheme having effect by virtue of subsection (2)(h) above as adjusts the rights of a person operates or is likely to operate so as to put that person in a worse position than he would have been in had the provision not been included in the scheme, he may by order amend the scheme in such manner as appears to him to secure that that person is or will be in no such worse position.

#### Textual Amendments

- F63** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**
- F64** S. 18(1A) inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 6 para. 6(1)**
- F65** Words inserted by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), **s. 43(1)**
- F66** Words in s. 18(2)(h) inserted (E.W.) (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential and Contrary Provisions and Scotland\) Order 2014 \(S.I. 2014/560\)](#), art. 1(2), **Sch. 1 para. 10**
- F67** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 6 para. 3**
- F68** Words in s. 18(3) substituted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), **Sch. 3 para.4**; [S.I. 1992/1347](#), art. 2, **Sch.** (subject as mentioned in art. 3)
- F69** S. 18(4) substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 6 para. 6(2)**
- F70** Words in s. 18(4) repealed (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), s. 30(4), **Sch. 3**; [S.S.I. 2007/516](#), art. 2
- F71** Words inserted by [Transport Act 1981 \(c. 56\)](#), **Sch. 6 para. 6(3)**

#### Modifications etc. (not altering text)

- C25** S. 18 amended by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), **s. 36(4)**
- C26** S. 18: transfer of functions (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 29(2)(b)(iii)**, 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), **reg. 3(g)** (with transitional provisions and savings in [S.I. 2018/278](#), **reg. 2**, **Sch.**)
- C27** S. 18(2)(h) amended by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), **s. 43(2)**
- C28** S. 18(2)(i) extended by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), **ss. 42(4)(a)**, 43(3); explained by *ibid*; s. 45
- C29** S. 18(3) amended by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), **s. 42(2)**

### *Compensation for Loss of Office, &c.*

#### 19 Compensation for loss of office, &c., in consequence of orders and schemes under foregoing provisions.

- (1) The Minister shall by regulations make provision requiring such person or body, being a person or body subject to any of the provisions of a harbour reorganisation scheme, as may be determined by or under the regulations to pay, subject to such exceptions or conditions as may be prescribed by the regulations, compensation to, or in respect of, persons who are or, but for any national service of theirs would be, the holders of any such situation, place or employment as may be so prescribed and suffer loss of

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employment or loss or diminution of emoluments or pension rights in consequence of any of the provisions of the scheme.

- (2) Where it is proposed to make a harbour revision order or a harbour empowerment order, the Minister of the Crown by whom the order is to be made shall consider whether any person, who is, or but for any national service of his would be, holder of any situation, place or employment with a person or body subject to any of the provisions of the order, might if the order were made, suffer any loss of employment or loss or diminution of emoluments or pension rights in consequence of any of the provisions of the order; and if it appears to that Minister that such a person who is or would be the holder of such a situation, place or employment might suffer any such loss or diminution in consequence as aforesaid and that, if he does, compensation should be paid in respect thereof, that Minister shall not make the order unless he is satisfied that it secures that there will be paid to or in respect of that person, if he suffers any such loss or diminution in consequence as aforesaid, compensation corresponding, as near as may be, to that payable by virtue of regulations made under subsection (1) of this section to or in respect of the holder in similar circumstances of a similar situation, place or employment, in respect of similar loss or diminution suffered in consequence of any of the provisions of a harbour reorganisation scheme.
- (3) Different regulations may be made under subsection (1) of this section in relation to different classes of persons, and any such regulations may be so framed as to have effect from a date earlier than that on which they are made, so however that so much of any regulations as provides that any provision thereof is to have effect from a date earlier than that on which they are made shall not place any person other than a harbour authority in a worse position than he would have been in if the regulations had been so framed as to have effect only as from the date on which they are made.
- (4) Regulations made under subsection (1) of this section may include provision as to the manner in which, and the person to whom, any claim to compensation is to be made, and for the determination of all questions arising under the regulations.
- (5) In this section “national service” means any such service in any of Her Majesty’s forces or other employment (whether or not in the service of Her Majesty) as may be prescribed by regulations under subsection (1) of this section.

#### Modifications etc. (not altering text)

- C30** S. 19 amended by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), s. **43(2)**
- C31** [S. 19](#): transfer of functions (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), ss. **29(2)(b)(iv)**, [71\(4\)](#) (with [Sch. 7 paras. 1, 6, 9](#)); [S.I. 2017/1179](#), reg. [3\(g\)](#) (with transitional provisions and savings in [S.I. 2018/278](#), reg. [2](#), Sch.)

### *Control of Movement of Ships in Harbours*

20— ..... F72  
25.

#### Textual Amendments

- F72** Ss. 20–25 repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)

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## Harbour Charges

### 26 Repeal of provisions limiting discretion of certain harbour authorities as to ship, passenger and goods dues charged by them.

- (1) Subject to the following provisions of this Act, any statutory provision made with respect to a particular harbour authority shall cease to have effect in so far as (otherwise than by way of expressly providing for freedom from dues or in any other manner prohibiting the levying of a due) it limits the discretion of the authority as to the ship, passenger and goods dues chargeable by them at a harbour which, in the exercise and performance of statutory powers and duties, they are engaged in improving, maintaining or managing (whether by specifying, or providing for specifying, the dues to be levied, or fixing or providing for fixing, dues, or otherwise).
- (2) Subject to the following provisions of this Act and to any such statutory provision made with respect to them in particular as expressly provides for freedom from dues or in any other manner prohibits the levying of a due, a harbour authority shall have power to demand, take and recover such ship, passenger and goods dues as they think fit at such a harbour as aforesaid.
- (3) Any such provision of the <sup>M7</sup>Harbours, Docks and Piers Clauses Act 1847 as incorporated in a statutory provision made with respect to a harbour authority as refers to rates shall, with any necessary modifications, apply to charges imposed by virtue of this section by that authority as if they were rates payable under a statutory provision made with respect to them, and any such enactment of a statutory provision made with respect to a harbour authority as refers (in whatever terms) to charges payable to them under a statutory provision made with respect to them or to charges so payable of a specified class shall (in so far as it does not cease to have effect by virtue of subsection (1) of this section) apply with any necessary modifications to charges imposed by that authority by virtue of this section or, as the case may be, to charges so imposed of that class as if they were charges so payable or, as the case may be, charges so payable of that class.
- (4) Any ship, passenger and goods dues in force immediately before this section comes into operation which are exigible by a harbour authority at a harbour which, in the exercise and performance of statutory powers and duties, they are engaged in improving, maintaining or managing, being dues imposed or deemed to have been imposed by or by virtue of a statutory provision made with respect to the authority, shall be deemed to have been imposed by virtue of this section.
- (5) In this section “harbour authority” does not include—
  - (a) any of the Boards [<sup>F73</sup>or Canal & River Trust];
  - (b) a person carrying on an inland waterway undertaking to which provisions of section 43 of the <sup>M8</sup>Transport Act 1962 apply by virtue of section 52(2) of that Act;
  - (c) a person carrying on an undertaking all or any of the charges of which are, under the statutory provisions relating to the undertaking, subject to revision by the Minister and some other Minister acting together;

and “statutory provision” includes an order made under Regulation 56 of the Defence (General) Regulations 1939 or under an order confirmed by the Minister of Agriculture and Fisheries or the Minister of Agriculture, Fisheries and Food in pursuance of section 2(3)(2) of the <sup>M9</sup>Fishery Harbours Act 1915.

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### Textual Amendments

**F73** Words in s. 26(5)(a) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 3 para. 2(2)** (with arts. 4-6)

### Modifications etc. (not altering text)

**C32** S. 26 extended by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 4 para. 1(2)(a)**

**C33** S. 26(2) applied (7.3.2016) by [The Newhaven Harbour Revision Order 2016 \(S.I. 2016/151\)](#), arts. 1(1), **27(1)** (with arts. 29, 30)

### Marginal Citations

**M7** 1847 c. 27 (58).

**M8** 1962 c. 46 (126).

**M9** 1915 c. 48 (58).

## 27 Certain charges of certain harbour authorities to be reasonable.

- (1) In place of any limitation imposed, by a statutory provision made with respect to them in particular, on the discretion of a harbour authority as to charges (of any kind other than excepted charges) that may be made by them at a harbour which, in the exercise and performance of statutory powers and duties, they are engaged in improving, maintaining or managing (not being a limitation by way of expressly providing for freedom from charges or in any other manner prohibiting the making of a charge or by way of providing, by what form of words soever, that the charges shall be such as may be reasonable), there shall, by virtue of this subsection, be imposed the limitation that the charges shall be such as may be reasonable.
- (2) For the purposes of the foregoing subsection the following shall be excepted charges, namely,—
- (a) ship, passenger and goods dues;
  - (b) charges ascribable to the running of a ferry service in or from a harbour;
  - (c) contributions which, by virtue of a provision included in an order <sup>[F74]</sup>section 28 of the <sup>M10</sup>Salmon and Freshwater Fisheries Act 1975 by virtue of paragraph 1(a) of Schedule 3 to that Act<sup>[F75]</sup>under section 142 of the Water Resources Act 1991], fall to be assessed on several fisheries or the owners or occupiers thereof;
  - (d) duties on licences granted under <sup>[F76]</sup>section 25 of the said Act of 1975] to fish;
  - (e) charges in respect of licences under <sup>[F77]</sup>the <sup>M11</sup>Water Resources Act 1963 <sup>[F77]</sup>Chapter II of Part II of the Water Resources Act 1991] to abstract water or in respect of water authorised by such licences to be abstracted.
- (3) In this section “harbour authority” has the same meaning as in the last foregoing section.

### Textual Amendments

**F74** Words substituted by virtue of [Interpretation Act 1978 \(c. 30, SIF 115:1\)](#), **s. 17(2)(a)**

**F75** Words in s. 27(2)(c) substituted (E.W.) (1.12.1991) for the words "section 28 of the Salmon and Freshwater Fisheries Act 1975 by virtue of paragraph 1(a) of Schedule 3 to that Act" by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF:130\)](#), **ss. 2(1), 4(2)** Sch. 1 para. 13(2) (a)



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- F76** Words substituted by virtue of [Interpretation Act 1978 \(c. 30, SIF:1\)](#), [s. 17\(2\)\(a\)](#)  
**F77** Words in s. 27(2)(e) substituted (E.W.) (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF:130\)](#), ss. 2(1), 4(2), [Sch. 1 para. 13\(2\)\(b\)](#)

**Modifications etc. (not altering text)**

- C34** S. 27 extended by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 4 para. 1\(2\)\(a\)](#)  
**C35** S. 27(1) explained by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), [s. 46\(1\)](#)

**Marginal Citations**

- M10** [1975 c. 51 \(52:2\)](#).  
**M11** [1963 c. 38 \(130\)](#).

[<sup>F78</sup>**27A Combined charges.**

- (1) Where a harbour authority have power, whether by virtue of section 26 of this Act or any other statutory provision—
- (a) to levy ship, passenger and goods dues or equivalent dues; and
  - (b) to make other charges,
- the authority may, subject to the next following subsection, make a combined charge, that is to say, a single charge referable in part to matters for which ship, passenger and goods dues or equivalent dues may be levied and in part to matters for which other charges may be made.
- (2) A harbour authority may not make a combined charge in any case where—
- (a) the person who would be liable to pay the charge objects to paying a combined charge; or
  - (b) a number of persons would be jointly and severally liable to pay the charge and any of them objects to paying a combined charge:
- but without prejudice to the power of the authority to make separate charges in such a case.
- (3) A person may not object under subsection (2) above to the payment of a combined charge previously incurred or incurred in pursuance of a prior agreement between that person and the harbour authority.
- (4) In this section “equivalent dues” means dues exigible in respect of things other than ships for entering, using or leaving a harbour, including charges for marking or lighting the harbour.]

**Textual Amendments**

- F78** S. 27A inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 8\(1\)](#)

**28 Repeal of provisions limiting discretion of nationalised transport bodies as to ship, passenger and merchandise dues chargeable at certain harbours owned or managed by them.**

Schedule 9 to the <sup>M12</sup>Transport Act 1962 shall cease to have effect in so far as it limits the discretion of the Boards as to the ship, passenger and merchandise dues chargeable by them at the harbours specified in that Schedule.

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**Marginal Citations**

M12 1962 c. 46 (126).

**29 Repeal of provisions limiting discretion of local lighthouse authorities as to local light dues.**

(1) .....<sup>F79</sup>any.....  
<sup>F79</sup> statutory provision made with respect to a local lighthouse authority shall, .....<sup>F80</sup>, cease to have effect in so far as it limits the discretion of the authority as to the charges to be made by them.

<sup>F81</sup>(2) .....

<sup>F81</sup>(3) .....

(4) Any dues fixed by virtue of the said section 655(1) or by virtue of any other statutory provision, being dues that are in force immediately before the coming into operation of this section and are to be paid to a local lighthouse authority who are not a harbour authority, shall, so far as they could be imposed by virtue of this section, be deemed to have been so imposed.

**Textual Amendments**

**F79** Words repealed by Statute Law (Repeals) Act 1974 (c. 22), Sch. Pt. XI

**F80** Words repealed by Docks and Harbours Act 1966 (c. 28, SIF 58), s. 46(2)(4)(a)

**F81** S. 29(2)(3) repealed (1.1.1996) by 1995 c.21, ss. 314(1), 316(2), Sch. 12 (with s. 312(1), Sch. 14 para. 1)

**30 Duty of harbour and local lighthouse authorities to make available for inspection, and to keep for sale, copies of lists of certain charges.**

(1) A list showing the ship, passenger and goods dues for the time being exigible—

(a) by virtue of section 26 of this Act by a harbour authority at a harbour which, in the exercise and performance of statutory powers and duties, they are engaged in improving, maintaining or managing;<sup>F82</sup> ...

[<sup>F83</sup>(b) by virtue of section 43 of the<sup>M13</sup>Transport Act 1962 by any of the Boards at a harbour which, in the exercise and performance of statutory powers and duties, that Board are engaged in improving, maintaining or managing, except where the Board in question are . . .<sup>F84F85</sup> . . . the British Waterways Board and the harbour in question is not specified in Schedule 9 to that Act;]<sup>F86</sup>or

(c) by virtue of section 43 of the Transport Act 1962 by Canal & River Trust at a harbour specified in Schedule 9 to that Act;]

shall be kept at the harbour office and shall be open there during reasonable hours for inspection by any person without charge, and copies of the list shall be kept for sale at that office at a price not exceeding [<sup>F87</sup>5p] for each copy.

<sup>F88</sup>(2) .....

(3) No ship, passenger or goods due exigible as mentioned in paragraph [<sup>F89</sup>(a), (b) or (c)] of subsection (1) above shall be levied by, as the case may be the harbour authority or

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Board concerned [<sup>F90</sup>or by Canal & River Trust] if, at the time at which it is exigible, the authority or Board [<sup>F91</sup>or Canal & River Trust] are in default in compliance with the requirement of subsection (1) of this section with respect to the keeping of a list of dues at the harbour office or the due is not shown in the list kept there at that time in compliance with that requirement; <sup>F88</sup> . . .

(4) A copy of a list which, in pursuance of subsection (1) of this section, is for the time being kept by a harbour authority . . . <sup>F92</sup>at the office of a harbour which is not a fishery harbour or marine work . . . <sup>F92</sup>or, in pursuance of subsection (2) of this section, is for the time being kept by a local lighthouse authority at their office, shall be supplied by them to [<sup>F93</sup>the Secretary of State] without charge; a copy of a list which, in pursuance of the said subsection (1), is for the time being kept by a harbour authority at the office of a fishery harbour shall be supplied by them to the Minister of Agriculture, Fisheries and Food [<sup>F94</sup>or, if the fishery harbour is in Wales, to the Secretary of State] without charge; and a copy of a list which, in pursuance of the said subsection (1), is for the time being kept by a harbour authority at the office of a harbour which is a marine work shall be supplied by them to the Secretary of State without charge.

[<sup>F95</sup>(5) Subsection (1) of this section does not apply to combined charges within the meaning of section 27A of this Act.

(6) References in this section to the dues or charges exigible by an authority or Board [<sup>F96</sup>or by Canal & River Trust,] are references to the amount exigible where no composition agreement applies and no specially agreed rebate is allowed.]

#### Textual Amendments

- F82** Word in s. 30(1)(a) omitted (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 3 para. 2(3)(a)(i)** (with arts. 4-6)
- F83** S. 30(1)(b) substituted by [Transport Act 1968 \(c. 73, SIF 126\)](#), **Sch. 16 para. 8(1)**
- F84** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. I**
- F85** Words in s. 30(1)(b) repealed (1.2.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I**
- F86** S. 30(1)(c) and preceding word inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 3 para. 2(3)(a)(ii)** (with arts. 4-6)
- F87** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19, SIF 10\)](#), **s. 10(1)**
- F88** S.30(2), and words in s.30(3) repealed (1.1.1996) by 1995 c.21, ss.314(1), 316(2), **Sch. 12** (with s. 312(1), **Sch. 14 para. 1**)
- F89** Words in s. 30(3) substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 3 para. 2(3)(b)(i)** (with arts. 4-6)
- F90** Words in s. 30(3) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 3 para. 2(3)(b)(ii)** (with arts. 4-6)
- F91** Words in s. 30(3) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 3 para. 2(3)(b)(iii)** (with arts. 4-6)
- F92** Words repealed by [Transport Act 1968 \(c. 73, SIF 126\)](#), **Sch. 18 Pt. III**
- F93** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), 10(1)(3)
- F94** Words inserted by [S.I. 1978/272](#), art. 6, **Sch. 5 para. 11**
- F95** S. 30(5)(6) inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 6 para. 8(2)**
- F96** Words in s. 30(6) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 3 para. 2(3)(c)** (with arts. 4-6)

#### Modifications etc. (not altering text)

- C36** S. 30 extended by [Transport Act 1981 \(c. 56\)](#), **Sch. 4 para. 1(2)(a)**

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- C37** Functions of Minister of Agriculture, Fisheries and Food under s. 30 now exercisable (W.) by Secretary of State or by Minister of Agriculture, Fisheries and Food and Secretary of State for Wales jointly: S.I. 1978/272, art. 2, **Sch. 1**
- C38** S. 30 applied (with modifications) (25.7.1991) by Highland Regional Council (Harbours) Order Confirmation Act 1991 (c. ii), **s. 39(1)**.  
S. 30 applied (with modifications) (12.6.1993) by S.I. 1993/1592, **arts. 1(1), 6**.  
S. 30: transfer of certain functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**  
S. 30 restricted (S.)(23.12.1999) by S.S.I. 1999/202, **art. 27(2)**  
S. 30 excluded (10.7.2001) by S.S.I. 2001/262, **art. 32(2)**
- C39** S. 30 applied (with modifications) (S.) (30.9.2004) by The Dunbar Harbour Revision (Transfer) Order 2004 (S.S.I. 2004/421), arts. 1, **4(7)**
- C40** S. 30 excluded (31.12.2004) by The Falmouth Harbour Revision (Constitution) Order 2004 (S.I. 2004/3400), arts. 1(1), **19(3)**
- C41** S. 30 applied (16.8.2006) by The Dover Harbour Revision Order 2006 (S.I. 2006/2167), arts. 1(1), **20**
- C42** S. 30 excluded (29.12.2007) by The Maryport Harbour Revision Order 2007 (S.I. 2007/3463), arts. 1(1), **48** (with arts. 78, 80, 81)
- C43** S. 30 applied (with modifications) (29.12.2007) by The Maryport Harbour Revision Order 2007 (S.I. 2007/3463), arts. 1(1), **45** (with arts. 78, 80, 81)
- C44** S. 30 excluded (S.) (23.5.2008) by The Dumfries and Galloway Council (Isle of Whithorn) Harbour Empowerment Order 2008 (S.S.I. 2008/189), arts. 1, **41(2)** (with arts. 53-56)
- C45** S. 30 excluded (S.) (23.5.2008) by The Dumfries and Galloway Council (Garlieston) Harbour Empowerment Order 2008 (S.S.I. 2008/190), arts. 1, **41(2)** (with arts. 53(1), 54-56)
- C46** S. 30 excluded (S.) (23.5.2008) by The Dumfries and Galloway Council (Port William) Harbour Empowerment Order 2008 (S.S.I. 2008/188), arts. 1, **41(2)** (with arts. 53-56)
- C47** S. 30 applied (with modifications) (S.) (23.5.2008) by The Dumfries and Galloway Council (Garlieston) Harbour Empowerment Order 2008 (S.S.I. 2008/190), arts. 1, **39(1)** (with arts. 53(1), 54-56)
- C48** S. 30 excluded (S.) (29.1.2009) by The Port Babcock Rosyth Harbour Empowerment Order 2009 (S.S.I. 2009/27), arts. 1, **29(2)** (with arts. 36, 37)
- C49** S. 30 excluded (18.9.2009) by The Penzance Harbour Revision Order 2009 (S.I. 2009/2325), arts. 1, **31(2)** (with arts. 39, 40)
- C50** S. 30 excluded (S.) (14.1.2015) by The Caledonian Maritime Assets (Brodick) Harbour Revision Order 2015 (S.S.I. 2015/6), arts. 1, **49(2)** (with arts. 21, 53(3), 55, 57)
- C51** S. 30 excluded (S.) (18.3.2016) by The Lochboisdale and Gasay Port (Harbour Empowerment) Order 2016 (S.S.I. 2016/156), arts. 1, **24(2)** (with arts. 31, 32)
- C52** S. 30 excluded (S.) (10.6.2017) by The Tobermory Harbour Empowerment Order 2017 (S.S.I. 2017/196), arts. 1, **30(2)** (with arts. 36-40)
- C53** S. 30: transfer of functions (1.4.2018) by Wales Act 2017 (c. 4), **ss. 29(2)(b)(v)**, 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(g) (with transitional provisions and savings in S.I. 2018/278, reg. 2, Sch.)
- C54** Ss. 30, 31 applied (with modifications) (S.) (8.6.2018) by The Dumfries and Galloway Council (Kirkcudbright) Harbour Revision Order 2018 (S.S.I. 2018/188), arts. 1, **27** (with arts. 14, 35(3), 38, 39, 40, 41)
- C55** S. 30 excluded (S.) (8.6.2018) by The Dumfries and Galloway Council (Kirkcudbright) Harbour Revision Order 2018 (S.S.I. 2018/188), arts. 1, **29(2)** (with arts. 14, 35(3), 38, 39, 40, 41)
- C56** S. 30 applied (with modifications) (S.) (21.9.2019) by The Caledonian Maritime Assets (East Loch Tarbert) Harbour Revision Order 2019 (S.S.I. 2019/296), arts. 1(1), **40(2)** (with arts. 48, 49)
- C57** S. 30 restricted (S.) (21.9.2019) by The Caledonian Maritime Assets (East Loch Tarbert) Harbour Revision Order 2019 (S.S.I. 2019/296), arts. 1(1), **42(2)** (with arts. 48, 49)
- C58** S. 30 excluded (E.) (17.2.2021) by The Weymouth Harbour Revision Order 2021 (S.I. 2021/43), arts. 1, **13(2)** (with arts. 42, 44)
- C59** S. 30 applied (with modifications) (E.) (17.2.2021) by The Weymouth Harbour Revision Order 2021 (S.I. 2021/43), arts. 1, **10** (with arts. 42, 44)

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**C60** Ss. 30, 31 applied (with modifications) (E.W.) (14.7.2023) by [The Cornwall Harbours Harbour Revision Order 2023 \(S.I. 2023/675\)](#), arts. 1(1), **39** (with arts. 65, 66)

#### Marginal Citations

**M13** 1962 c. 46

### 31 Right of objection to ship, passenger and goods dues.

- (1) Subject to the following provisions of this Act, charges to which this section applies are ship, passenger and goods dues [<sup>F97</sup>other than combined charges within the meaning of section 27A of this Act; and references in this section to the rate at which any such charge is imposed are to the amount where no composition agreement applies and no specially agreed rebate is allowed].
- (2) Subject to subsections (10) to (12) below . . . <sup>F98</sup> the provisions of subsections (3) to (6) below shall have effect where written objection to a charge to which this section applies imposed by a harbour authority at a harbour which, in the exercise and performance of statutory powers and duties, they are engaged in improving, maintaining or managing, is lodged with [<sup>F99</sup>the Secretary of State] by—
  - (a) a person appearing to [<sup>F99</sup>him] to have a substantial interest; or
  - (b) a body representative of persons so appearing;and the objection is expressed to be made on all or any of the following grounds, namely,—
  - (i) that the charge ought not to be imposed at all;
  - (ii) that the charge ought to be imposed at a rate lower than that at which it is imposed;
  - (iii) that, according to the circumstances of the case, ships, passengers or goods of a class specified in the objection ought to be excluded from the scope of the charge either generally or in circumstances so specified;
  - (iv) that, according to the circumstances of the case, the charge ought to be imposed, either generally or in circumstances specified in the objection, on ships, passengers or goods of a class so specified at a rate lower than that at which it is imposed on others.
- (3) [<sup>F99</sup>The Secretary of State] shall, forthwith after the objection is lodged, send a copy thereof to the authority and shall give notice to the objector that, as a condition precedent to the taking by [<sup>F99</sup>the Secretary of State] of further steps in the matter of the objection, he must publish in specified newspapers a notice (which, if a form therefor is specified, must be in that form)—
  - (a) stating that he has lodged with [<sup>F99</sup>him] an objection to the charge (and specifying the ground or grounds on which it is expressed to be made); and
  - (b) stating that any such person or body as the following who desires to make to [<sup>F99</sup>the Secretary of State] representations in the matter, that is to say, a person having a substantial interest and a body representative of persons who have such an interest, should do so in writing within the time specified in the notice (which shall not be less than forty-two days from the publication or first publication thereof).
- (4) Where the proper notice concerning the objection has been duly published, then so soon as practicable after the expiration of the time therein specified (but subject to the next following subsection), [<sup>F99</sup>the Secretary of State] shall, unless the objection has

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been withdrawn before the expiration of that time and no written representations in the matter have been made to [F99]him] by any such person or body as is mentioned in subsection (3)(b) above before the expiration of that time, proceed to consideration of the charge and any representations made and, unless [F99]he is] satisfied that [F99]he] can properly proceed to a decision in the matter without causing an inquiry to be held with respect to it, shall cause an inquiry to be so held.

- (5) Where written representations are made as mentioned in subsection (4) above, [F99]the Secretary of State] shall send copies thereof to the authority and (except where the objection has been withdrawn) to the objector, and shall not proceed to consideration of the charge until such period for consideration of, and comment upon, the representations by the authority and by the objector (if the objection has not been withdrawn) as [F99]the Secretary of State thinks] reasonable has elapsed.
- (6) [F99]the Secretary of State], after effect has been given to subsection (4) above, shall either—
  - (a) approve the charge but set a limit (not being later than the expiration of twelve months from the date on which [F99]he approves it] to the period during which the approval is to be of effect, and give to the authority written notice that [F99]he has approved it], stating the limit set; or
  - (b) give to the authority such direction with respect to the charge as would meet objection thereto made on any of the grounds specified in subsection (2) above (whether that is or is not the ground, or is or is not included amongst the grounds, on which the objection whose lodging gives rise to the proceedings is expressed to be made).
- (7) A direction given under the last foregoing subsection to an authority must be in writing and must specify a date for its coming into operation and the period from that date (which shall not exceed twelve months) during which it is to have effect, and the authority shall comply with it.
- (8) If a harbour authority fail to comply with an obligation to which they are subject by virtue of the last foregoing subsection, they shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding [F100]level 4 on the standard scale].
- (9) Forthwith after complying on any occasion with subsection (6) above, [F99]the Secretary of State] shall publish, in the newspapers in which was published notice of the lodging of the objection the lodging whereof gave rise to the proceedings that resulted in the compliance on that occasion, the notice or direction given by [F99]him] to the harbour authority concerned.
- (10) Where, by virtue of this section, a charge imposed at a harbour is approved, subsections (3) to (6) above shall not have effect by virtue of the lodging of a further objection thereto during the period during which the approval is of effect; and where, by virtue of this section, a direction is given with respect to a charge so imposed, the said subsections shall not have effect by virtue of the lodging of a further objection to that charge during the period during which the direction has effect or of the lodging, during that period, of an objection to a charge that has come into existence by virtue of the direction.
- (11) Where effect to subsections (3) to (5) above is in course of being given in consequence of the lodging with [F99]the Secretary of State] of an objection to a charge and a further objection to that charge is lodged with [F99]the Secretary of State] subsections (3) to (6) above shall not have effect by virtue of the lodging of that further objection.



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- (12) If it appears to [<sup>F99</sup>the Secretary of State] that [<sup>F101</sup>the Sea Fish Industry Authority] are, or may be, concerned with a charge, [<sup>F99</sup>the Secretary of State] shall not give effect to subsection (6) above in relation to that charge without having consulted [<sup>F101</sup>the Authority].
- (13) In relation to charges to which this section applies imposed by a harbour authority at a fishery harbour which, in the exercise and performance of statutory powers and duties, they are engaged in improving, maintaining or managing, the foregoing provisions of this section shall have effect with the substitution, for references to [<sup>F99</sup>the Secretary of State], of references to the Minister of Agriculture, Fisheries and Food, . . . <sup>F98</sup>

#### Textual Amendments

- F97** Words inserted by Transport Act 1981 (c. 56, SIF 58), Sch. 5 para. 10(3), **Sch. 6 para. 8(3)**
- F98** Words repealed by Transport Act 1981 (c. 56, SIF 58), Sch. 5 para. 10(3), **Sch. 12 Pt. II**
- F99** Words substituted by Transport Act 1981 (c. 56, SIF 58), **Sch. 5 para. 10(2)(a)(3)**
- F100** Words substituted by virtue of Transport Act 1981 (c. 56, SIF 58), Sch. 5 para. 10(3), **Sch. 6 para. 13(2)(4)** and (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 54**)
- F101** Words substituted by Fisheries Act 1981 (c. 29, SIF 52:1), **Sch. 3 para. 8(1)(a)(2)(4)**

#### Modifications etc. (not altering text)

- C54** Ss. 30, 31 applied (with modifications) (S.) (8.6.2018) by The Dumfries and Galloway Council (Kirkcudbright) Harbour Revision Order 2018 (S.S.I. 2018/188), arts. 1, **27** (with arts. 14, 35(3), 38, 39, 40, 41)
- C60** Ss. 30, 31 applied (with modifications) (E.W.) (14.7.2023) by The Cornwall Harbours Harbour Revision Order 2023 (S.I. 2023/675), arts. 1(1), **39** (with arts. 65, 66)
- C61** Functions of Minister of Agriculture, Fisheries and Food under s. 31 now exercisable (W.) by Secretary of State or by Minister of Agriculture, Fisheries and Food and Secretary of State for Wales jointly: S.I. 1969/388, art. 3, **Sch. 2** and 1978/272, art. 2, Sch. 1
- C62** S. 31 applied (with modifications) (25.07.1991) by Highland Regional Council (Harbours) Order Confirmation Act 1991 (c. ii, SIF 200), s. 39(1).  
S. 31 applied (with modifications) (12.6.1993) by S.I. 1993/1592, **arts. 1(1), 6**.  
S. 31 applied (5.11.1993) by 1993 c. 42, **s. 15(4)**.  
S.31 applied (with modifications)(1.1.1996) by 1995 c. 21, **s. 210(8), 216(2)** (with s. 132(1))  
S.31 modified (1.1.1996) by 1995 c. 21, **ss. 210, 216(2)** Sch. 10 (with s. 132(1))  
S. 31: transfer of certain functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**
- C63** S. 31 applied (with modifications) (30.9.2004) by The Dunbar Harbour Revision (Transfer) Order 2004 (S.S.I. 2004/421), arts. 1, **4(7)**
- C64** S. 31 applied (16.8.2006) by The Dover Harbour Revision Order 2006 (S.I. 2006/2167), arts. 1(1), **20**
- C65** S. 31 applied (with modifications) (29.12.2007) by The Maryport Harbour Revision Order 2007 (S.I. 2007/3463), arts. 1(1), **45** (with arts. 78, 80, 81)
- C66** S. 31 applied (with modifications) (23.5.2008) by The Dumfries and Galloway Council (Garlieston) Harbour Empowerment Order 2008 (S.S.I. 2008/190), arts. 1, **39(1)** (with arts. 53(1), 54-56)
- C67** S. 31: transfer of functions (1.4.2018) by Wales Act 2017 (c. 4), **ss. 29(2)(b)(v), 71(4)** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(g) (with transitional provisions and savings in S.I. 2018/278, reg. 2, Sch.)
- C68** S. 31 applied (with modifications) (S.) (21.9.2019) by The Caledonian Maritime Assets (East Loch Tarbert) Harbour Revision Order 2019 (S.S.I. 2019/296), arts. 1(1), **40(2)** (with arts. 48, 49)
- C69** S. 31 applied (with modifications) (E.) (17.2.2021) by The Weymouth Harbour Revision Order 2021 (S.I. 2021/43), arts. 1, **10** (with arts. 42, 44)



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- C70** S. 31(2)–(11) extended with modifications by Greater London Council (General Powers) Act 1973 (c. xxx), **s. 8(5)(a)(b)**
- C71** S. 31(2)–(12) applied (with modifications) by Pilotage Act 1987 (c. 21, SIF 111), **s. 10(6)**
- C72** S. 31(2)-(12) applied (with modifications) (15.7.2003) by The Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003 (S.I. 2003/1809), regs. 1(1), **14(6)** (with reg. 3)
- C73** S. 31(2)-(12) applied (with modifications) (15.7.2003) by The Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003 (S.I. 2003/1809), regs. 1(1), **14(5)** (with reg. 3)

**32—34** ..... <sup>F102</sup>

#### Textual Amendments

**F102** Ss. 32–34 repealed by Transport Act 1981 (c. 56), **Sch. 12 Pt. II** (both as originally enacted and as applied by any enactment)

<sup>F103</sup>**35** .....

#### Textual Amendments

**F103** S.35 repealed (1.1.1996) by 1995 c. 21, ss.314(1), 316(2), **Sch. 12** (with s. 312(1), Sch. 14 para. 1)

**36**

Sections 31 <sup>F104</sup> . . . of this Act shall not apply to charges—

- (a) imposed by [<sup>F105</sup> . . . <sup>F106F107</sup> . . . the British Waterways Board]<sup>F108</sup> or Canal & River Trust] at a harbour not specified in Schedule 9 to the <sup>M14</sup>Transport Act 1962;
- (b) imposed at a harbour owned or managed by a person carrying on an inland waterway undertaking to which provisions of section 43 of that Act apply by virtue of section 52(2) thereof; or
- (c) imposed at a harbour owned or managed by a person carrying on an undertaking all or any of the charges of which are, under the statutory provisions relating to the undertaking, subject to revision by the Minister and some other Minister acting together [<sup>F109</sup> or by the Scottish Ministers].

#### Textual Amendments

**F104** Words repealed by Transport Act 1981 (c. 56), **Sch. 12 Pt. II**

**F105** Words substituted by Transport Act 1968 (c. 73), **Sch. 16 para. 8(1)**

**F106** Words repealed by Transport Act 1981 (c. 56), **Sch. 12 Pt. I**

**F107** Words in s. 36(a) repealed (1.2.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I**

**F108** Words in s. 36(a) inserted (2.7.2012) by The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), **Sch. 3 para. 2(4)** (with arts. 4-6)

**F109** Words in s. 36(c) inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. 1 para. 34**

#### Marginal Citations

**M14** 1962 c. 46.

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### 37 Special provisions with respect to certain aviation charges.

Section 26(2) of this Act and subsection (3) of section 43 of the Transport Act 1962 (as enacted in that section and as applied by section 52(2) of that Act) shall, so far as regards charges regulated by any such provision of an Order in Council under [F110section 60 of the M15Civil Aviation Act 1982] as has effect by virtue of paragraph (o) (regulation of charges for use of licensed aerodromes and for services provided thereat) of [F110subsection (3) of that section], have effect subject to that provision; and sections 27 and 31 . . . F111 of this Act shall not apply to any charges so regulated.

#### Textual Amendments

F110 Words substituted by [Civil Aviation Act 1982 \(c. 16, SIF 9\)](#), [Sch. 15 para. 4](#)

F111 Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)

#### Marginal Citations

M15 [1982 c. 16 \(9\)](#).

### 38 Repeal of certain enactments relating to harbour charges.

(1) The following provisions shall cease to have effect, namely,—

- (a) . . . . . F112
- (b) any statutory provision (other than the said section 47 or one in this Act) applying to a harbour authority in so far as (however it is expressed) it requires a list of charges imposed by the authority in the exercise of their powers as such to be published;
- (c) . . . . . F113 any other statutory provision applying to a harbour authority in so far as (however it is expressed) it prohibits the authority from discriminating in the matter of charges imposed as aforesaid against any person in favour of any other person.

(2) In the foregoing subsection “harbour authority” does not include any such person as is mentioned in section 26(5)(c) of this Act.

(3) . . . . . F114

#### Textual Amendments

F112 S. 38(1)(a) repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), [Sch. Pt. XI](#)

F113 Words repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), [Sch. Pt. XI](#)

F114 S. 38(3) repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), [Sch. Pt. XI](#)

#### Modifications etc. (not altering text)

C74 The “said section 47” means [Harbours, Docks and Piers Clauses Act 1847 \(c. 27, SIF 58\)](#), [s. 47](#)

### 39 Amendments of Acts consequential on sections 26 to 37.

(1) In the definition of “inland waterway undertaking” in section 13(1) of the Transport Charges &c. (Miscellaneous Provisions) Act 1954, after the word “navigation” there

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shall be inserted the words “not navigated by sea-going ships” and after the word “water” there shall be added the words “not so navigated”.

- (2) In section 12(7) of the Milford Haven Conservancy Act 1958, for the words “charges under section seven of the Transport Charges &c. (Miscellaneous Provisions) Act 1954” there shall be substituted the words “charges in respect of the aircraft”.
- (3) For paragraph 5 of Schedule 9 to the Transport Act 1962 there shall be substituted the following paragraph :—

“5 (1) The charges made by any of the Boards for the use of services or facilities provided in, or in connection with, a harbour specified in this Schedule (other than ship, passenger and goods dues, charges for the carriage of goods or passengers on any railway, charges for the use of a railway or charges in respect of railway wagons) shall be such as may be reasonable.

(2) In this paragraph the expression “ship, passenger and goods dues” has the same meaning assigned to it by section 57(1) of the Harbours Act 1964” ;

and in paragraph 6(2) of that Schedule for the words “for which the charges are regulated by” there shall be substituted the words “specified in”.

- (4) An order under section 21(8) of the <sup>M16</sup>Sea Fish Industry Act 1951 declaring that a harbour has become or has ceased to be a fishery harbour may make such provision with respect to proceedings under the provisions of this Act relating to charges at the harbour which are uncompleted when the order is made and to the effect of any order or scheme made under those provisions with respect to any such charges as [<sup>F115</sup>the Secretary of State thinks] requisite or expedient in view of the change of status of the harbour.

- (5) ..... <sup>F116</sup>

#### Textual Amendments

**F115** Words in s. 39(4) substituted (3.12.2001) by [S.I. 2001/3503, art. 5, Sch. para. 2](#)

**F116** S. 39(5) repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\), Sch. Pt. XI](#)

#### Modifications etc. (not altering text)

**C75** The text of s. 39(1)(2)(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**C76** [S. 39\(4\)](#): transfer of functions (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 29\(2\)\(b\)\(vi\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6, 9](#)); [S.I. 2017/1179, reg. 3\(g\)](#) (with transitional provisions and savings in [S.I. 2018/278, reg. 2, Sch.](#))

#### Marginal Citations

**M16** [1951 c. 30. \(58\)](#).

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*Conditions as to Use of harbour Services and  
Facilities provided by certain harbour Authorities*

**40 Conditions as to use of harbour services and facilities provided by certain harbour authorities.**

- (1) A harbour authority shall have power to make the use of services and facilities provided by them at a harbour which, in the exercise and performance of statutory powers and duties, they are engaged in improving, maintaining or managing subject to such terms and conditions as they think fit except with respect to charges as to which their discretion is limited by a statutory provision (whether by specifying, or providing for specifying, charges to be made, or fixing or providing for fixing charges, or otherwise).
- (2) In this section “harbour authority” has the same meaning as in section 26 of this Act.

**Modifications etc. (not altering text)**

**C77** S. 40 extended by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 4 para. 1\(2\)\(a\)](#)

**C78** S. 40 applied (with modifications) (S.) (30.9.2004) by [The Dunbar Harbour Revision \(Transfer\) Order 2004 \(S.S.I. 2004/421\)](#), arts. 1, [4\(7\)](#)

*[<sup>F117</sup>Harbour directions*

**Textual Amendments**

**F117** Ss. 40A-40D and cross-heading inserted (1.10.2013) by [Marine Navigation Act 2013 \(c. 23\)](#), [ss. 5\(1\), 13](#); [S.S.I. 2013/254](#), art. 2; [S.I. 2013/1489](#), art. 3; [S.I. 2013/2006](#), art. 2

**40A Directions**

- (1) A designated harbour authority may give directions (“harbour directions”) in respect of ships—
  - (a) within their harbour, or
  - (b) entering or leaving their harbour.
- (2) A harbour direction may relate to—
  - (a) the movement of ships;
  - (b) mooring or unmooring;
  - (c) equipment (including nature and use);
  - (d) the manning of ships.
- (3) A harbour direction may require the master of a ship to provide information to a specified person in a specified manner.
- (4) “Designated harbour authority” means—
  - (a) a harbour authority for a [<sup>F118</sup>harbour that is wholly in Wales other than a reserved trust port] who are designated by order of the Welsh Ministers,
  - (b) a harbour authority for any other harbour in England or Wales who are designated by order of the Secretary of State, and

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- (c) a harbour authority for a harbour in Scotland who are designated by order of the Scottish Ministers.
- (5) A harbour direction is subject to any direction under section 52 of the Harbours, Docks and Piers Clauses Act 1847 (directions by harbour master).
- (6) A harbour authority may not give a harbour direction which conflicts with an enactment.
- (7) An order designating a harbour authority may amend or repeal any statutory provision of local application which the person making the order thinks is—
  - (a) inconsistent with the power to give harbour directions, or
  - (b) unnecessary as a result of the power.

#### Textual Amendments

**F118** Words in s. 40A(4)(a) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 30\(4\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(g\)](#)

#### Modifications etc. (not altering text)

**C79** [S. 40A](#) applied (with modifications) (31.3.2023) by [The Merchant Shipping \(Watercraft\) Order 2023 \(S.I. 2023/35\), arts. 1\(1\), 11\(1\)](#)

## 40B Procedure

- (1) Harbour directions must be in writing.
- (2) Before giving harbour directions a harbour authority must consult such representatives of users of the harbour as the authority think appropriate.
- (3) A harbour authority must make such arrangements as they think appropriate for publicising a proposed harbour direction for at least 28 days before it is given.
- (4) A harbour authority must—
  - (a) make harbour directions available for inspection, and
  - (b) supply a copy to anyone who requests it.
- (5) A harbour authority may charge for the supply of copies.
- (6) As soon as is reasonably practicable after giving a harbour direction the harbour authority must publish a notice in a newspaper specialising in shipping news—
  - (a) stating that a harbour direction has been given, and
  - (b) giving details of the arrangements for the inspection and supply of copies of harbour directions.

#### Modifications etc. (not altering text)

**C80** [S. 40B](#) applied (31.3.2023) by [The Merchant Shipping \(Watercraft\) Order 2023 \(S.I. 2023/35\), arts. 1\(1\), 11\(1\)](#)

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#### 40C Enforcement

- (1) The master of a ship must ensure that harbour directions are complied with.
- (2) Breach of subsection (1) without reasonable excuse is an offence.
- (3) A person guilty of the offence is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

##### Modifications etc. (not altering text)

C81 S. 40C applied (with modifications) (31.3.2023) by [The Merchant Shipping \(Watercraft\) Order 2023 \(S.I. 2023/35\)](#), arts. 1(1), **11(1)**

#### 40D Supplemental

- (1) Harbour directions—
  - (a) may make provision that applies generally or only in relation to specified circumstances, areas, periods or descriptions of ship, and
  - (b) may make different provision for different circumstances, areas, periods or descriptions of ship.
- (2) Harbour directions may be varied or revoked by subsequent harbour directions.
- (3) In section 40A—

“mooring” includes casting anchor, and  
“unmooring” includes weighing anchor.]

##### Modifications etc. (not altering text)

C82 S. 40D applied (31.3.2023) by [The Merchant Shipping \(Watercraft\) Order 2023 \(S.I. 2023/35\)](#), arts. 1(1), **11(1)**

### *Furnishing of Information*

#### 41 Power of Council to obtain information and forecasts.

- (1) For the purpose of obtaining information and forecasts reasonably required by [<sup>F119</sup>the Secretary of State] for the exercise and performance of [<sup>F119</sup>his functions] under this Act, it shall be lawful for [<sup>F119</sup>the Secretary of State],—
  - (a) by notice in writing served on a person engaged in improving, maintaining or managing a harbour, to require him to furnish to [<sup>F119</sup>the Secretary of State] such information or forecasts . . . <sup>F120</sup> as may be specified in the notice; and
  - (b) by notice in writing served on a person carrying out at a harbour, harbour operations of a particular description, not being the person engaged in improving, maintaining or managing that harbour, to require him to furnish to [<sup>F119</sup>the Secretary of State] such information or forecasts relating to harbour operations of that description carried out by him at that harbour as may be so specified;

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and any such notice may require any such information or forecasts to be furnished in such manner and within such time as may be specified in the notice, and either periodically or on one occasion or more.

- (2) ..... <sup>F121</sup>
- (3) A person who fails to satisfy an obligation to which he is subject by virtue of subsection (1) above shall, unless he proves that he had reasonable excuse for the failure, be guilty of an offence and liable, on summary conviction, to a fine not exceeding [<sup>F122</sup>level 4 on the standard scale].
- (4) No notice shall be served under subsection (1) above requiring a person to furnish information or forecasts concerning anything done or to be done at a fishery harbour or marine work; and a notice served under that subsection on a person requiring him to furnish any information or forecasts concerning anything done or to be done at a harbour shall, if the harbour becomes a fishery harbour or marine work, thereupon cease to have effect except in so far as it requires any information or forecast to be furnished before the date on which the harbour becomes a fishery harbour or marine work.

#### Textual Amendments

- F119** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 5 para. 11**
- F120** Words repealed by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), **s. 48**
- F121** S. 41(2) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**
- F122** Words substituted by virtue of [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 6 para. 13(3)(4)** and (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **s. 289G** (as inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 54**)

#### Modifications etc. (not altering text)

- C83** S. 41: transfer of functions (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 29(2)(b)(vii)**, 71(4) (with [Sch. 7 paras. 1, 6, 9](#)); [S.I. 2017/1179](#), **reg. 3(g)** (with transitional provisions and savings in [S.I. 2018/278](#), **reg. 2**, [Sch.](#))

#### <sup>F123</sup>42 **Accounts and reports relating to harbour activities and associated activities.**

- (1) It shall be the duty of every statutory harbour undertaker to prepare an annual statement of accounts relating to the harbour activities and to any associated activities carried on by him.
- [ Where a statutory harbour undertaker is a parent undertaking with subsidiary <sup>F124</sup>(2) undertakings which carry on harbour activities or any associated activities, then, it shall be the duty of the company also to prepare group accounts relating to the harbour activities and associated activities carried on by it and its subsidiary undertakings.]
- (3) The requirements of subsection (1) or subsection (2) above are not satisfied by the preparation of a statement of accounts which relates to other matters in addition to harbour activities and associated activities.
- (4) Where provision is made for the auditing of accounts prepared by any person otherwise than under this section which relate to harbour activities carried on by him (whether or not they relate to other matters) that provision shall apply also to any statement prepared by him under this section.



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- (5) It shall be the duty of any person by whom a statement of accounts is prepared in accordance with this section—
- (a) to send to the Secretary of State a copy of the statement together with a copy of the auditor's report on it; and
  - (b) to prepare and send to the Secretary of State a report on the state of affairs disclosed by the statement.
- (6) Subject to any regulations made under the next following subsection, the provisions of the <sup>F125</sup>... [<sup>F126</sup>the Companies Act 2006] as to the form and contents of accounts and reports required to be prepared under [<sup>F127</sup>that Act] shall apply to accounts and reports required to be prepared under this section, as follows—
- (a) the provisions relating to [<sup>F128</sup>individual company accounts] shall apply to statements prepared in accordance with subsection (1) above;
  - (b) the provisions relating to group accounts shall apply to statements prepared in accordance with subsection (2) above; and
  - (c) the provisions relating to the directors' report . . . <sup>F129</sup>shall apply to reports prepared in accordance with subsection (5)(b) above.
- (7) The Secretary of State may make provision by regulations with respect to the form and contents of accounts and reports prepared under this section—
- (a) prescribing cases in which the provisions of the [<sup>F130</sup>the Companies Act 2006] referred to in subsection (6) above are not to apply;
  - (b) modifying those provisions;
  - (c) prescribing requirements additional to those imposed by those provisions.
- (8) Where a statutory harbour undertaker is obliged by a statutory provision of local application to prepare accounts, then, so far as those accounts relate to harbour activities or associated activities, any requirements of the statutory provision of local application as to the form and contents of the accounts shall be treated as satisfied by the preparation of accounts in the same manner that is required for a statement under this section.
- (9) In this section—
- “associated activities”, in relation to any harbour activities means such activities as may be prescribed in relation to those activities by regulations made by the Secretary of State;
- “harbour activities” means activities involved in carrying on a statutory harbour undertaking or in carrying out harbour operations;
- <sup>F131</sup> “parent undertaking” and “subsidiary undertaking” have the same meaning as in [<sup>F132</sup>the Companies Acts (see section 1162 of, and Schedule 7 to, the Companies Act 2006)];
- “statutory harbour undertaking” means an undertaking or part of an undertaking, whose activities consist wholly or mainly of the improvement, maintenance or management of a harbour in the exercise and performance of statutory powers and duties, and “statutory harbour undertaker” shall be construed accordingly.
- (10) Regulations under subsection (7) or (9) above may be made so as to apply to all undertakers, to a class of undertakers or to a particular undertaker.
- (11) This section does not apply to—
- (a) the Boards [<sup>F133</sup>or Canal & River Trust];

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- (b) a statutory harbour undertaker the activities of whose undertaking consist wholly or mainly in the improvement, maintenance or management of a fishery harbour or marine work;
- (c) a statutory harbour undertaker of a class exempted from this section by regulations made by the Secretary of State.]

#### Textual Amendments

- F123** S. 42 substituted by Transport Act 1981 (c. 56), **Sch. 6 para. 10**
- F124** S. 42(2) substituted by Companies Act 1989 (c. 40), s. 23, **Sch. 10 para. 26(2)** (subject to savings in S.I. 1990/355, art. 8, **Sch. 3 para. 1**)
- F125** Words in s. 42(6) omitted (6.4.2008) by virtue of The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 2(2), **Sch. 1 para. 39(a)** (with arts. 6, 11, 12)
- F126** Words in s. 42(6) inserted (1.10.2007) by The Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194), art. 1(3)(a), **Sch. 4 para. 28** (with art. 12)
- F127** Words substituted by Companies Consolidation (Consequential Provisions) Act 1985 (c. 9), s. 30, **Sch. 2**
- F128** Words substituted by Companies Act 1989 (c. 40), s. 23, **Sch. 10 para. 26(3)(a)**, (subject to savings in S.I. 1990/355, art. 8, **Sch. 3 para. 1**)
- F129** Words repealed (subject to savings in S.I. 1990/355, arts. 5, 8, **Sch. 3 para. 1**) by Companies Act 1989 (c. 40, SIF 27), ss. 23, 212, Sch. 10 para. 26(3)(b), **Sch. 24**
- F130** Words in s. 42(7)(a) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 2(2), **Sch. 1 para. 39(b)** (with arts. 6, 11, 12)
- F131** Definitions substituted by Companies Act 1989 (c. 40), s. 23, **Sch. 10 para. 26(4)** (subject to savings in S.I. 1990/355, art. 8, **Sch. 3**, para. 1)
- F132** Words in s. 42(9) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 2(2), **Sch. 1 para. 39(c)** (with arts. 6, 11, 12)
- F133** Words in s. 42(11)(a) inserted (2.7.2012) by The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), **Sch. 3 para. 2(5)** (with arts. 4-6)

#### Modifications etc. (not altering text)

- C84** S. 42 extended by Transport Act 1981 (c. 56), **Sch. 4 para. 1(2)(3)**
- C85** S. 42 extended by Pilotage Act 1987 (c. 21), s. 14(1)
- C86** S. 42: transfer of functions (1.4.2018) by Wales Act 2017 (c. 4), ss. 29(2)(b)(vii), 71(4) (with Sch. 7 paras. 1, 6, 9); S.I. 2017/1179, reg. 3(g) (with transitional provisions and savings in S.I. 2018/278, reg. 2, Sch.)
- C87** S. 42(2)-(9) applied (with modifications) (6.3.1992) by S.I. 1992/546, arts. 1, 2, **Sch. para. 4(3)**  
S. 42(2)-(9) applied (25.3.1997) by S.I. 1997/948, art. 2(2), **Sch. para. 5(3)**

#### *<sup>F134</sup>Delegation of certain functions*

#### Textual Amendments

- F134** Ss. 42A, 42B and cross-heading inserted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), s. 324(1)(c)(d), **Sch. 21 para. 3(1)**; S.I. 2009/3345, art. 2, Sch. para. 26

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## **42A Power to make orders delegating functions**

- (1) The relevant authority may by order provide for such of the delegable functions as are designated in the order to be exercisable by such person as is designated in the order.
- (2) An authority may make an order under subsection (1) only with the consent of the person designated in it (“the delegate”).
- (3) The delegate—
  - (a) must comply with the order, and
  - (b) is to be taken to have all the powers necessary to do so.
- (4) For so long as an order under subsection (1) remains in force, the functions designated in the order—
  - (a) are exercisable by the delegate acting on behalf of the authority, and
  - (b) are not exercisable by the authority.This subsection is subject to subsections (5) and (6).
- (5) The delegate must obtain the consent of the relevant authority before exercising any function under—
  - (a) section 15;
  - (b) section 15A;
  - (c) section 18.
- (6) Subsection (4)(b) does not apply to any function under—
  - (a) section 15;
  - (b) section 15A;
  - (c) section 18.
- (7) If a function is, by virtue of an order under subsection (1), exercisable by a person, any reference in this Act to the relevant authority is to be read, so far as relating to that function or the exercise of it, as a reference to that person.

[ Subsection (7) does not apply to a reference in paragraph 20A of Schedule 3 to the <sup>F135</sup>(7A) Secretary of State or the Welsh Ministers.]

- (8) An order under subsection (1) may make different provision for different cases, different areas or different persons.
- (9) The delegable functions are functions under the following sections—
  - (a) section 14 (making harbour revision orders, except as mentioned in paragraph (b) below);
  - (b) section 15 (making harbour revision orders for limited purposes for securing harbour efficiency);
  - (c) section 15A (making orders varying powers of appointment in the constitutions of harbour authorities);
  - (d) section 16 (making harbour empowerment orders);
  - (e) section 18 (confirming or making harbour reorganisation schemes);
  - (f) section 60 (making orders amending Acts of local application).
- (10) In this section “the relevant authority”, in relation to any delegable function, means the authority by whom (apart from any order under subsection (1)) the function is exercisable.

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### Textual Amendments

**F135** S. 42A(7A) inserted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), [Sch. 1 para. 4](#) (with [Sch. 6 paras. 1, 2\(2\)](#))

## 42B Directions as to performance of delegated functions

- (1) This section applies where any functions are exercisable by or in relation to a person by virtue of an order made under section 42A by a relevant authority.
- (2) The authority may from time to time give directions to the person with respect to the performance of the functions.
- (3) A person to whom directions are given under this section must comply with the directions.
- (4) An authority which gives a direction under this section must publish the direction in a manner likely to bring the direction to the attention of persons likely to be affected by it.]

## [<sup>F136</sup>42C Consent of Welsh Ministers required for certain orders and schemes

- (1) This section applies to any harbour revision order or harbour empowerment order which makes provision excluding, modifying or repealing—
  - (a) any provision of the Marine and Coastal Access Act 2009 in so far as it applies to Wales;
  - (b) any instrument made under that Act by the Welsh Ministers;
  - (c) any statutory provision of local application made by the Welsh Ministers.
- (2) This section also applies to any harbour reorganisation scheme which makes provision repealing or amending any statutory provision of local application made by the Welsh Ministers.
 

[ The references in subsections (1)(c) and (2) to a statutory provision of local application <sup>F137</sup>(2A) do not include a harbour revision order, a harbour empowerment order or a harbour reorganisation scheme.]
- (3) The Secretary of State must notify the Welsh Ministers of any intention to make an order or scheme to which this section applies.
- (4) The order or scheme must not include any provision falling within subsection (1) or, as the case may be, (2) if, within the prescribed period beginning with the date of the notification under subsection (3), the Welsh Ministers refuse their consent to the inclusion of that provision in the order or scheme.
- (5) In this section “prescribed period” means such period as is prescribed in an order made by the Secretary of State for the purposes of this section.

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#### Textual Amendments

**F136** Ss. 42C, 42D inserted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), [Sch. 21 para. 4](#); S.I. 2009/3345, art. 2, Sch. para. 26

**F137** [S. 42C\(2A\)](#) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 37\(1\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); S.I. 2017/1179, reg. 3(g)

### 42D Consent of Secretary of State required for certain orders and schemes

- (1) This section applies to any harbour revision order or harbour empowerment order which makes provision excluding, modifying or repealing—
- any provision of the Marine and Coastal Access Act 2009 in so far as it applies to England;
  - any instrument made under that Act by the Secretary of State;
  - any statutory provision of local application made by the Secretary of State.
- (2) This section also applies to any harbour reorganisation scheme which makes provision repealing or amending any statutory provision of local application made by the Secretary of State.
- [ The references in subsections (1)(c) and (2) to a statutory provision of local application <sup>F138</sup>(2A) do not include a harbour revision order, a harbour empowerment order or a harbour reorganisation scheme.]
- (3) The Welsh Ministers must notify the Secretary of State of any intention to make an order or scheme to which this section applies.
- (4) The order or scheme must not include any provision falling within subsection (1) or, as the case may be, (2) if, within the prescribed period beginning with the date of the notification under subsection (3), the Secretary of State refuses consent to the inclusion of that provision in the order or scheme.
- (5) In this section “prescribed period” means such period as is prescribed in an order made by the Secretary of State for the purposes of this section.]

#### Textual Amendments

**F136** Ss. 42C, 42D inserted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), [Sch. 21 para. 4](#); S.I. 2009/3345, art. 2, Sch. para. 26

**F138** [S. 42D\(2A\)](#) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 37\(2\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); S.I. 2017/1179, reg. 3(g)

### *Miscellaneous and General*

### 43 Provisions with respect to loans made under this Act by the Minister [<sup>F139</sup> or the Welsh Ministers] .

- (1) Any loans which the Minister makes under section . . . <sup>F140</sup> 11 of this Act shall be repaid to him at such times and by such methods, and interest thereon shall be paid

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to him at such rates and at such times, as he may, with the approval of the Treasury, from time to time direct.

- [<sup>F141</sup>(1A) Any loans which the Welsh Ministers make under section 11 of this Act shall be repaid to them at such times and by such methods, and interest thereon shall be paid to them at such rates and at such times, as they may from time to time direct.]
- (2) The Treasury may issue out of the [<sup>F142</sup>National Loan Fund] to the Minister such sums as are necessary to enable him to make loans under section . . . <sup>F140</sup> 11 of this Act.
- [<sup>F143</sup>(2A) Such sums as are necessary to enable the Welsh Ministers to make loans under section 11 of this Act may be issued to them out of the Welsh Consolidated Fund.]
- (3) . . . . . <sup>F144</sup>
- (4) Any sums received by the Minister under subsection (1) of this section shall be paid into the [<sup>F142</sup>National Loan Fund] . . . <sup>F145</sup>
- [<sup>F146</sup>(4A) Any sums received by the Welsh Ministers under subsection (1A) of this section shall be paid into the Welsh Consolidated Fund.]
- (5) The Minister shall, as respects each financial year, prepare in such form and manner as the Treasury may direct an account of sums issued to him under this section and of the sums to be paid into the [<sup>F142</sup>National Loan Fund] under subsection (4) of this section and of the disposal by him of those sums respectively, and send it to the Comptroller and Auditor General not later than the end of November following the year; and the Comptroller and Auditor General shall examine, certify and report on the account and lay copies of it, together with his report, before each House of Parliament.
- [<sup>F147</sup>(6) The Welsh Ministers shall, as respects each financial year, prepare an account of sums issued to them under this section and of the sums to be paid into the Welsh Consolidated Fund under subsection (4A) and of the disposal by them of those sums respectively, and send it to the Auditor General for Wales not later than the end of November following the year; and the Auditor General for Wales shall examine, certify and report on the account and lay copies of it, together with his report, before the National Assembly for Wales.]

#### Textual Amendments

- F139** Words in s. 43 heading inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 30\(5\)\(e\)](#), 71(4) (with [Sch. 7 paras. 1, 6, 9](#)); [S.I. 2017/1179](#), [reg. 3\(g\)](#)
- F140** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)
- F141** S. 43(1A) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 30\(5\)\(a\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(g\)](#)
- F142** Words substituted by [National Loans Act 1968 \(c. 13, SIF 99:3\)](#), [Sch. 1](#)
- F143** S. 43(2A) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 30\(5\)\(b\)](#), 71(4) (with [Sch. 7 paras. 1, 6, 9](#)); [S.I. 2017/1179](#), [reg. 3\(g\)](#)
- F144** S. 43(3) repealed by [National Loans Act 1968 \(c. 13, SIF 99:3\)](#), [Sch. 6 Pt. I](#) but not so as to affect any money borrowed before 1.4.1968, or any requirement as respects any account or statement for the year ending on 31.3.1968 or any earlier year
- F145** Words repealed by [National Loans Act 1968 \(c. 13, SIF 99:3\)](#), [Sch. 6 Pt. I](#) but not so as to affect any money borrowed before 1.4.1968 or any requirement as respects any account statement for the year ending on 31.3.1968 or any earlier year
- F146** S. 43(4A) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 30\(5\)\(c\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(g\)](#)

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**F147** S. 43(6) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 30\(5\)\(d\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(g\)](#)

**Modifications etc. (not altering text)**

**C88** S. 43(1) amended by [National Loans Act 1968 \(c. 13, SIF 99:3\)](#), [Sch. 1](#)

**[<sup>F148</sup>44 Limitation of right to challenge harbour revision orders, etc., in legal proceedings.**

(1) A person who desires to question any such order as follows, namely, a harbour revision or empowerment order [<sup>F149</sup>(not being one confirmed by Act of Parliament under section [<sup>F150</sup>4 or] 6 of the <sup>M17</sup>Statutory Orders (Special Procedure) Act 1945, or under section 2(4), as read with section 10, of that Act)] [<sup>F151</sup>or an order under section 15A of this Act,] on the ground that there was no power to make the order or that a requirement of this Act was not complied with in relation to the order, <sup>F152</sup>... may, within six weeks from the date on which the order becomes operative <sup>F152</sup>... make an application for the purpose to the High Court or the Court of Session, as the case may be.

(1A) On an application under the foregoing subsection <sup>F152</sup>... , the court—

- (a) may, by interim order, suspend the operation of the order or of any provision thereof, either generally or so far as may be necessary for the protection of the interests of the applicant, until the final determination of the proceedings; and
- (b) if satisfied that there was no power to make the order or that the interests of the applicant have been substantially prejudiced by a failure to comply with a requirement of this Act so far as regards the inclusion in the order of that provision, may quash the order, or any provision thereof, either generally or so far as may be necessary as aforesaid.

<sup>F153</sup>(2) .....

(3) Except as provided by this section, a harbour revision or empowerment order [<sup>F154</sup>, or an order under section 15A of this Act,] shall not, either before or after it is made, be questioned in any legal proceedings whatever, <sup>F152</sup>....

(4) The foregoing provisions of this section shall apply to a harbour reorganisation scheme confirmed [<sup>F155</sup>or made] by the Minister as they apply to a harbour revision order, with the substitution [<sup>F155</sup>, in relation to a harbour reorganisation scheme confirmed by the Secretary of State,] for references to the making of the order and to its being made of references respectively to the confirmation of the scheme and to its being confirmed.

(5) In relation to proceedings in Scotland, subsections (1A)(a) <sup>F152</sup>... of this section shall have effect as if the words “by interim order” were omitted.

[<sup>F156</sup>(6) In the case of an order falling within subsection (7), an environmental organisation is to be deemed to have sufficient interest to make an application under subsection (1).

(7) An order is within this subsection if, in relation to the proposed application relating to the project authorised by the order, the Scottish Ministers decided that an environmental impact assessment was required and informed the applicant accordingly under paragraph 6(2)(a) of Schedule 3.

(8) For the purposes of subsections (6) and (7), an “environmental organisation” is a non-governmental organisation promoting environmental protection.]



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[ In the case of an order falling within subsection (7), an environmental organisation <sup>F157</sup>(6) is <sup>F158</sup>... to be deemed to have sufficient interest to make an application under subsection (1).

[<sup>F159</sup>(7) An order is within this subsection if, in relation to the proposed application relating to the project authorised by the order, the Secretary of State decided that an environmental impact assessment was required and informed the applicant accordingly under paragraph 6(2)(a) of Schedule 3.

(8) For the purposes of subsections (6) and (7), an “environmental organisation” is a non-governmental organisation promoting environmental protection.]]

[ Section 17D(3) applies this section to closure orders.]]  
<sup>F160</sup>(9)

**Textual Amendments**

**F148** S. 44 substituted by virtue of [Docks and Harbours Act 1966 \(c. 28\)](#), s. 44, **Sch. 2**

**F149** Words in s. 44(1) repealed (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), s. 30(4), **Sch. 3**; S.S.I. 2007/516, art. 2

**F150** Words in s. 44(1) inserted (25.6.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), **ss. 25(9)**, 35(1); S.I. 2013/1488, art. 3(e) (with art. 8, (3))

**F151** Words inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 6 para. 5(2)(a)**

**F152** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**

**F153** S. 44(2) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**

**F154** Words inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 6 para. 5(2)(b)**

**F155** Words inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 6 para. 6(4)**

**F156** S. 44(6)-(8) substituted (S.) (31.12.2020) by [The Harbours and Highways \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/460\)](#), regs. 1, **2(3)**

**F157** S. 44(6)-(8) added (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **2** (with reg. 1(2))

**F158** Words in s. 44(6) omitted (E.W.) (31.12.2020) by virtue of [The Harbours and Highways \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/460\)](#), regs. 1, **2(2)(a)**

**F159** S. 44(7)(8) substituted (E.W.) (31.12.2020) by [The Harbours and Highways \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/460\)](#), regs. 1, **2(2)(b)**

**F160** S. 44(9) inserted (1.10.2013) by [Marine Navigation Act 2013 \(c. 23\)](#), **ss. 6(2)**, 13; S.S.I. 2013/254, art. 2; S.I. 2013/1489, art. 3; S.I. 2013/2006, art. 2

**Marginal Citations**

**M17** [1945 c. 18](#). (9 & 10 Geo. 6)

**45 Penalisation of furnishing false information.**

A person who—

(a) ..... <sup>F161</sup>in purported compliance with a requirement imposed under section ..... <sup>F162</sup>1 of this Act, gives any information which he knows to be false in a material particular or makes a statement which he knows to be so false or recklessly gives any information which is so false or recklessly makes any statement which is so false;..... <sup>F163</sup>

(b) ..... <sup>F164</sup>

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shall be guilty of an offence and shall be liable—

- (i) on summary conviction, to imprisonment for a term not exceeding [<sup>F165</sup>six months] or to a fine not exceeding £100, or to both;
- (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

#### Textual Amendments

**F161** Words repealed by [Ports \(Finance\) Act 1985 \(c. 30, SIF 58\)](#), s. 6(2), [Sch.](#)

**F162** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)

**F163** Word repealed by [Ports \(Finance\) Act 1985 \(c. 30, SIF 58\)](#), s. 6(2), [Sch.](#)

**F164** S. 45(b) repealed by [Ports \(Finance\) Act 1985 \(c. 30, SIF 58\)](#), s. 6(2), [Sch.](#)

**F165** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 15](#)

#### 46 Restriction of disclosure of information.

(1) No person shall disclose any information furnished to him in pursuance of a requirement imposed under section . . . <sup>F166</sup>41 of this Act . . . <sup>F167</sup>except—

- (a) with the consent of the person by whom it was furnished or, as the case may be, carrying on the undertaking to which related the books, records or other documents from which it was obtained; or
- (b) in the form of a summary of information so furnished by, or so obtained from documents relating to undertakings carried on by, a number of persons, being a summary so framed as not to enable particulars relating to the business of individual persons to be ascertained therefrom; or
- (c) for the purpose of enabling . . . <sup>F166</sup> the Minister to discharge . . . <sup>F166</sup> his functions under this Act; or
- (d) for the purposes of any legal proceedings (including arbitrations) or for the purposes of a report of any such proceedings as aforesaid;

and no person shall disclose anything contained in a forecast furnished to him in pursuance of a requirement under the said section 41 except with the consent of the person by whom the forecast was furnished, in the form of a summary of forecasts so furnished by a number of persons (being a summary framed as mentioned in subsection (1)(b) above), for such a purpose as is mentioned in subsection (1)(c) above or for such purposes as are mentioned in subsection (1)(d) above.

(2) If a person makes a disclosure in contravention of this section he shall be guilty of an offence and liable—

- (a) on summary conviction, to imprisonment for a term not exceeding [<sup>F168</sup>six months] or to a fine not exceeding £100, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

#### Textual Amendments

**F166** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)

**F167** Words repealed by [Ports \(Finance\) Act 1985 \(c. 30, SIF 58\)](#), s. 6(2), [Sch.](#)

**F168** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 15](#)

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**Modifications etc. (not altering text)**

**C89** S. 46(1): disclosure powers extended (14.12.2001) by 2001 c. 24, s. 17, Sch. 4 Pt. 1 para. 2

**47 Provisions as to inquiries and hearings.**

- (1) [<sup>F169</sup>Subsections (2) to (5) of section 250 of the <sup>M18</sup>Local Government Act 1972] (which provides for the holding of inquiries for the purposes of that Act)—
- (a) shall apply to an inquiry caused by the Minister or the Minister of Agriculture, Fisheries and Food to be held in England or Wales under any provision of this Act as they apply to an inquiry held under the said [<sup>F169</sup>section 250], subject to the following modifications, namely,—
- (i) ..... <sup>F170</sup>
- (ii) subsection (4) shall have effect as if references therein to the payment of costs by a local authority not being a party to the inquiry had been omitted; . . . <sup>F171</sup>
- (b) ..... <sup>F172</sup>
- and [<sup>F169</sup>subsections (4) and (5) of the said section 250] shall, with the like modifications as those specified in paragraph (a) . . . <sup>F171</sup>(ii) above, apply to any hearing caused by the Minister or the Minister of Agriculture, Fisheries and Food to take place in England or Wales in pursuance of any provision of this Act (otherwise than by way of inquiry) as if the hearing were an inquiry caused by him to be held as aforesaid.
- <sup>F173</sup>[(1A) The power to make an order as to costs under section 250(5) of the Local Government Act 1972 as applied by subsection (1) above shall be exercisable not only where the inquiry or hearing takes place but also where arrangements are made for it but it does not take place.]
- (2) [<sup>F174</sup>Subsections (3) to (8) of section 210 of the <sup>M19</sup>Local Government (Scotland) Act 1973] (provisions as to local inquiries) shall, subject to the provisions of the next following subsection, apply to an inquiry caused by the Minister or the Secretary of State to be held in Scotland under any provision of this Act as they apply in relation to local inquiries under that section, . . . <sup>F171</sup> subject to the following modifications, namely—
- (a) ..... <sup>F175</sup>
- (b) [<sup>F174</sup>subsection (7)] shall have effect as if references to the payment of expenses by a local authority not being a party to the inquiry and to the recovery of an amount as a debt to the Crown, had been omitted;
- and [<sup>F174</sup>subsections (7) and (8) of the said section 210] shall, with the like modification in the case of [<sup>F174</sup>subsection (7)] as is specified in paragraph (b) above, apply to any hearing caused by the Minister or the Secretary of State to take place in Scotland in pursuance of any provision of this Act (otherwise than by way of inquiry) as if the hearing were an inquiry caused by him to be held as aforesaid.
- <sup>F176</sup>[(2A) The power to make an award as to expenses under section 210(8) of the Local Government (Scotland) Act 1973 as applied by subsection (2) above shall be exercisable not only where the inquiry or hearing takes place but also where arrangements are made for it but it does not take place.]
- (3) [<sup>F177</sup>In relation to Scotland, any inquiry [<sup>F178</sup>into an order subject to the provisions of paragraph 4B of Schedule 3] to this Act shall, if the Minister or the Secretary of

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State so directs, be held by Commissioners under the <sup>M20</sup>Private Legislation Procedure (Scotland) Act 1936; and where any direction is so given—

- (a) it shall be deemed to have been given under section 2 as read with section 10 of the <sup>M21</sup>Statutory Orders (Special Procedure) Act 1945;
- (b) the publication and service of the proper notice required in connection with the making of the order or, as the case may be, the confirmation [<sup>F179</sup>or making] of the scheme which is the subject of the inquiry shall be deemed to be sufficient compliance with the requirements of the said section 2 with regard to the giving of notice by advertisement;
- (c) the last foregoing subsection shall not apply to such an inquiry; and
- (d) the said paragraphs shall have effect as if for any references therein to an inquiry and to the person who held the inquiry there were substituted references to an inquiry by the Commissioners and to the Commissioners.]

#### Textual Amendments

- F169** Words substituted by virtue of [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), s. 272(2)
- F170** S. 47(1)(a)(i) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)
- F171** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)
- F172** S. 47(1)(b) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)
- F173** S. 47(1A) inserted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), [Sch. 3 para. 5\(2\)](#); [S.I. 1992/1347, art. 2](#), Sch. (subject as mentioned in art. 3)
- F174** Words substituted by virtue of [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), s. 237(2)
- F175** S. 47(2)(a) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)
- F176** S. 47(2A) inserted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), [Sch. 3 para. 5\(3\)](#); [S.I. 1992/1347, art. 2](#), Sch. (subject as mentioned in art. 3)
- F177** S. 47(3) repealed (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), s. 30(4), [Sch. 3](#); [S.S.I. 2007/516, art. 2](#)
- F178** Words in s. 47(3) substituted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), [Sch. 3 para. 5\(4\)](#); [S.I. 1992/1347, art. 2](#), Sch. (subject as mentioned in art. 3)
- F179** Words inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 6\(5\)](#)

#### Marginal Citations

- M18** 1972 c. 70 (81:1).
- M19** 1973 c. 65 (81:2).
- M20** 1936 c. 52 (89).
- M21** 1945 c. 18 (9 & 10 Geo. 6) (89).

## 48 Service of documents.

- (1) Any document required or authorised by this Act to be given to or served on any person may be given or served either by delivering it to that person, or by leaving it at his proper address, or by post by means of the recorded delivery service.
- [<sup>F180</sup>(1A) Any such document may also be given to or served on a person (the “recipient”) by means of an electronic communication but only if—
- (a) the recipient has given a written statement agreeing to accept service of the document by means of an electronic communication,
  - (b) the statement has not been withdrawn, and
  - (c) the document was transmitted in a specified electronic form to a specified electronic address.

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- (1B) For the purposes of subsection (1A)(c) “specified” means specified by the recipient in a written statement given for the purposes of paragraph (a) of that subsection.
- (1C) A document given or served on a recipient in accordance with subsection (1A) must be in a form sufficiently permanent to be used for subsequent reference.
- (1D) Where a document is given to or served on a recipient in accordance with subsection (1A), the document is deemed, unless the contrary is proved, to have been given to or served on the recipient at the time at which the electronic communication is transmitted.
- (1E) But if the transmission is made outside the recipient’s normal business hours, the document is to be taken to have been given to or served on the recipient on the next working day.
- (1F) A statement under subsection (1A) may be withdrawn by giving a written notice to the person to whom the statement was made.
- (1G) A withdrawal under subsection (1F) takes effect on the later of—
- (a) the date specified by the person in the notice, and
  - (b) the date which is fourteen days after the date on which the notice is given.]
- [<sup>F181</sup>(2) Any document required or authorised to be given to or served on a body corporate may be given to or served on the secretary or clerk of that body.]
- (3) For the purposes of this section and of [<sup>F182</sup>section 7 of the <sup>M22</sup>Interpretation Act 1978] in its application to this section, the proper address of any person to or on whom any such document as aforesaid is to be given or served shall, in the case of the secretary or clerk of a corporation, be that of the registered or principal office of the corporation, and in any other case be the last-known address of the person to be served, subject, however, to this qualification, that, where the person to or on whom the document is to be given or served has, in accordance with arrangements agreed, furnished an address for the giving or service of the document, being an address in the United Kingdom, his proper address for the purposes aforesaid shall be the address furnished.
- (4) If the name or the address of any owner, lessee or occupier of land to or on whom any such document as aforesaid is to be given or served cannot after reasonable inquiry be ascertained by the authority, body or person seeking to give or serve the document, the document may be given or served by addressing it to the person to or on whom it is to be given or served by the description of “owner”, “lessee” or “occupier” of the land (describing it) to which the document relates, and by delivering it to some responsible person resident or appearing to be resident on the premises, or, if there is no such person to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.
- [<sup>F183</sup>(5) Subsections (1) to (4) do not apply in relation to a document if—
- (a) it is required or authorised by Schedule 3 to be given to or served on a relevant authority, and
  - (b) the authority, in exercise of a power in Schedule 3, has specified the form in which, or means by which, the document is to be given to or served on it.
- (6) In this section —
- “electronic address” includes any number or address used for the purpose of receiving electronic communications;

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“electronic communication” has the meaning given in section 15 of the Electronic Communications Act 2000;

“relevant authority” means—

- (a) the Secretary of State;
- (b) the Welsh Ministers;
- (c) the Scottish Ministers;

“working day” means any day other than—

- (a) a Saturday or Sunday,
- (b) Christmas Day or Good Friday, or
- (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.]

#### Textual Amendments

**F180** S. 48(1A)-(1G) inserted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017](#) (S.I. 2017/1070), reg. 1(1), [Sch. 1 para. 7\(2\)](#) (with Sch. 6 para. 2(2))

**F181** S. 48(2) substituted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017](#) (S.I. 2017/1070), reg. 1(1), [Sch. 1 para. 7\(3\)](#) (with Sch. 6 para. 2(2))

**F182** Words substituted by virtue of [Interpretation Act 1978](#) (c. 30, SIF 115:1), [s. 25\(2\)](#)

**F183** S. 48(5)(6) inserted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017](#) (S.I. 2017/1070), reg. 1(1), [Sch. 1 para. 7\(4\)](#) (with Sch. 6 para. 2(2))

#### Marginal Citations

**M22** [1978 c. 30 \(115:1\)](#).

### [48A <sup>F184</sup> Environmental duties of harbour authorities.

It shall be the duty of a harbour authority in formulating or considering any proposals relating to its functions under any enactment to have regard to—

- (a) the conservation of the natural beauty of the countryside and of flora, fauna and geological or physiographical features of special interest;
- (b) the desirability of preserving for the public any freedom of access to places of natural beauty; and
- (c) the desirability of maintaining the availability to the public of any facility for visiting or inspecting any building, site or object of archaeological, architectural or historic interest;

and to take into account any effect which the proposals may have on the natural beauty of the countryside, flora, fauna or any such feature or facility.]

#### Textual Amendments

**F184** S. 48A inserted (15.7.1992) by [Transport and Works Act 1992](#) (c. 42), s. 63(1), [Sch. 3 para. 6](#); S.I. 1992/1347, [art. 2](#), Sch. (subject as mentioned in art. 3)



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#### 49 Provisions as to ecclesiastical property.

- (1) Where under this Act a document is required to be served on an owner of land, and the land is ecclesiastical property, a copy of the document shall be served on the [<sup>F185</sup>Diocesan Board of Finance for the diocese in which the land is situated].
- (2) [<sup>F186</sup>Where any ecclesiastical property is vested in the incumbent of a benefice which is vacant], it shall be treated for the purposes of an application to the Minister or the Minister of Agriculture, Fisheries and Food for any of the following orders in which provision for the compulsory acquisition of the property is proposed to be included, namely, a harbour revision order, a harbour empowerment order, . . . <sup>F187</sup> and of a compulsory acquisition of the property in pursuance of a provision for the compulsory acquisition thereof included in any such order, as being vested in the [<sup>F185</sup>Diocesan Board of Finance for the diocese in which the land is situated], and (in the case of such an acquisition as aforesaid) any notice to treat shall be served accordingly.
- (3) Where provision for the compulsory acquisition of land is included in such an order as aforesaid, the order must be so framed as to secure—
  - (a) that if, at the time of the acquisition of any land in pursuance of that provision, the land is ecclesiastical property, any sum agreed upon or awarded for the acquisition of the fee simple of the land shall be paid to the [<sup>F185</sup>Diocesan Board of Finance for the diocese in which the land is situated]; and
  - (b) that any sum to be paid by way of compensation for damage sustained by reason of severance or injury affecting land that is ecclesiastical property (being severance or injury arising from the acquisition of land in pursuance of that provision) shall be so paid.
- (4) Any sum which, in pursuance of a provision included in an order in compliance with the last foregoing subsection, is paid to the [<sup>F185</sup>Diocesan Board of Finance for the diocese in which the land is situated] with reference to any land shall, if the land is not consecrated, be applied by [<sup>F188</sup>it] for the purposes for which the proceeds of a sale by agreement of the fee simple of the land would be applicable under any enactment or Measure authorising such a sale or disposing of the proceeds of such a sale, and if the land is consecrated, be applied by [<sup>F188</sup>it]<sup>F188</sup> as if the land had been sold under the Pastoral Measure 1983].
- (5) In this section the expression “ecclesiastical property” means land belonging to an ecclesiastical benefice of the Church of England, or being or forming part of a church subject to the jurisdiction of the bishop of any diocese of the Church of England or the site of a church so subject, or being or forming part of a burial ground so subject.

#### Textual Amendments

- F185** Words in s. 49 substituted (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\), s. 16\(2\), Sch. 5 para. 10\(a\)](#); Instrument 2006 No. 2 made by the Archbishops
- F186** Words in s. 49(2) substituted (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\), s. 16\(2\), Sch. 5 para. 10\(b\)](#); Instrument 2006 No. 2 made by the Archbishops
- F187** Words repealed by [Transport Act 1981 \(c. 56\), Sch. 12 Pt. II](#)
- F188** Words in s. 49(4) substituted (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\), s. 16\(2\), Sch. 5 para. 10\(c\)](#); Instrument 2006 No. 2 made by the Archbishops



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## 50 Reckoning of periods.

For the purposes of this Act, in reckoning any period which is therein, or in an order thereunder, expressed to be a period from a given date, that date shall be excluded.

## 51 Modification of Harbours, Piers and Ferries (Scotland) Act 1937.

- (1) On coming into operation of this section, for the definition of “marine work” in section 31(1) of the Harbours, Piers and Ferries (Scotland) Act 1937 there shall be substituted the following definition—

““marine work” means a marine work as defined in the Harbours Act 1964”.

- (2) Where a harbour owing to the operation of the foregoing subsection has ceased to be a marine work the provisions of the two next following subsections shall have effect in relation to that harbour.
- (3) Sections 16 and 18 of the <sup>M23</sup>Harbours, Piers and Ferries (Scotland) Act 1937 (deficiency in revenue and levying of rates to meet deficiency) shall continue to apply as they apply to a marine work; and in relation to any works duly authorised for that harbour before the coming into operation of this section, Parts II, III and IV of the said Act of 1937 shall continue so to apply.
- (4) Until the coming into operation of an order under this Act of corresponding effect to any provision of Parts II, III and IV of the said Act of 1937, that provision shall continue to apply.

### Modifications etc. (not altering text)

**C90** The text of s. 51(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

### Marginal Citations

**M23** 1937 c. 28 (58).

## 52 Application of Act to Crown.

- (1) An interest in land in which there is a Crown or Duchy interest may, if the appropriate authority consent to the acquisition thereof, be acquired compulsorily by virtue of this Act, and a power (other than one to acquire land compulsorily) may, if the appropriate authority consent to its being so conferred, be conferred by a harbour revision or empowerment order in relation to land in which there is a Crown or Duchy interest.
- (2) In this section “Crown or Duchy interest” means an interest belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or to the Duchy of Cornwall, or belonging to a government department or held in trust for Her Majesty for the purposes of a government department, and “the appropriate authority” has the same meaning as in <sup>F189</sup>subsection (2) of section 293 of the Town and Country Planning Act 1990; and the provisions of subsection (3) of that section] as to the determination of questions shall apply for the purposes of this section.
- (3) In the application of this section to Scotland—

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- (a) in subsection (1) for references to a Crown or Duchy interest there shall be substituted references to a Crown interest;
- (b) subsection (2) shall not apply; and
- (c) “Crown interest” means an interest belonging to Her Majesty in right of the Crown or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, and the “appropriate authority”—
  - (i) in relation to land belonging to Her Majesty in right of the Crown and forming part of the Crown estate means the Crown Estate Commissioners, and, in relation to any other land belonging to Her Majesty in right of the Crown, means the government department having the management of that land [<sup>F190</sup>or the relevant person]; and
  - (ii) in relation to land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that department.

[<sup>F191</sup>(3A) In subsection (3), “relevant person”, in relation to any land to which section 90B(5) of the Scotland Act 1998 applies, means the person who manages that land.]

- (4) If any question arises as to what authority is the appropriate authority in relation to any land for the purposes of the last foregoing subsection, that question shall be referred to the Treasury, whose decision shall be final.

#### Textual Amendments

**F189** Words substituted by virtue of [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 11](#)

**F190** Words in s. 52(3)(c)(i) inserted (1.4.2017) by [The Crown Estate Transfer Scheme 2017 \(S.I. 2017/524\)](#), art. 1(2), [Sch. 5 para. 10\(a\)](#)

**F191** S. 52(3A) inserted (1.4.2017) by [The Crown Estate Transfer Scheme 2017 \(S.I. 2017/524\)](#), art. 1(2), [Sch. 5 para. 10\(b\)](#)

#### Modifications etc. (not altering text)

**C91** S. 52 amended by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), s. 42(4)(b)

#### [<sup>F192</sup>53 Saving for telegraphic lines.

[<sup>F193</sup>Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)] (which provides a procedure for certain cases where works involve the alteration of [<sup>F194</sup>electronic communications apparatus]) shall apply, for the purposes of works in pursuance of a harbour revision order and works authorised by a harbour empowerment order, to the person authorised to execute those works.]

#### Textual Amendments

**F192** S. 53 substituted by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 109, [Sch. 4 para. 43](#), [Sch. 5 para. 45](#)

**F193** Words in s. 53 substituted (28.12.2017) by [Digital Economy Act 2017 \(c. 30\)](#), s. 118(6), [Sch. 3 para. 8](#); [S.I. 2017/1286](#), reg. 2(d)

**F194** Words in s. 53 substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 17 para. 30\(b\)](#) (with [Sch. 18](#));

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S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

**Modifications etc. (not altering text)**

**C92** S. 53 amended by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), **s. 42(4)(b)**

**54 Orders and regulations.**

- (1) Any power conferred by this Act on the Minister, the Minister of Agriculture, Fisheries and Food or the Secretary of State to make an order, or on the Minister to make regulations, shall be exercisable by statutory instrument.
- (2) A statutory instrument containing an order under section <sup>F195</sup>..., 9(1), [<sup>F196</sup>15A], 18(7), <sup>F195</sup>... or 60 of this Act or regulations under section 19, <sup>F195</sup>... or 42 thereof shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- [<sup>F197</sup>(3) Subsection (4) applies to any statutory instrument containing—
  - (a) an order made under section 42A by a relevant authority in relation to a delegable function, or
  - (b) an order made by any person, by virtue of an order under that section, in the exercise of a delegable function under section 14, 15, 16 or 18.
- (4) A statutory instrument to which this subsection applies—
  - (a) if the relevant authority in relation to the delegable function is the Secretary of State, is subject to annulment in pursuance of a resolution of either House of Parliament;
  - (b) if the relevant authority in relation to the delegable function is the Welsh Ministers, is subject to annulment in pursuance of a resolution of the National Assembly for Wales.]
  - [<sup>F198</sup>(5) A power of the Secretary of State or Welsh Ministers to make an order under section 40A is exercisable by statutory instrument.
  - (6) A statutory instrument containing an order under section 40A—
    - (a) if made by the Secretary of State, is subject to annulment in pursuance of a resolution of either House of Parliament,
    - (b) if made by the Welsh Ministers, is subject to annulment in pursuance of a resolution of the National Assembly for Wales.]

**Textual Amendments**

**F195** Words repealed by [Transport Act 1981 \(c. 56\)](#), **Sch. 12 Pt. II**

**F196** Words inserted by [Transport Act 1981 \(c. 56\)](#), **Sch. 6 para. 5(3)**

**F197** S. 54(3)(4) inserted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), **Sch. 21 para. 3(2)**; S.I. 2009/3345, art. 2, Sch. para. 26

**F198** S. 54(5)(6) inserted (1.10.2013) by [Marine Navigation Act 2013 \(c. 23\)](#), **ss. 5(2)**, 13; S.I. 2013/254, art. 2; S.I. 2013/1489, art. 3; S.I. 2013/2006, art. 2

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## [<sup>F199</sup>54A “Developments of national significance” etc.: special procedure

[<sup>F200</sup>(1) Subsection (4) below applies to a harbour revision order or harbour empowerment order which falls within subsection (2) below.]

(2) [<sup>F201</sup>An order] falls within this subsection if—

- (a) [<sup>F202</sup>it] authorises the carrying out of work which would constitute a national development; or
- (b) [<sup>F203</sup>it] is the subject of a direction by the Scottish Ministers under this paragraph.

(3) In subsection (2) above and subsection (5) below, references to a “national development” are to any development (within the meaning of the Town and Country Planning (Scotland) Act 1997) for the time being designated under section 3A(4)(b) of that Act as a national development.

[<sup>F204</sup>(4) The order is subject to the affirmative procedure.]

(5) [<sup>F205</sup>An order (“the new order”)] which revokes, amends or re-enacts an [<sup>F206</sup>order (“the old order”)] which was subject to the affirmative procedure by virtue of subsection (4) above is subject to the procedure in that subsection only if—

- (a) the [<sup>F207</sup>new] order authorises the carrying out of work which would constitute a national development (other than a national development to which the [<sup>F208</sup>old order] relates); or
- (b) the Scottish Ministers so direct.]

### Textual Amendments

- F199** S. 54A inserted (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), ss. **25(3)**, 30(4); S.S.I. 2007/516, art. 2
- F200** S. 54A(1) substituted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, **6(a)** (with art. 8)
- F201** Words in s. 54A(2) substituted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, **6(b)(i)** (with art. 8)
- F202** Word in s. 54A(2)(a) substituted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, **6(b)(ii)** (with art. 8)
- F203** Word in s. 54A(2)(b) substituted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, **6(b)(iii)** (with art. 8)
- F204** S. 54A(4) substituted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, **6(c)** (with art. 8)
- F205** Words in s. 54A(5) substituted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, **6(d)(i)** (with arts. 8, 9)
- F206** Words in s. 54A(5) substituted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, **6(d)(ii)** (with arts. 8, 9)
- F207** Word in s. 54A(5)(a) inserted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, **6(d)(aa)(iii)** (with arts. 8, 9)

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**F208** Words in s. 54A(5)(a) substituted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, 6(d)(bb)(iii) (with arts. 8, 9)

**55 Offences by corporations.**

- (1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against accordingly.
- (2) In the foregoing subsection, the expression “director” in relation to a body corporate established by or under an enactment for the purpose of carrying on under national ownership an industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body corporate.

**56** ..... **F209**

**Textual Amendments**

**F209** S. 56 repealed by [Statutory Orders \(Special Procedure\) Act 1965 \(c. 43, SIF 89\)](#), [Sch.](#)

**57 Interpretation.**

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

**F210** .....

[<sup>F211</sup>“Act” means an Act of Parliament or an Act of the Scottish Parliament;]

“the Boards” means <sup>F212</sup> . . . <sup>F213</sup> . . . the British Waterways Board [<sup>F214</sup>and includes <sup>F215</sup> . . . , the Scottish Transport Group and any subsidiary within the meaning of the <sup>M24</sup>Transport Act 1968 of any of those Boards or of that . . . <sup>F215</sup> Group;]

[<sup>F216</sup>“bridleway”, in relation to England and Wales, has the same meaning as in the Highways Act 1980 and, in relation to Scotland, has the same meaning as in Part III of the Countryside (Scotland) Act 1967;]

“charges” includes fares, rates, tolls and dues of every description;

[<sup>F217</sup>“closure order” has the meaning given by section 17A;]

“the Consolidated Fund” means the Consolidated Fund of the United Kingdom;

**F210** .....

“district board” has the same meaning as in the Salmon and Freshwater Fisheries (Protection) <sup>M25</sup>(Scotland) Act 1951;

“dock” means a dock used by sea-going ships;

**F218** .....

[<sup>F211</sup>“enactment” includes an Act of the Scottish Parliament or an instrument made under such an Act;]

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“first local advertisement” means, in relation to the publication of a notice as respects a harbour or group of harbours, the first publication of the notice in a local newspaper circulating in the locality where the harbour or group is situate;

“fish” includes molluscs and crustaceans;

“fishery harbour” has the same meaning as in section 21 of the <sup>M26</sup>Sea Fish Industry Act 1951;

[<sup>F219</sup>“footpath”, in relation to England and Wales, has the same meaning as in the Highways Act 1980 and, in relation to Scotland, has the same meaning as in the Roads (Scotland) Act 1984;]

“functions” includes powers and duties;

“Gazette and local advertisement” means, in relation to an application, proposed order, order or scheme relating to a harbour or group of harbours, publication in the Gazette and, in each of two successive weeks, in one or more local newspapers circulating in the locality where the harbour or group is situate;

“the Gazette” means—

- (a) in relation to publication of a notice as respects a harbour or group of harbours in England or Wales, the London Gazette; and
- (b) in relation to the publication of a notice as respects a harbour or group of harbours in Scotland, the Edinburgh Gazette;

“goods” includes fish, livestock and animals of all descriptions;

“harbour”, except where used with reference to a local lighthouse authority, means any harbour, whether natural or artificial, and any port, haven, estuary, tidal or other river or inland waterway navigated by sea-going ships, and includes a dock, a wharf, and in Scotland a . . . <sup>F220</sup>boatslip being a marine work, and, where used with reference to such an authority, has the [<sup>F221</sup>same meaning as in the Merchant Shipping Act 1995]

“harbour authority” means any person in whom are vested under this Act, by another Act or by an order or other instrument (except a provisional order) made under another Act or by a provisional order powers or duties of improving, maintaining or managing a harbour;

“harbour empowerment order” has the meaning assigned to it by section 16(4) of this Act;

“harbour land” means land adjacent to a harbour and occupied wholly or mainly for the purposes of activities there carried on;

“harbour operations” means,—

- (a) the marking or lighting of a harbour or any part thereof;
- (b) the berthing or dry docking of a ship;
- (c) the warehousing, sorting, weighing or handling of goods on harbour land or at a wharf;
- (d) the movement of goods or passengers within the limits within which the person engaged in improving, maintaining or managing a harbour has jurisdiction or on harbour land;
- (e) in relation to a harbour (which expression for the purposes of this paragraph does not include a wharf)—
  - (i) the towing, or moving of a ship which is in or is about to enter or has recently left the harbour;
  - (ii) the loading or unloading of goods, or embarking or disembarking of passengers, in or from a ship which is in the harbour or the approaches thereto;

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- (iii) the lighterage or handling of goods in the harbour; and
  - (f) in relation to a wharf,—
    - (i) the towing or moving of a ship to or from the wharf;
    - (ii) the loading or unloading of goods, or the embarking or disembarking of passengers, at the wharf in or from a ship;
- “harbour revision order” has the meaning assigned to it by section 14(1) of this Act;
- “harbour reorganisation scheme” has the meaning assigned to it by section 18(1) of this Act;
- “improvement committee” has the meaning assigned to it by section 3(1) of the <sup>M27</sup>Land Drainage (Scotland) Act 1958;
- “land” includes land covered by water;
- <sup>F222</sup>.....
- “lighthouse” has the [<sup>F221</sup>same meaning as in the Merchant Shipping Act 1995]
- “local lighthouse authority” means any person having by law or usage authority over local lighthouses, buoys or beacons;
- “marine work” [<sup>F223</sup>means a harbour or boatslip in Scotland (other than a harbour or boatslip which is vested in any of the bodies specified in Schedule 3 to the <sup>M28</sup>Harbours, Piers and Ferries (Scotland) Act 1937 or which is vested in any of the Boards other than the Scottish Transport Group or a subsidiary within the meaning of [<sup>F224</sup>section 1159 of the Companies Act 2006] of that Group)];
- (a) which, in the opinion of the Secretary of State and the Minister, is principally used or required for the fishing industry, or
  - (b) which, being situated in one of the following [<sup>F223</sup>areas, namely, the Highland Region, the islands areas of Orkney, Shetland and the Western Isles or the Argyll district other than the former burgh of Rothesay and the former district of Bute] is, in the opinion of the Secretary of State and the Minister, principally used or required for the fishing or agricultural industries or the maintenance of communications between any place in those [<sup>F223</sup>areas] counties and any other place in Scotland;
- [<sup>F225</sup>“master”, in relation to a ship, means the person who has command or charge of the ship for the time being;]
- “the Minister” means [<sup>F226</sup>the Secretary of State for Transport];
- “owner”, in relation to any land, other than land in Scotland, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion, and includes also a person holding or entitled to the rents and profits of the land under a lease or agreement the unexpired term of which exceeds three years, and in relation to any land in Scotland—
- (a) unless the land is held on a long lease, means <sup>F227</sup>... the owner of the land;
  - (b) if the land is held on a long lease, means the lessee under that lease; and
  - (c) includes any other person who under the Lands Clauses Acts would be entitled to sell and convey or assign the land or the interest of lessee under such a long lease, as the case may be, to the promoters of an undertaking;
- and “long lease” means a lease which has been, or is capable of being, [<sup>F228</sup>registered in the Land Register of Scotland or] recorded in the General Register of Sasines under the <sup>M29</sup>Registration of Leases (Scotland) Act 1857;
- “plant or equipment” includes vessels;



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“port”, where used with reference to a local lighthouse authority, includes place;  
 “provisional order” means an order confirmed by an Act, by the Board of Agriculture and Fisheries, the Minister of Agriculture and Fisheries or the Minister of Agriculture, Fisheries and Food in pursuance of section 2(3)(2) of the <sup>M30</sup>Fishery Harbours Act 1915 or by the Secretary of State in pursuance of section 5(5)(ii) of the <sup>M31</sup>Harbours, Piers and Ferries (Scotland) Act 1937;

[<sup>F229</sup>“reserved trust port” has the meaning given in section 32 of the Wales Act 2017;]

[<sup>F230</sup>“restricted byway” has the same meaning as in Part 2 of the Countryside and Rights of Way Act 2000;]

[<sup>F231</sup>“river purification authority” has the meaning assigned to it by section 17 of the Rivers (Prevention of Pollution) (Scotland) Act 1951;]

“river works duties” means duties imposed by an Act to do things of the kinds authorised to be done in exercise of river works powers;

“river works powers” means powers conferred by [<sup>F232</sup>section 17 of the <sup>M32</sup>Land Drainage Act 1976] or corresponding provisions of a local Act [<sup>F233</sup>or under section 67 or by section 69 of the <sup>M33</sup>Water Resources Act 1963] or by an improvement order under section 1 of the <sup>M34</sup>Land Drainage (Scotland) Act 1958 or by section 13 as read with section 41 of the <sup>M35</sup>Salmon Fisheries (Scotland) Act 1868 <sup>F234</sup>... or by any local enactment relating to Scotland which confers powers corresponding to the powers conferred by an improvement order or which contains provisions corresponding to the provisions of the said Acts of 1868 <sup>F235</sup>...;

“ship”, where used as a noun, includes every description of vessel used in navigation, seaplanes on the surface of the water and [<sup>F236</sup>hovercraft within the meaning of the <sup>M36</sup>Hovercraft Act 1968];

“ship, passenger and goods dues” means, in relation to a harbour, charges (other than any exigible by virtue of section 29 of this Act) of any of the following kinds, namely,—

- (a) charges in respect of any ship for entering, using or leaving the harbour, including charges made on the ship in respect of marking or lighting the harbour;
- (b) charges for any passengers embarking or disembarking at the harbour (but not including charges in respect of any services rendered or facilities provided for them); and
- (c) charges in respect of goods brought into, taken out of, or carried through the harbour by ship (but not including charges in respect of work performed, services rendered or facilities provided in respect of goods so brought, taken or carried);

“statutory duties” means, in relation to a harbour authority, duties vested in them under this Act, by another Act or by an order or other instrument (except a provisional order) made under another Act or by a provisional order, other than river works duties;

“statutory powers” means, in relation to a harbour authority, powers vested in them under this Act, by another Act or by an order or other instrument (except a provisional order) made under another Act or by a provisional order, other than river works powers;

“statutory provision” means a provision, whether of a general or a special nature, contained in, or in a document made or issued under, this Act or any Act (whether of a general or of a special nature) other than this Act;

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“wharf” means any wharf, quay, pier, jetty or other place at which sea-going ships can ship or unship goods or embark or disembark passengers.

- (2) References in this Act to a harbour which is being improved, maintained or managed by a harbour authority in the exercise and performance of statutory powers and duties shall be construed as references to a harbour which is being improved, maintained or managed by such an authority in the exercise of statutory powers, in the performance of statutory duties or in the exercise and performance of statutory powers and statutory duties, and cognate references shall be similarly construed.
- (3) Any reference in this Act to a buoy or beacon shall be construed as including a reference to any other mark or sign of the sea.
- (4) Any reference in this Act (elsewhere than in the foregoing provisions of this section or in section 39) to ship, passenger and goods dues shall be construed as including a reference to charges payable by persons using a ferry which is a marine work.
- (5) Any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended by any other Act.
- [<sup>F237</sup>(6) Any reference in this Act to Canal & River Trust shall be construed as including a reference to any company that is a subsidiary (within the meaning of the Companies Act 2006) of Canal & River Trust.]

#### Textual Amendments

- F210** Definitions repealed by [Transport Act 1981 \(c. 56\)](#), **Sch. 12 Pt. II**
- F211** Words in s. 57(1) inserted (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(4), 30(4)**; S.I. 2007/516, art. 2
- F212** Words repealed by [Transport Act 1981 \(c. 56\)](#), **Sch. 12 Pt. I**
- F213** S. 57(1): words in the definition of “the Boards” repealed (1.2.2001) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I**
- F214** Words added by [Transport Act 1968 \(c. 73\)](#), **Sch. 16 para. 8(1)(d)(i)**
- F215** Words repealed by [Transport Act 1980 \(c. 34\)](#), **Sch. 9 Pt. III**
- F216** Definition in s. 57(1) inserted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), **Sch. 3 para. 7(2)**; S.I. 1992/1347, art. 2, **Sch.** (subject as mentioned in art. 3)
- F217** Words in s. 57(1) inserted (1.10.2013) by [Marine Navigation Act 2013 \(c. 23\)](#), **ss. 6(3), 13**; S.I. 2013/254, art. 2; S.I. 2013/1489, art. 3; S.I. 2013/2006, art. 2
- F218** Definition in s. 57(1) omitted (1.2.2000) by virtue of S.I. 1999/3445, **reg. 15(3)**
- F219** Definition in s. 57(1) inserted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), **Sch. 3 para. 7(3)**; S.I. 1992/1347, art. 2, **Sch.** (subject as mentioned in art. 3)
- F220** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), **Sch. 29**
- F221** Words in definitions of “harbour” and “lighthouse” in s. 57(1) substituted (1.1.1996) by 1995 c. 21, **ss. 314(2), 316(2)**, **Sch. 13 para.33** (with s. 312(1))
- F222** Definition in s. 57(1) repealed (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 68(1), **Sch. 4 Pt. II**; S.I. 1992/1347, art. 2, **Sch.** (subject as mentioned in art. 3)
- F223** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 19 para. 16**
- F224** Words in s. 57(1) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 12(3)** (with art. 10)
- F225** Words in s. 57(1) inserted (1.10.2013) by [Marine Navigation Act 2013 \(c. 23\)](#), **ss. 5(3), 13**; S.I. 2013/254, art. 2; S.I. 2013/1489, art. 3; S.I. 2013/2006, art. 2
- F226** Words substituted by virtue of S.I. 1981/238, **arts. 2(2), 3(4)**

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- F227** Words in s. 57(1) repealed (S.) (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F228** Words in s. 57(1) inserted (S.) (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **Sch. 5 para. 13** (with s. 121, Sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F229** Words in s. 57(1) inserted (1.4.2018) by Wales Act 2017 (c. 4), **ss. 30(6)**, 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(g)
- F230** Words in s. 57(1) inserted (E.W.) (2.5.2006 for E., 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), reg. 1(2)(4), **Sch. Pt. I** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))
- F231** Definition of "river purification authority" in s. 57(1) ceases to have effect (S.) (1.4.1996) by virtue of S.I. 1996/973, reg. 2, **Sch. para. 2(2)**
- F232** Words substituted by virtue of Interpretation Act 1978 (c. 30, SIF 115:1), **s. 17(2)(a)**
- F233** Words repealed (E.W.) by Water Act 1989 (c. 15), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**
- F234** Words in s. 57 omitted (S.) (1.4.2006) by virtue of The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. IV para. 2(2)(a)**
- F235** Words in s. 57 omitted (S.) (1.4.2006) by virtue of The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 1, **Sch. Pt. IV para. 2(2)(b)**
- F236** Words substituted by Hovercraft Act 1968 (c. 59), **Sch. para. 5**
- F237** S. 57(6) inserted (2.7.2012) by The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), **Sch. 3 para. 2(6)** (with arts. 4-6)

#### Modifications etc. (not altering text)

- C93** S. 57 extended by Highland Regional Council (Harbours) Order Confirmation Act 1991 (c. xii), **s. 3(1)**
- C94** S. 57(1) applied in part (31.3.2023) by The Merchant Shipping (Watercraft) Order 2023 (S.I. 2023/35), arts. 1(1), **11(2)**
- C95** References to Minister and Secretary of State in definition of "marine work" to have effect as references to Secretary of State for the time being concerned with harbours generally and Secretary of State for Scotland: S.I. 1970/1681, **Sch. 3 para. 11(1)**

#### Marginal Citations

- M24** 1968 c. 73
- M25** 1951 c. 26
- M26** 1951 c. 30
- M27** 1958 c. 24
- M28** 1937 c. 28
- M29** 1857 c. 26
- M30** 1915 c. 48
- M31** 1937 c. 28
- M32** 1976 c. 70
- M33** 1963 c. 38
- M34** 1958 c. 24
- M35** 1868 c. 123
- M36** 1968 c. 59

## 58 Drainage and river authorities not to be harbour authorities for purposes of this Act if not possessing exceptional powers.

For the purposes of this Act neither an internal [<sup>F238</sup> drainage board, the Environment Agency, the Natural Resources Body for Wales, a water][<sup>F239</sup> [<sup>F240</sup> undertaker], [<sup>F241</sup> the Scottish Environment Protection Agency] a district board nor an improvement

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committee] shall be taken to be a harbour authority if, apart from this provision, they would only be taken to be such by reason of the fact that river works powers or duties are vested in them; and any reference in this Act to functions of a harbour authority relating to a harbour shall be construed as not including a reference to such powers or duties.

**Textual Amendments**

- F238** Words in s. 58 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 31** (with Sch. 7)
- F239** Words substituted by [Water Act 1973 \(c. 37\)](#), **Sch. 8 para. 87**
- F240** Words substituted (E.W.) by [Water Act 1989 \(c. 15\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 25 para. 31(2), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F241** Words in s. 58 substituted (S.) (1.4.1996) by [S.I. 1996/973](#), reg. 2, **Sch. para. 2(3)**

59 ..... F242

**Textual Amendments**

- F242** S. 59 repealed by [Northern Ireland Constitution Act 1973 \(c. 36, SIF 29:3\)](#), **Sch. 6 Pt. I**

**60 Power to amend Acts of local application.**

- (1) The appropriate Minister may, subject to the provisions of this section, by order repeal or amend any provision relating to a harbour which is contained in a local Act passed before this Act or in a provisional order confirmed or made before this Act or any provision in the <sup>M37</sup>Milford Haven Conservancy Act 1958, where it appears to him that the provision is inconsistent with, or has become unnecessary in consequence of, any provision of this Act.
- (2) The appropriate Minister shall not make an order under this section repealing or amending any provision in a local Act the Bill for which was promoted, or in a provisional order which was applied for, by a harbour authority or by any body who became a harbour authority by virtue of the Act or order or whose functions under the Act or order have become exercisable by a harbour authority, except on the application of that authority.
- (3) Before making an order under this section the appropriate Minister shall consult with any harbour authority who appear to him to be concerned, not being an authority by whom an application for the making of the order was made.
- (4) An order under this section may contain such transitional, supplemental or incidental provisions as appear to the appropriate Minister to be expedient.
- (5) In this section “the appropriate Minister”, except in the case of the repeal or amendment of a provision relating to a fishery harbour or marine work, means the Minister, in the case of the repeal or amendment of a provision relating to a fishery harbour means the Minister of Agriculture, Fisheries and Food, and in the case of the repeal or amendment of a provision relating to a marine work means the Secretary of State.

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#### Modifications etc. (not altering text)

- C96** Functions of Minister of Agriculture, Fisheries and Food under s. 60 now exercisable (W.) by Secretary of State or by Minister of Agriculture, Fisheries and Food and Secretary of State for Wales jointly: [S.I. 1978/272](#), [art. 2](#), [Sch. 1](#)
- C97** S. 60: transfer of certain functions (1.7.1999) by [S.I. 1999/672](#), [art. 2](#), [Sch. 1](#)
- C98** S. 60: transfer of functions (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 29\(2\)\(b\)\(viii\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(g\)](#) (with transitional provisions and savings in [S.I. 2018/278](#), [reg. 2](#), [Sch.](#))

#### Marginal Citations

- M37** [1958 c. 23](#).

## 61 Expenses.

There shall be defrayed out of moneys provided by Parliament any increase attributable to this Act in the sums payable out of moneys so provided by way of Rate-deficiency Grant or Exchequer Equalisation Grant under the enactments relating to local government in England and Wales or in Scotland.

<sup>F243</sup>62 .....

#### Textual Amendments

- F243** S. 62 repealed (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), [ss. 63\(1\), 68\(1\)](#), [Sch. 3 para.8](#), [Sch. 4 Pt.II](#); [S.I. 1992/1347](#), [art. 2](#), [Sch.](#)(with [art. 4](#)) (subject as mentioned in [art. 3](#))

## 63 †Short title, extent, repeal and commencement.

- (1) This Act may be cited as the Harbours Act 1964.
- (2) This Act . . . <sup>F244</sup> shall not extend to Northern Ireland.
- (3) . . . . . <sup>F245</sup>
- (4) Sections 26 to 40 of this Act, and the last foregoing subsection, shall come into operation on such day as the Minister may by order appoint.

#### Textual Amendments

- F244** Words repealed by [Northern Ireland Constitution Act 1973 \(c. 36, SIF 29:3\)](#), [Sch. 6 Pt. I](#) and [House of Commons Disqualification Act 1975 \(c. 24, SIF 89\)](#), [Sch. 3](#)
- F245** S. 63(3) repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), [Sch. Pt. XI](#)

#### Modifications etc. (not altering text)

- C99** Unreliable marginal note
- C100** Power of appointment under s. 63(4) fully exercised: 1.10.1964 appointed under s. 63(4) by [S.I. 1964/1424](#)

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## SCHEDULES

### F246F246 SCHEDULE 1

#### Textual Amendments

F246 Sch. 1 repealed by Transport Act 1981 (c. 56, SIF 58), Sch. 12 Pt. II

F246

### SCHEDULE 2

Section 14.

#### OBJECTS FOR WHOSE ACHIEVEMENT HARBOUR REVISION ORDERS MAY BE MADE

#### Modifications etc. (not altering text)

C101 Sch. 2 amended by Docks and Harbours Act 1966 (c. 28, SIF 58), s. 36(4)

- 1 Reconstituting the harbour authority by whom the harbour is being improved, maintained or managed or altering their constitution, or establishing, as the harbour authority, in lieu of the existing one, an existing body designated in that behalf or a body constituted for the purpose.
- 2 Regulating (in whole or to a less extent) the procedure of, or of any committee of, the authority and fixing the quorum at a meeting of, or of any committee of, the authority.
- 3 Varying or abolishing duties or powers imposed or conferred on the authority by a statutory provision of local application affecting the harbour, being duties or powers imposed or conferred for the purpose of—
  - (a) improving, maintaining or managing the harbour;
  - (b) marking or lighting the harbour, raising wrecks therein or otherwise making safe the navigation thereof; or
  - (c) regulating the carrying [F247 on by others of activities relating to the harbour or of] activities on harbour land.

#### Textual Amendments

F247 Words in Sch. 2 para. 3(c) substituted (15.7.1992) by Transport and Works Act 1992 (c. 42), s. 63(1), Sch. 3 para. 9(2); S.I. 1992/1347, art. 2, Sch. (subject as mentioned in art. 3)

- 4 Imposing or conferring on the authority, for the purpose aforesaid, duties or powers (including powers to make byelaws), either in addition to, or in substitution for, duties or powers imposed or conferred as mentioned in paragraph 3 above.

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- 5 Transferring from the authority to another or to the authority from another all or any of the property vested in, as the case may be, the authority or that other and held for the purposes of the harbour and, so far as they relate to the transferred property, all or any of the duties and powers imposed and conferred on, as the case may be, the authority or that other by a statutory provision of local application affecting the harbour.
- 6 Settling (either for all purposes or for limited purposes) the limits within which the authority are to have jurisdiction or altering (either for all purposes or for limited purposes) such limits as previously settled.
- 7 Conferring on the authority power to acquire (whether by agreement or compulsorily) land described in the order, being land required by them for the purpose of its being used as the site of works that they have, or will by virtue of the order have, power to execute or for some other purpose of the harbour.
- [<sup>F248</sup>7A Extinguishing or diverting public rights of way over footpaths [<sup>F249</sup>or bridleways][<sup>F249</sup>, bridleways or restricted byways] for the purposes of works described in the order or works ancillary to such works.]

#### Textual Amendments

**F248** Sch. 2 paras. 7A, 7B inserted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), **Sch. 3 para. 9(3)**; S.I. 1992/1347, art. 2, **Sch.**(subject as mentioned in art. 3)

**F249** Words in Sch. 2 para. 7A substituted (E.W.) (2.5.2006 for E., 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), reg. 1(2)(4), **Sch. Pt. I** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))

#### Modifications etc. (not altering text)

**C102** Sch. 2 para. 7A applied (E.W.) (2.5.2006 for E., 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), reg. 1(2)(4), 2(1), **Sch. Pt. I** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))

- <sup>F250</sup>7B Extinguishing public rights of navigation for the purposes of works described in the order or works ancillary to such works, or permitting interference with the enjoyment of such rights for the purposes of such works or for the purposes of works carried out by a person authorised by the authority to carry them out.

#### Textual Amendments

**F250** Sch. 2 paras. 7A, 7B inserted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), **Sch. 3 para. 9(3)**; S.I. 1992/1347, art. 2, **Sch.**(subject as mentioned in art. 3)

- 8 Authorising justices of the peace to appoint, on the nomination of the authority, persons to act as constables within any limits within which the authority have jurisdiction in relation to the harbour and within one mile outside any such limits, and to dismiss persons appointed by virtue of this paragraph, and conferring on persons so appointed, while acting within any such limits as aforesaid or within one mile outside any such limits, the powers which a constable has within his constablewick.
- [<sup>F251</sup>8A Enabling the authority to close part of the harbour or to reduce the facilities available in the harbour.]



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### Textual Amendments

**F251** Sch. 2 para. 8A inserted (15.7.1992) by Transport and Works Act 1992 (c. 42), s. 63(1), Sch. 3 para. 9(4); S.I. 1992/1347, art. 2, Sch.(subject as mentioned in art. 3)

9 Empowering the authority to dispose of property vested in them and held for the purposes of the harbour which is no longer required for those purposes.

[<sup>F252</sup>9A Empowering the authority (alone or with others) to develop land not required for the purposes of the harbour with a view to disposing of the land or of interests in it, and to acquire land by agreement for the purpose of developing it together with such land.]

### Textual Amendments

**F252** Sch. 2 paras. 9A, 9B inserted (15.7.1992) by Transport and Works Act 1992 (c. 42), s. 63(1), Sch. 3 para. 9(5); S.I. 1992/1347, art. 2, Sch.(subject as mentioned in art. 3)

<sup>F253</sup>9B Empowering the authority to delegate the performance of any of the functions of the authority except—

- (a) a duty imposed on the authority by or under any enactment;
- (b) the making of byelaws;
- (c) the levying of ship, passenger and goods dues;
- (d) the appointment of harbour, dock and pier masters;
- (e) the nomination of persons to act as constables;
- (f) functions relating to the laying down of buoys, the erection of lighthouses and the exhibition of lights, beacons and sea-marks, so far as those functions are exercisable for the purposes of the safety of navigation.

### Textual Amendments

**F253** Sch. 2 paras. 9A, 9B inserted (15.7.1992) by Transport and Works Act 1992 (c. 42), s. 63(1), Sch. 3 para. 9(5); S.I. 1992/1347, art. 2, Sch. (subject as mentioned in art. 3)

10 Empowering the authority to borrow money, with or without limitation with respect to the amount that may be borrowed or the time or manner in which the power may be exercised.

11 Empowering the authority to levy at the harbour charges other than ship, passenger and goods dues or varying or abolishing charges (other than as aforesaid) levied by them at the harbour.

12 Securing the efficient collection of charges levied by the authority at the harbour and specifying the times at which and the persons by whom such charges are to be paid.

13 Regulating the application of moneys in the nature of revenue received by the authority and securing that the financial affairs of the authority are properly managed.

14 Varying or extinguishing any exemption from charges levied by the authority at the harbour or any other right or privilege enjoyed thereat.

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- 15           Securing the welfare of the authority’s officers and servants and empowering the authority to provide, or secure the provision of, pensions, gratuities and other like benefits for or in respect of their officers and servants.
- 16           Extending the time within which anything is required or authorised by a statutory provision of local application affecting the harbour to be done in relation to the harbour by the authority or fixing a time within which anything authorised by the order to be so done must be done.
- [<sup>F254</sup>16A       Imposing or conferring on the authority duties or powers (including powers to make byelaws) for the conservation of the natural beauty of all or any part of the harbour or of any of the fauna, flora or geological or physiographical features in the harbour and all other natural features.]

**Textual Amendments**

**F254** Sch. 2 para. 16A inserted (15.7.1992) by [Transport and Works Act 1992 \(c. 42\)](#), s. 63(1), **Sch. 3 para. 9(6)**; S.I. 1992/1347, art. 2, **Sch.** (subject as mentioned in art. 3)

- 17           Any object which, though not falling within any of the foregoing paragraphs, appears to the appropriate Minister to be one the achievement of which will conduce to the efficient functioning of the harbour.

[<sup>F255</sup>SCHEDULE 3

Sections 17, 47

PROCEDURE FOR MAKING HARBOUR REVISION AND EMPOWERMENT ORDERS

**Textual Amendments**

**F255** Sch. 3 substituted (1.2.2000) by [The Harbour Works \(Environmental Impact Assessment\) Regulations 1999 \(S.I. 1999/3445\)](#), reg. 15(4), **Sch. 3**

**Modifications etc. (not altering text)**

**C103** Sch. 3 modified (1.4.2001) by [2000 c. 38](#), s. 37, **Sch. 5 para. 1(2)(j)** (with s. 106); S.I. 2001/869, **art.2**

**C104** Sch. 3: transfer of functions (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 29(2)(b)(ii)**, 71(4) (with [Sch. 7 paras. 1, 6, 9](#)); S.I. 2017/1179, **reg. 3(g)** (with transitional provisions and savings in S.I. 2018/278, reg. 2, Sch.)

**C105** Sch. 3: power to amend or repeal conferred for specified purposes (26.12.2023) by [Levelling Up and Regeneration Act 2023 \(c. 55\)](#), **ss. 164(3), 255(5)**, **Sch. 14 Pts. 1, 2** (with s. 247)

**PART I**

ORDERS MADE ON APPLICATION TO THE SECRETARY OF STATE

*Introductory*

- 1           In this Part of this Schedule—

<sup>F256</sup> .....

[<sup>F257</sup>“EEA Agreement” and “EEA State” have the meanings given in Schedule 1 to the Interpretation Act 1978;]

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[<sup>F258</sup>“EIA application” means an application for a harbour revision order authorising a project which requires an environmental impact assessment;]

[<sup>F258</sup>“the EIA Directive” means [Directive 2011/92/EU](#) of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment;]

[<sup>F258</sup>“the environment” means—

- (a) population and human health,
- (b) biodiversity, with particular attention to species and habitats protected under [<sup>F259</sup>any law of any part of the United Kingdom which implemented] the Habitats Directive and the Wild Birds Directive,
- (c) land, soil, water, air and climate,
- (d) material assets, cultural heritage and the landscape, and
- (e) the interaction between the factors referred to in paragraphs (a) to (d);]

[<sup>F260</sup>“environmental assessment” means an assessment of the effect of anything on the environment if the assessment is carried out under—

- (a) [<sup>F261</sup>assimilated] law, or
- (b) any law of any part of the United Kingdom, other than any law which implemented the EIA Directive;]

[<sup>F262</sup>“environmental impact assessment”, in relation to a project, means the process comprising—

- (a) the preparation of an environmental statement by the applicant,
- (b) the carrying out of consultations under this Part of this Schedule about the likely significant effects of the project on the environment,
- (c) the Secretary of State’s consideration of the information about the likely significant effects of the project on the environment (see paragraph 18A(2)),
- (d) the Secretary of State reaching a reasoned conclusion on the significant effects of the project on the environment (see paragraph 18A(4)), and
- (e) the Secretary of State’s consideration of that reasoned conclusion when making a decision under paragraph 19 in respect of the application for a harbour revision order authorising the project; ]

[<sup>F263</sup>“environmental impact assessment”, in relation to a project, means the process comprising—

- (a) the preparation of an environmental statement by the applicant,
- (b) the carrying out of consultations under this Part of this Schedule about the likely significant effects of the project on the environment,
- (c) the Scottish Ministers’ consideration of the information about the likely significant effects of the project on the environment (see paragraph 18A(2)),
- (d) the Scottish Ministers’ reaching a reasoned conclusion on the significant effects of the project on the environment (see paragraph 18A(4)), and
- (e) the Scottish Ministers’ consideration of the reasoned conclusion when making a decision under paragraph 19 in respect of the application for a harbour revision order authorising the project;]

<sup>F264</sup> .....

[<sup>F265</sup>“environmental statement” has the meaning given in paragraph 8(2);]

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“fishery harbour” has the meaning assigned to it in section 21 of the Sea Fish Industry Act 1951;

[<sup>F266</sup>“the Habitats Directive” means Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora;]

[<sup>F267</sup>“official website” means a website maintained by or on behalf of the Secretary of State;]

[<sup>F268</sup>“official website” means a website maintained by or on behalf of the Scottish Ministers;]

“project” means—

- (a) the execution of construction works or other installations or schemes, and
- (b) other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources;

[<sup>F269</sup>“reasoned conclusion”, in relation to a project, means the conclusion required by paragraph 18A(4);]

[<sup>F269</sup>“screening decision” has the meaning given in paragraph 4(4); ]

“relevant project” means a project which would be likely to have significant effects on the environment by virtue of factors such as its nature, size or location;

“selection criteria” means the criteria set out in Annex III to the [<sup>F270</sup>EIA Directive];

“sensitive area” means any of the following—

- (a) [<sup>F271</sup>land within a site of special scientific interest (within the meaning of the Wildlife and Countryside Act 1981);]
- [<sup>F272</sup>land within a site of special scientific interest;]
- (b) [<sup>F272</sup>land in respect of which a nature conservation order or land management order made under Part 2 of the Nature Conservation (Scotland) Act 2004 (asp 6) has effect;]
- (c) [<sup>F273</sup>land declared to be a national nature reserve under section 35 of that Act;]
- (d) [<sup>F273</sup>an area to which paragraph (u)(ii) in the table in article 10 of the Town and Country Planning (General Development Procedure) Order 1995 applies;]
- (e) [<sup>F273</sup>a National Park within the meaning of the National Parks and Access to the Countryside Act 1949;]
- (f) [<sup>F273</sup>the Broads within the meaning of the Norfolk and Suffolk Broads Act 1988;]
- (g) a property appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage;
- (h) a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979;
- (i) [<sup>F273</sup>an area of outstanding natural beauty designated by order under [<sup>F274</sup>section 87 of the National Parks and Access to the Countryside Act 1949][<sup>F274</sup>section 82 of the Countryside and Rights of Way Act 2000] (designation of areas of outstanding natural beauty);]

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- (j) [<sup>F275</sup>a European site within the meaning of regulation 10 of the Conservation (Natural Habitats etc) Regulations 1994;]  
[<sup>F275</sup>a European site within the meaning of [<sup>F276</sup>the Conservation of Habitats and Species Regulations 2017 (see regulation 8)];]
- (k) an area designated <sup>F277</sup>... [<sup>F278</sup>as a National Scenic Area by a direction made by the Scottish Ministers under section 263A of the Town and Country Planning (Scotland) Act 1997];
- (l) [<sup>F279</sup> an area designated as a national park by a designation order made by the Scottish Ministers under section 6(1) of the National Parks (Scotland) Act 2000].
- [<sup>F280</sup>“the Wild Birds Directive” means Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds;]

#### Textual Amendments

- F256** Words in Sch. 3 para. 1 omitted (E.W.) (5.12.2017) by virtue of [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(2)(a)** (with Sch. 6 paras. 2(2), 3(3))  
Words in Sch. 3 para. 1 omitted (S.) (5.12.2017) by virtue of [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(3)(a)** (with Sch. 6 paras. 2(2), 3(3))
- F257** Words in Sch. 3 para. 1 substituted (E.W.) (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(2)(b)** (with Sch. 6 paras. 2(2), 3(3))  
Words in Sch. 3 para. 1 substituted (S.) (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(3)(b)** (with Sch. 6 paras. 2(2), 3(3))
- F258** Words in Sch. 3 para. 1 inserted (E.W.) (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(2)(c)** (with Sch. 6 paras. 2(2), 3(3))  
Words in Sch. 3 para. 1 inserted (S.) (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(3)(c)** (with Sch. 6 paras. 2(2), 3(3))
- F259** Words in Sch. 3 para. 1 inserted (31.12.2020) by [The Harbours and Highways \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/460\)](#), regs. 1, **2(4)(a)(i)(b)(i)**
- F260** Words in Sch. 3 para. 1 substituted (31.12.2020) by [The Harbours and Highways \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/460\)](#), regs. 1, **2(4)(a)(ii)(b)(ii)**
- F261** Word in Sch. 3 para. 1 substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), reg. 1(2), **Sch. para. 3(2)(a)**
- F262** Words in Sch. 3 para. 1 inserted (E.W.) (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(2)(c)** (with Sch. 6 paras. 2(2), 3(3))
- F263** Words in Sch. 3 para. 1 inserted (S.) (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(3)(c)** (with Sch. 6 paras. 2(2), 3(3))
- F264** Words in Sch. 3 para. 1 omitted (E.W.) (5.12.2017) by virtue of [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(2)(d)** (with Sch. 6 paras. 2(2), 3(3))



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- Words in Sch. 3 para. 1 omitted (S.) (5.12.2017) by virtue of The Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017 (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(3)(d)** (with Sch. 6 paras. 2(2), 3(3))
- F265** Words in Sch. 3 para. 1 substituted (E.W.) (5.12.2017) by The Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017 (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(2)(e)** (with Sch. 6 paras. 2(2), 3(3))
- Words in Sch. 3 para. 1 substituted (S.) (5.12.2017) by The Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017 (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(3)(e)** (with Sch. 6 paras. 2(2), 3(3))
- F266** Words in Sch. 3 para. 1 inserted (E.W.) (5.12.2017) by The Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017 (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(2)(f)** (with Sch. 6 paras. 2(2), 3(3))
- Words in Sch. 3 para. 1 inserted (S.) (5.12.2017) by The Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017 (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(3)(f)** (with Sch. 6 paras. 2(2), 3(3))
- F267** Words in Sch. 3 para. 1 inserted (E.W.) (5.12.2017) by The Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017 (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(2)(f)** (with Sch. 6 paras. 2(2), 3(3))
- F268** Words in Sch. 3 para. 1 inserted (S.) (5.12.2017) by The Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017 (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(3)(f)** (with Sch. 6 paras. 2(2), 3(3))
- F269** Words in Sch. 3 para. 1 inserted (E.W.) (5.12.2017) by The Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017 (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(2)(g)** (with Sch. 6 paras. 2(2), 3(3))
- Words in Sch. 3 para. 1 inserted (S.) (5.12.2017) by The Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017 (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(3)(g)** (with Sch. 6 paras. 2(2), 3(3))
- F270** Words in Sch. 3 para. 1 substituted (E.W.) (5.12.2017) by The Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017 (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(2)(h)** (with Sch. 6 paras. 2(2), 3(3))
- Words in Sch. 3 para. 1 substituted (S.) (5.12.2017) by The Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017 (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(3)(h)** (with Sch. 6 paras. 2(2), 3(3))
- F271** Words in Sch. 3 para. 1 substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), **Sch. 10 para. 3**
- F272** Words in Sch. 3 para. 1 substituted (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 7 para. 1(a)** (with s. 55(2)); S.S.I. 2004/495, art. 2 (para (b) had previously been repealed for E.W. (30.1.2001 for E., 1.5.2001 for W.) by 2000 c. 37, s. 102, Sch. 16 Pt. III; S.I. 2001/114, art. 2(1)(d)(ii); S.I. 2001/1410, art. 2(p))
- F273** Words in Sch. 3 para. 1 repealed (S.) (14.5.2007) by Transport and Works (Scotland) Act 2007 (asp 8), **ss. 25(5)(a)(ii)**, 30(3) (with s. 30(5))
- F274** Words in Sch. 3 para. 1 substituted (E.W.) (1.4.2001) by 2000 c. 37, s. 93, **Sch. 15 para. 4** (with s. 84(4)-(6)); S.I. 2001/114, **art. 2(2)(e)**
- F275** Words in Sch. 3 para. 1 substituted (E.W.) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 6 para. 1** (with reg. 125)
- F276** Words in Sch. 3 para. 1 substituted (E.W.) (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), **Sch. 6 para. 1**
- F277** Words in Sch. 3 para. 1 repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 7 para. 1(b)** (with s. 55(2)); S.S.I. 2004/495, art. 2
- F278** Words in Sch. 3 para. 1 substituted (S.) (17.12.2010) by The National Scenic Areas (Consequential Modifications) (Scotland) Order 2010 (S.S.I. 2010/460), **art. 2**
- F279** Words in Sch. 3 para. 1 added (S.) (14.5.2007) by virtue of Transport and Works (Scotland) Act 2007 (asp 8), **ss. 25(5)(a)(iii)**, 30(3) (with s. 30(5))

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**F280** Words in Sch. 3 para. 1 inserted (E.W.) (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(2)(i)** (with Sch. 6 paras. 2(2), 3(3))  
Words in Sch. 3 para. 1 inserted (S.) (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(3)(i)** (with Sch. 6 paras. 2(2), 3(3))

[<sup>F281</sup>1A. In this Part of this Schedule, references to provisions of the EIA Directive are to be read as if—

- (a) in Annex III—
  - (i) in point 2(c)(v) the reference to Member States were a reference to the Secretary of State;
  - (ii) in point 2(c)(vi) the reference to Union legislation were a reference to retained EU law;
- (b) in Annex IV—
  - (i) in the text following point 5(g) the words “established at Union or Member State level” were omitted;
  - (ii) in point 8 the following were substituted for the second sentence—

“Relevant information available and obtained through risk assessments pursuant to [<sup>F282</sup>assimilated] law, such as any law of any part of the United Kingdom which implemented [Directive 2012/18/EU](#) of the European Parliament and of the Council or Council Directive 2009/71/Euratom, or relevant assessments undertaken under other domestic legislation may be used for this purpose provided that the requirements of any law of any part of the United Kingdom which implemented this Directive are met.”]

#### Textual Amendments

- F281** Sch. 3 para. 1A inserted (31.12.2020) by [The Harbours and Highways \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/460\)](#), regs. 1, **2(4)(c)**  
**F282** Word in Sch. 3 para. 1A(b)(ii) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), reg. 1(2), **Sch. para. 3(2)(b)**

2 A project shall be treated for the purposes of this Part as not [<sup>F283</sup>of a type specified in] Annex II to the Directive unless—

- (a) the area of the works comprised in the project exceeds 1 hectare,
- (b) any part of the works is to be carried out in a sensitive area, or
- (c) the Secretary of State determines that the project shall be treated for the purposes of this Part as [<sup>F283</sup>of a type specified in] that Annex.

#### Textual Amendments

- F283** Words in Sch. 3 para. 2 substituted (31.12.2020) by [The Harbours and Highways \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/460\)](#), regs. 1, **2(4)(d)**

[<sup>F284</sup>2A(1) For purposes of this Part, the effects of a project on the environment include—



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- (a) any effects on the environment which arise (directly or indirectly) from the operational phase of the project;
  - (b) any expected effects on the environment which derive (directly or indirectly) from the vulnerability of the project to risks of major accidents or disasters.
- (2) References to the adverse, likely or significant effects of a project on the environment are to be read accordingly]

#### Textual Amendments

**F284** Sch. 3 para. 2A inserted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(4)** (with Sch. 6 paras. 2(2), 3(3))

#### *Pre-application procedure*

- [<sup>F285</sup>3 (1) A person may not make an application for a harbour revision order which, directly or indirectly, authorises a project unless—
- (a) the proposed applicant has given the Secretary of State notice of the proposed applicant’s intention to make the application, and
  - (b) the Secretary of State has responded under paragraph 5(2) or 6(2)(a).
- (2) If the project is likely to [<sup>F286</sup>be of a type specified in] Annex I or Annex II to the EIA Directive, the notice given under sub-paragraph (1)(a) —
- (a) must include the information described in Annex II.A to the EIA Directive (information to be provided on projects listed in Annex II) taking into account the results of any relevant environmental assessment which are reasonably available to the proposed applicant, and
  - (b) may include a description of any feature of the project or measure envisaged to avoid or prevent what otherwise might be significant adverse effects of the project on the environment.
- (3) This paragraph does not apply if the Secretary of State gives a direction in respect of the project under paragraph 20A, 20B or 20C (exemptions).]

#### Textual Amendments

**F285** Sch. 3 para. 3 substituted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(5)** (with Sch. 6 paras. 2, 3(3))

**F286** Words in Sch. 3 para. 3(2) substituted (31.12.2020) by [The Harbours and Highways \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/460\)](#), regs. 1, **2(4)(e)**

- [<sup>F287</sup>4 (1) Where the Secretary of State is notified of a proposed application under paragraph 3(1)(a), the Secretary of State must decide whether it relates to a project which requires an environmental impact assessment.
- (2) A project requires an environmental impact assessment if—
- (a) it [<sup>F288</sup>is of a type specified in] Annex I to the EIA Directive, or
  - (b) it [<sup>F288</sup>is of a type specified in] Annex II to the EIA Directive and, having regard to the selection criteria, is a relevant project.

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- (3) For the purposes of sub-paragraph (1), the Secretary of State must take into account the results of any relevant environmental assessment which are reasonably available to the Secretary of State.
- (4) In this Part of this Schedule, “screening decision” means a decision under sub-paragraph (1) of this paragraph.]

#### Textual Amendments

**F287** Sch. 3 paras. 4-4C substituted for Sch. 3 para. 4 (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(6)** (with Sch. 6 paras. 2, 3(2)3(3))

**F288** Words in Sch. 3 para. 4(2) substituted (31.12.2020) by [The Harbours and Highways \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/460\)](#), regs. 1, **2(4)(f)**

- [<sup>F287</sup>4A(1) The Secretary of State may direct a person to provide the Secretary of State with such further information as the Secretary of State requires for the purpose of making a screening decision.
- (2) A direction under sub-paragraph (1) must be given before the end of the period of 90 days beginning with the day on which the Secretary of State is notified of the proposed application under paragraph 3(1)(a).
  - (3) A direction under sub-paragraph (1) must be in writing and must—
    - (a) specify the further information to be provided by the proposed applicant, and
    - (b) state that, in accordance with paragraph 4B, the period within which the Secretary of State is required to make the screening decision will begin with the day on which all of the specified information has been provided by the proposed applicant.

#### Textual Amendments

**F287** Sch. 3 paras. 4-4C substituted for Sch. 3 para. 4 (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(6)** (with Sch. 6 paras. 2, 3(2)3(3))

- 4B. (1) The Secretary of State must make a screening decision in respect of a proposed application—
  - (a) as soon as possible after the day on which the Secretary of State is notified of the proposed application under paragraph 3(1)(a), and
  - (b) in any event within the period of 90 days beginning with that day.
- (2) But if the Secretary of State gives a direction under paragraph 4A(1) to the proposed applicant, the screening decision in respect of the proposed application is to be made—
  - (a) as soon as possible after the day on which all of the information specified in the direction has been provided by the proposed applicant, and
  - (b) in any event within the period of 90 days beginning with that day.
- (3) This paragraph is subject to paragraph 4C.

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#### Textual Amendments

**F287** Sch. 3 paras. 4-4C substituted for Sch. 3 para. 4 (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(6)** (with Sch. 6 paras. 2, 3(2)3(3))

- 4C. (1) The Secretary of State, if satisfied that it is appropriate to do so by reason of exceptional circumstances relating to a project (including circumstances relating to the nature, complexity, location or size of the project), may extend the period specified in paragraph 4B(1)(b) or (2)(b).
- (2) If the Secretary of States extends the relevant period, the Secretary of State must inform the proposed applicant, in writing, of—
- (a) the reasons for the extension, and
  - (b) the date by which the Secretary of State expects to make the screening decision.]

#### Textual Amendments

**F287** Sch. 3 paras. 4-4C substituted for Sch. 3 para. 4 (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(6)** (with Sch. 6 paras. 2, 3(2)3(3))

- [<sup>F289</sup>5 (1) This paragraph applies if the Secretary of State decides that a proposed application relates to a project which does not require an environmental impact assessment.
- (2) The Secretary of State must inform the proposed applicant, in writing, of the decision and the reasons for it with reference to the selection criteria (where relevant).
- (3) The Secretary of State must also publish a notice of the decision which—
- (a) states the reasons for it with reference to the selection criteria (where relevant), and
  - (b) if provided by the proposed applicant in the notice under paragraph 3(1) (a) or in response to a direction given under paragraph 4A(1), includes a description of any feature of the project or measure envisaged to avoid or prevent what might otherwise be significant adverse effects of the project on the environment.]

#### Textual Amendments

**F289** Sch. 3 para. 5 substituted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(7)** (with Sch. 6 paras. 2, 3(3))

- [<sup>F290</sup>6 (1) This paragraph applies if the Secretary of State decides that the proposed application relates to a project which requires an environmental impact assessment.
- (2) The Secretary of State must—
- (a) inform the proposed applicant, in writing, of the decision and the reasons for it with reference to the selection criteria (where relevant),
  - (b) publish a notice of the decision which states the reasons for it with reference to the selection criteria (where relevant), and

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- (c) give the proposed applicant an opinion, in writing, about the scope and level of detail of the information which the proposed applicant will be required to supply in an environmental statement, if the application is made.
- (3) In giving an opinion under sub-paragraph (2)(c), the Secretary of State must have regard to the information provided by the proposed applicant including in particular any information about—
- (a) the specific characteristics of the project (including its location and technical capacity), and
  - (b) its likely impact on the environment.
- (4) Before giving the opinion the Secretary of State must consult such bodies with environmental responsibilities or local or regional competencies as the Secretary of State considers appropriate.]

#### Textual Amendments

**F290** Sch. 3 para. 6 substituted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(8)** (with Sch. 6 paras. 2, 3(3))

#### *The application*

- [<sup>F291</sup>7 (1) An application for a harbour revision order must be accompanied by—
- (a) a draft of the proposed order,
  - (b) six copies (or such lesser number as the Secretary of State may specify) of any map which, if the order is made in the form of the draft, will be annexed to it, and
  - (c) such fee as the Secretary of State may determine.
- (2) The Secretary of State may specify the form in which, or means by which, any document mentioned in sub-paragraph (1) is to be provided (and may specify different forms or means for different documents).]

#### Textual Amendments

**F291** Sch. 3 para. 7 substituted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(9)** (with Sch. 6 paras. 2(2), 3(3))

- [<sup>F292</sup>8 (1) If an applicant makes an EIA application, the applicant must—
- (a) supply the Secretary of State with an environmental statement, and
  - (b) if directed to do so by the Secretary of State, supply the Secretary of State with such number of copies of the statement as is specified in the direction.
- (2) In this Part of this Schedule, “environmental statement” means a statement which—
- (a) is prepared by competent experts,
  - (b) includes the information which, taking into account current knowledge and methods of assessment, may reasonably be required by the Secretary of State to reach a reasoned conclusion under paragraph 18A(4) and in particular, the information specified in sub-paragraph (3),

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- (c) is based on the opinion given under paragraph 6(2)(c), and
  - (d) with a view to avoiding duplication of assessments, takes into account the results of any relevant environmental assessment which are reasonably available to the applicant.
- (3) The specified information is—
- (a) a description of the site, design, size and any other relevant features of the project,
  - (b) a description of the likely significant effects of the project on the environment,
  - (c) a description of any features of the project or measures envisaged to avoid, prevent or reduce and, if possible, offset any likely significant adverse effects of the project on the environment,
  - (d) a description of the reasonable alternatives studied by the applicant, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the likely effects of the project on the environment,
  - (e) a non-technical summary of the information mentioned in paragraphs (a) to (d), and
  - (f) any additional information [<sup>F293</sup>of a type] specified in Annex IV to the EIA Directive (information for the environmental impact assessment report) relevant to the specific characteristics of the project or type of project and to the environmental features likely to be affected.
- (4) The environmental statement must be accompanied by a statement from the applicant setting out the relevant expertise or qualifications of the experts who prepared the environmental statement.
- (5) The Secretary of State may specify the form in which, or means by which, an environmental statement, a statement under sub-paragraph (4) or a copy of an environmental statement, is to be provided (and may specify different forms or means for different documents).]

#### Textual Amendments

**F292** Sch. 3 paras. 8-8B substituted for Sch. 3 para. 8 (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(10)** (with Sch. 6 paras. 2(2), 3(3))

**F293** Words in Sch. 3 para. 8(3)(f) inserted (31.12.2020) by [The Harbours and Highways \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/460\)](#), regs. 1, **2(4)(g)**

[<sup>F292</sup>8A(1) The Secretary of State must, where necessary, direct an applicant who makes an EIA application to supply the Secretary of State with any information of a type specified in Annex IV to the EIA Directive which is not included in the environmental statement but which—

- (a) is directly relevant to the reaching of a reasoned conclusion, and
- (b) having regard to current knowledge and methods of assessment, can reasonably be compiled by the applicant.

(2) The applicant must supply the Secretary of State with such number of copies of the information as is specified in the direction.

*Status: Point in time view as at 01/01/2024.*

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- (3) For the purposes of sub-paragraph (1), it does not matter whether the information requested is specified in the opinion under paragraph 6(2)(c).
- (4) A direction under sub-paragraph (1) must specify the information to be supplied.
- (5) A direction under sub-paragraph (1) or (2) may specify the form in which, or means by which, the information is, or copies of the information are, to be provided (and may specify different forms or means for different documents).

#### Textual Amendments

**F292** Sch. 3 paras. 8-8B substituted for Sch. 3 para. 8 (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(10)** (with Sch. 6 paras. 2(2), 3(3))

#### Co-ordination of environmental impact assessment and other assessments

- 8B. If in respect of a project there is—
- (a) a requirement to carry out an environmental impact assessment, and
  - (b) a requirement to carry out an assessment under the law of any part of the United Kingdom giving effect to the Habitats Directive or the Wild Birds Directive,
- the Secretary of State must ensure that the assessments are co-ordinated.]

#### Textual Amendments

**F292** Sch. 3 paras. 8-8B substituted for Sch. 3 para. 8 (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(10)** (with Sch. 6 paras. 2(2), 3(3))

- [<sup>F294</sup> The Secretary of State must not consider an application for a harbour revision order unless the applicant—
- (a) pays any fee which is due under paragraph 7(1)(c),
  - (b) complies with any direction under paragraph 7(2),
  - (c) if the application is an EIA application—
    - (i) supplies an environmental statement, and
    - (ii) complies with any direction under paragraph 8A(1), and
  - (d) complies with any relevant requirements of paragraphs 10 to 14.]

#### Textual Amendments

**F294** Sch. 3 para. 9 substituted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(11)** (with Sch. 6 paras. 2(2), 3(3))

#### Notices

- 10 (1) An applicant shall arrange for a notice to be published—
- (a) by Gazette and local advertisement, and
  - (b) in such other ways as the Secretary of State may direct.

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- (2) The notice must—
- (a) state that an application has been made for the order,
  - (b) state the Secretary of State’s decision under paragraph 4 and any reasons given under paragraph 6(1),
  - <sup>[F295]</sup>(ba) if the Secretary of State gives a direction in respect of the project under paragraph 20A, 20B, 20C or 20D (exemptions and deferral), state that such a direction has been given,]
  - (c) state whether an environmental statement has been supplied under paragraph <sup>[F296]</sup>8(1)(a),
  - (ca) <sup>[F297]</sup>where such a statement has been supplied—
    - (i) provide an address from which a copy of the statement can, until the expiry of the period referred to in paragraph (f), be obtained and information as to the amount of any charge for the provision of such a copy, and
    - (ii) state whether paragraph 16 applies,]
  - <sup>[F298]</sup>where such a statement has been supplied—
    - (i) provide an address from which a copy of the statement can, until the expiry of the period referred to in head (f), be obtained and information as to the amount of any charge for the provision of such a copy,
    - (ii) provide an address from which further information about the works proposed to be authorised can, until the expiry of that period, be obtained, and
    - (iii) state whether paragraph 16 applies,]
  - (d) contain a concise summary of the draft order,
  - (e) give a general description of any land proposed for compulsory acquisition and of the nature of any works proposed to be authorised, <sup>F299F300</sup> ...
  - (f) state that any person who desires to object to the application <sup>[F301]</sup>or to make representations in relation to any environmental statement supplied under paragraph 8(1)]<sup>[F302]</sup>or to make representations in relation to any environmental statement supplied under paragraph 8(1)] should do so in writing to the Secretary of State, specifying <sup>[F303]</sup>(where relevant)]<sup>[F304]</sup>(where relevant)] the grounds of the objection, before the expiry of the period of 42 days starting with a date specified in the notice, <sup>[F305]</sup>and
  - (g) provide details of the procedure under this Schedule for dealing with any objection or representations made under head (f)]<sup>[F306]</sup>and
  - (g) provide details of the procedure under this Schedule for dealing with any objection or representations made as mentioned in the notice].
- <sup>[F307]</sup>(2A) Any charge imposed as mentioned in sub-paragraph (2)(ca)(i) must be reasonable.]
- (3) The date specified in accordance with sub-paragraph (2)(f) must be the date on which the notice first appears in a local newspaper.
  - (4) The notice must also specify a place where copies of the following documents can <sup>[F308]</sup>, until the expiry of the period referred to in sub-paragraph (2)(f),]<sup>[F309]</sup>, until the expiry of the period referred to in sub-paragraph (2)(f),] be inspected at all reasonable hours—



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- (a) the draft order,
  - (b) the decision of the Secretary of State referred to in sub-paragraph (2)(b),
  - (c) any environmental statement supplied under paragraph 8(1), and
  - (d) any map accompanying the application.
- (5) The copy of the map referred to in sub-paragraph (4)(d) must be drawn to the same scale as that map.
- [<sup>F310</sup>(6) If an applicant publishes a notice which states that an environmental statement has been supplied under paragraph 8(1)(a), the applicant must supply the Secretary of State with a copy of the notice—
- (a) as soon as possible, and
  - (b) in any event within the period of three working days starting with the date specified in accordance with sub-paragraph (2)(f).
- (7) In this paragraph and paragraph 10A, “working day” means a day other than—
- (a) Saturday or Sunday,
  - (b) Christmas Day or Good Friday, or
  - (c) any day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom where the harbour, dock or wharf to which the application relates is situated.
- (8) The Secretary of State may specify the form in which, and means by which, the copy of the notice is to be provided.]

#### Textual Amendments

- F295** Sch. 3 para. 10(2)(ba) inserted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(12)(a)(i)** (with Sch. 6 paras. 2(2), 3(3))
- F296** Word in Sch. 3 para. 10(2)(c) substituted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(12)(a)(ii)** (with Sch. 6 paras. 2(2), 3(3))
- F297** Sch. 3 para. 10(2)(ca) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **5(2)(a)** (with reg. 1(2))
- F298** Sch. 3 para. 10(2)(ca) inserted (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(b)(i)**, 30(3) (with s. 30(5))
- F299** Word in Sch. 3 para. 10(2)(e) repealed (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(b)(ii)**, 30(3) (with s. 30(5))
- F300** Word in Sch. 3 para. 10(2) omitted (E.W.) (10.3.2009) by virtue of [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **5(2)(b)** (with reg. 1(2))
- F301** Words in Sch. 3 para. 10(2)(f) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **5(2)(c)** (with reg. 1(2))
- F302** Words in Sch. 3 para. 10(2)(f) inserted (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(b)(iii)**, 30(3) (with s. 30(5))
- F303** Words in Sch. 3 para. 10(2)(f) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **5(2)(d)** (with reg. 1(2))

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- F304** Words in Sch. 3 para. 10(2)(f) inserted (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(b)(iv), 30(3)** (with s. 30(5))
- F305** Sch. 3 para. 10(2)(g) and preceding word added (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(b)(v), 30(3)** (with s. 30(5))
- F306** Sch. 3 para. 10(2)(g) and preceding word added (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **5(2)(e)** (with reg. 1(2))
- F307** Sch. 3 para. 10(2A) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **5(3)** (with reg. 1(2))
- F308** Words in Sch. 3 para. 10(4) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **5(4)** (with reg. 1(2))
- F309** Words in Sch. 3 para. 10(4) inserted (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(c), 30(3)** (with s. 30(5))
- F310** Sch. 3 para. 10(6)-(8) inserted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(12)(b)** (with Sch. 6 paras. 2(2), 3(3))

<sup>F311</sup> ~~10(2A)~~ 10(2A). If the Secretary of State receives a copy of a notice from an applicant under paragraph 10(6), the Secretary of State must—

- (a) make the specified documents available for inspection on an official website as soon as reasonably practicable after the Secretary of State receives the copy, and
  - (b) keep the documents available on the website throughout the period required to ensure the effective participation of the public in the environmental impact assessment.
- (2) A failure to make the documents available throughout the period specified in sub-paragraph (1)(b) is to be disregarded if—
- (a) the specified documents were available on the official website for part of that period, and
  - (b) the failure is wholly attributable to circumstances that it would not be reasonable to expect the Secretary of State to prevent or avoid.
- (3) The specified documents are—
- (a) the copy of the notice,
  - (b) a copy of the draft order to which the notice relates,
  - (c) a copy of the environmental statement mentioned in the notice, and
  - (d) a copy of any map which accompanied the application to which the notice relates.
- (4) If the size or form of a specified document means that it is not practicable for the document to be made available on the official website—
- (a) the Secretary of State must state on the website how a copy of the document may be obtained, and
  - (b) where the Secretary of State does so—
    - (i) the requirement in sub-paragraph (1)(a) as it applies in relation to the document is taken to be satisfied, and
    - (ii) the requirement in sub-paragraph (1)(b) applies to the statement.

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### Textual Amendments

**F311** Sch. 3 paras. 10ZA, 10ZB inserted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(13)** (with Sch. 6 paras. 2(2), 3(3))

10ZB.(1) This paragraph applies if an applicant makes an EIA application and before the Secretary of State makes a decision under paragraph 19(6) in relation to the application—

- (a) the applicant supplies the Secretary of State with information in accordance with a direction under paragraph 8A(1)(a), or
- (b) the applicant or any other person supplies the Secretary of State with information which the Secretary of State is satisfied must be considered in order to assess properly the significant effects of the project on the environment.

(2) The Secretary of State must—

- (a) make the information available on an official website as soon as reasonably practicable after the Secretary of State receives it, and
- (b) keep the information available on the website throughout the period required to ensure the effective participation of the public in the environmental impact assessment.

(3) A failure to make the further information available throughout the period specified in sub-paragraph (2)(b) is to be disregarded if—

- (a) the information was available on the official website for part of that period, and
- (b) the failure is wholly attributable to circumstances that it would not be reasonable to expect the Secretary of State to prevent or avoid.

(4) If the size or form of any further information means that it is not practicable for it to be made available on the official website—

- (a) the Secretary of State must state on the website how a copy of the information may be obtained, and
- (b) where the Secretary of State does so—
  - (i) the requirement in sub-paragraph (2)(a) as it applies in relation to the information is taken to be satisfied, and
  - (ii) the requirement in sub-paragraph (2)(b) applies to the statement.]

### Textual Amendments

**F311** Sch. 3 paras. 10ZA, 10ZB inserted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(13)** (with Sch. 6 paras. 2(2), 3(3))

[<sup>F312</sup>10A] Where further information is made available on an official website under paragraph 10ZB, the Secretary of State must publish, or direct another person to publish, an information notice.

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- (2) But the Secretary of State is not required to publish, or direct the publication of, an information notice if the Secretary of State considers that the information will be made publicly available at an inquiry or hearing under paragraph 18.
- (3) An information notice must—
  - (a) state that the Secretary of State has received the information,
  - (b) specify a place where a copy of the information can, until the expiry of the period referred to in paragraph (d), be inspected at all reasonable hours,
  - (c) provide an address from which a copy of the information can, until the expiry of that period, be obtained and details of the amount of any charge for the provision of such a copy, and
  - (d) state that any person who desires to make representations in relation to the further information should do so in writing to the Secretary of State before the expiry of the period of 42 days starting with a date specified in the notice.
- (4) The information notice must—
  - (a) be published by Gazette and local advertisement, and
  - (a) be published in such other ways, if any, as seem appropriate to the Secretary of State.
- (5) The information notice, or a copy of it, must also—
  - (a) be made available by the Secretary of State on an official website, and
  - (b) be kept available on the website throughout the period required to ensure the effective participation of the public in the environmental impact assessment for the project to which the notice relates.
- (6) Any charge imposed under sub-paragraph (3)(c) must be reasonable.
- (7) The date specified in accordance with sub-paragraph (3)(d) must be the date on which the notice first appears in a local newspaper.
- (8) If the Secretary of State directs a person to publish an information notice, the person must supply the Secretary of State with a copy of the notice—
  - (a) as soon as possible, and
  - (b) in any event within the period of three working days (see paragraph 10(7)) starting with the date specified in accordance with sub-paragraph (3)(d).
- (9) The Secretary of State may specify the form in which, and means by which, a copy of an information notice is to be provided.]

#### Textual Amendments

**F312** Sch. 3 para. 10A substituted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(14)** (with Sch. 6 paras. 2(2), 3(3))

- 11 If the order will authorise the compulsory acquisition of land the applicant shall, in respect to each parcel of land, serve a notice on [F313 every owner, lessee and occupier other than a tenant for a month or any period less than a month][F313 every owner, lessee, tenant (whatever the tenancy period) and occupier]—

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- (a) stating that an application has been made to the Secretary of State for the making of an order which will authorise the compulsory acquisition of the parcel,
- (b) naming a place where a copy of the draft order may be inspected at all reasonable hours,
- (c) naming a place where a copy of any relevant map accompanying the application, drawn to the same scale and delineating the boundaries of the parcel, may be inspected at all reasonable hours, and
- (d) stating that if the person on whom the notice is served wishes to object to the application so far as regards the compulsory acquisition of the parcel he should do so in writing to the Secretary of State, specifying the grounds of his objection, before the expiry of the period of 42 days starting with the date on which the notice is served on him.

#### Textual Amendments

**F313** Words in Sch. 3 para. 11 substituted (E.W.) (24.5.2007) by [The Planning and Compulsory Purchase Act 2004 \(Corresponding Amendments\) Order 2007 \(S.I. 2007/1519\)](#), art. 1(1), [Sch. para. 5](#) (with art. 1(3))

- 12 (1) If the order will result in the extinguishment or diversion of a public right of way over a footpath [<sup>F314</sup>or bridleway][<sup>F314</sup>, bridleway or restricted byway], the applicant shall—
- (a) serve a notice on every local authority for the area in which the footpath or bridleway is situated, and
  - (b) cause a copy of the notice to be displayed in a prominent position at each end of the part of the footpath or bridleway which would by virtue of the order cease to be subject to the public right of way.
- (2) The notice mentioned in sub-paragraph (1) must—
- (a) state that an application has been made to the Secretary of State for the making of an order which will result in the extinguishment or diversion of the public right of way over the footpath or bridleway,
  - (b) name a place where a copy of the draft order may be inspected at all reasonable hours,
  - (c) name a place where a copy of any relevant map accompanying the application, drawn to the same scale, may be inspected at all reasonable hours, and
  - (d) state that any person who desires to object to the application, so far as regards the extinguishment or diversion of the public right of way, should do so in writing to the Secretary of State, specifying the grounds of the objection, before the expiry of the period of 42 days starting with—
    - (i) in the case of a local authority served with a notice under paragraph 12(1)(a), the date on which the notice is served on them, or
    - (ii) in the case of any other person, the date specified in the notice displayed under paragraph 12(1)(b).
- (3) In this paragraph “local authority” means—
- (a) in England, a county council, a district council, a London borough council, the Common Council of the City of London, the Council of the Isles of Scilly, a parish council and a parish meeting of a parish not having a separate parish council,

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- (b) in Wales, a county council, a county borough council and a community council, and
- (c) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.

#### Textual Amendments

**F314** Words in Sch. 3 para. 12 substituted (E.W.) (2.5.2006 for E., 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), reg. 1(2)(4), **Sch. Pt. I** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))

#### Modifications etc. (not altering text)

**C106** Sch. 3 para. 12 applied (E.W.) (2.5.2006 for E., 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), reg. 1(2)(4), 2(1), **Sch. Pt. I** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))

- 13 (1) If the applicant is not the harbour authority, the applicant shall serve on that authority a copy of the draft order and of any map accompanying the application together with a notice stating—
- (a) that the application has been made to the Secretary of State, and
  - (b) that if the authority wish to object to the application is should do so in writing to the Secretary of State, specifying the grounds of its objection, before the expiry of the period of 42 days starting with the date on which the notice is served on it.
- (2) The copy of the map referred to in sub-paragraph (1) must be drawn to the same scale as that map.
- 14 The Secretary of State may require the applicant to serve on any specified person within any specified period of time the documents required to be served under paragraph 13.

#### *Consultation*

- [<sup>F315</sup>15(1) The Secretary of State, before determining an application, must—
- (a) consult such bodies that are likely to have an interest in the application by reason of their environmental responsibilities or local or regional competencies as the Secretary of State thinks appropriate, and
  - (b) send the information listed in sub-paragraph (2) to the bodies consulted.
- (2) The information is—
- (a) the environmental statement supplied under paragraph 8(1)(a);
  - (b) any information supplied in pursuance of a direction under paragraph 8A(1);
  - (c) any information about the project falling within paragraph 10ZB(1)(b).]

#### Textual Amendments

**F315** Sch. 3 para. 15 substituted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(15)** (with Sch. 6 paras. 2(2), 3(3))



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- 16 (1) This paragraph applies where—
- (a) an application for a harbour revision order relates to a project which is proposed to be carried out in Great Britain,
  - <sup>[F316]</sup>(b) the application is an EIA application,] and
  - (c) it comes to the attention of the Secretary of State that the project is likely to have significant effects on the environment in <sup>[F317]</sup>an EEA State], or <sup>[F317]</sup>an EEA State] requests particulars of the project.
- (2) The Secretary of State shall—
- (a) publish in the Gazette the particulars mentioned in sub-paragraph (3) in a notice with an indication of where further information is available,
  - (b) serve on <sup>[F318]</sup>the EEA State] as soon as possible and no later than the date of publication of that notice, the particulars mentioned in sub-paragraph (3) and, if he thinks fit, the information mentioned in sub-paragraph (4), and
  - (c) give <sup>[F318]</sup>the EEA State] a reasonable time in which to indicate whether it wishes to be consulted in accordance with sub-paragraph (6).
- (3) The particulars referred to in sub-paragraph (2)(a) and (b) are—
- (a) a description of the project, together with any available information on its possible significant effects on the environment in <sup>[F318]</sup>the EEA State]; and
  - (b) information about the nature of the decision which may be taken under this Part.
- (4) The information to be served on an EEA State which indicates, in accordance with sub-paragraph (2)(c), that it wishes to be consulted in accordance with sub-paragraph (6) is—
- (a) a copy of the application,
  - <sup>[F319]</sup>(b) the environmental statement supplied to the Secretary of State under paragraph 8(1)(a);
  - (ba) any information supplied in pursuance of a direction under paragraph 8A(1);
  - (bb) any information falling within paragraph 10ZB(1)(b);] and
  - (c) information regarding the procedure under this Part,
- but only to the extent that such information has not already been provided to the EEA State in accordance with <sup>[F320]</sup>sub-paragraph (2)(b)].
- (5) The Secretary of State shall also—
- (a) arrange for the information referred to in sub-paragraphs (3) and (4) to be made available, within a reasonable time, to the authorities likely to have an interest in the project by reason of their environmental responsibilities <sup>[F321]</sup>or local or regional competencies], and the public concerned, in the territory of the EEA State concerned; and
  - (b) ensure that those authorities and the public concerned are given a reasonable opportunity, before he decides whether to make the harbour revision order in relation to the project, to send to the Secretary of State their opinion on the information.
- (6) The Secretary of State shall—
- (a) consult the EEA State concerned about the project generally and, in particular, about the potential significant effects of the project on the environment of that EEA State and the measures envisaged to reduce or eliminate such effects; and



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- (b) endeavour to agree with the EEA State a reasonable period of time for the duration of the consultation period.
- (7) Where an EEA State has been consulted in accordance with sub-paragraph (6), on the determination of the application the Secretary of State shall inform the EEA State of the decision and send it a statement giving—
- (a) the content of the decision whether or not to make the order and any conditions attached to the decision;
- (b) the main reasons and considerations on which the decision is based;
- (ba) [<sup>F322</sup>details of what provision was made for public participation in the making of the decision;]
- [<sup>F323</sup>details of what provision was made for public participation in the making of the decision;][<sup>F324</sup>and]
- [<sup>F325</sup>(bb) a summary of —
- (i) the results of any consultations under paragraph 15 in connection with the application,
- (ii) any objections made to the application and not withdrawn,
- (iii) any representations made in relation to the environmental statement for the project or in relation to any information in accordance with a notice published under paragraph 10 or 10A, and
- (iv) how the information mentioned in paragraphs (i) to (iii) above and any opinion given under sub-paragraph (5)(b) have been taken into account in reaching the decision.]
- <sup>F326</sup>(c) .....
- <sup>F327</sup>(d) .....

#### Textual Amendments

- F316** Sch. 3 para. 16(1)(b) substituted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(16)(a)** (with Sch. 6 paras. 2(2), 3(3))
- F317** Words in Sch. 3 para. 16(1)(c) substituted (31.12.2020) by [The Harbours and Highways \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/460\)](#), regs. 1, **2(4)(h)(i)**
- F318** Words in Sch. 3 para. 16 substituted (31.12.2020) by [The Harbours and Highways \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/460\)](#), regs. 1, **2(4)(h)(ii)**
- F319** Sch. 3 para. 16(4)(b)-(bb) substituted for Sch. 3 para. 16(4)(b) (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(16)(b)** (with Sch. 6 paras. 2(2), 3(3))
- F320** Words in Sch. 3 para. 16(4) substituted (2.10.2000) by [S.I. 2000/2391](#), **reg. 2(d)**
- F321** Words in Sch. 3 para. 16(5)(a) inserted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(16)(c)** (with Sch. 6 paras. 2(2), 3(3))
- F322** Sch. 3 para. 16(7)(ba) inserted (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(f)(ii)**, 30(3) (with s. 30(5))
- F323** Sch. 3 para. 16(7)(ba) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **8** (with reg. 1(2))
- F324** Word in Sch. 3 para. 16(7)(ba) inserted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(16)(d)(i)** (with Sch. 6 paras. 2(2), 3(3))

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- F325** Sch. 3 para. 16(7)(bb) inserted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(16)(d)(ii)** (with Sch. 6 paras. 2(2), 3(3))
- F326** Sch. 3 para. 16(7)(c) omitted (5.12.2017) by virtue of [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(16)(d)(iii)** (with Sch. 6 paras. 2(2), 3(3))
- F327** Sch. 3 para. 16(7)(d) omitted (5.12.2017) by virtue of [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(16)(d)(iii)** (with Sch. 6 paras. 2(2), 3(3))

### Objections

- 17 — The following paragraphs in this Part have effect where—
- (a) all relevant notices concerning an application for the making of a harbour revision order have been published under paragraph 10(1)<sup>F328</sup>, 10A] or 16(2)(a),
  - (b) all notices and other documents which are required to be served under paragraph 11, 12(1), 13(1), 14 or 16(2)(b) have been served, and
  - (c) every period for the making of objections [<sup>F329</sup>or representations]<sup>F330</sup> or representations] to the Secretary of State in respect of the application has expired.

#### Textual Amendments

- F328** Word in Sch. 3 para. 17(a) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **9(a)** (with reg. 1(2))
- F329** Words in Sch. 3 para. 17(c) inserted (E.W.) (10.3.2009) by [The Harbour Works \(Environmental Impact Assessment\) \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/269\)](#), regs. 1(1), **9(b)** (with reg. 1(2))
- F330** Words in Sch. 3 para. 17(c) inserted (S.) (14.5.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(g), 30(3)** (with s. 30(5))

18<sup>F331</sup>(1) This paragraph applies if an objection to the application was made to the appropriate authority and has not been withdrawn.

(1A) This paragraph does not apply if—

- (a) the appropriate authority decides that the application is not to proceed further,
- (b) the appropriate authority considers that the objection is frivolous or trivial,
- (c) the objection does not specify the grounds on which it is made, or
- (d) the objection was not made within the period allowed for making it.

(1B) Before deciding the application under paragraph 19, the appropriate authority may—

- (a) cause an inquiry to be held, or
- (b) give to the person who made the objection an opportunity of appearing before, and being heard by, a person appointed by the appropriate authority.

(1C) If the objection—

- (a) was made by the Welsh Ministers to the Secretary of State, and
- (b) is not an objection regarding compulsory acquisition of a parcel of land,

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the Secretary of State must cause an inquiry to be held under sub-paragraph (1B)(a).

(1D) If, in a case where sub-paragraph (1C) does not apply,—

- (a) the objection was made by a person within sub-paragraph (1E), and
- (b) that person makes a request in writing to the appropriate authority that the objection be referred to an inquiry or dealt with in accordance with sub-paragraph (1B)(b),

the appropriate authority must either cause an inquiry to be held under sub-paragraph (1B)(a) or cause the objection to be dealt with in accordance with sub-paragraph (1B)(b), as the appropriate authority may determine.

(1E) The persons within this sub-paragraph are—

- (a) in the case of an application to the Secretary of State, the Welsh Ministers;
- (b) any local authority for an area in which the harbour (or any part of it) is situated;
- (c) the relevant conservation body;
- (d) if the order will authorise the compulsory acquisition of land, any person who is entitled to be served with notice under paragraph 11.]

[<sup>F332</sup>(1) This paragraph applies if an objection to the application was made to the Scottish Ministers and has not been withdrawn.

(1A) It does not apply, however, if—

- (a) the Scottish Ministers decide that the application is not to proceed further;
- (b) they consider the objection is frivolous or trivial;
- (c) the objection does not specify the grounds on which it is made; or
- (d) the objection was not made within the period allowed for making it.

(1B) Before making their decision under paragraph 19, the Scottish Ministers may—

- (a) cause an inquiry to be held; or
- (b) give to the person who made the objection referred to in sub-paragraph (1) an opportunity of appearing before and being heard by a person appointed by them.

(1C) Where—

- (a) the objection referred to in sub-paragraph (1) is made by a person within sub-paragraph (1D); and
- (b) the person informs the Scottish Ministers in writing that the person wishes the objection to be referred to an inquiry or dealt with in accordance with sub-paragraph (1B)(b),

the Scottish Ministers shall, before making their decision under paragraph 19, either cause an inquiry to be held or, if they so determine, cause the objection to be dealt with in accordance with sub-paragraph (1B)(b).

(1D) The persons within this sub-paragraph are—

- (a) any council constituted under the Local Government etc. (Scotland) Act 1994 (c. 39) for an area in which the harbour (or any part of it) is situated; and
- [ the harbour authority;]

<sup>F333</sup>(aa)

- (b) if the order will authorise the compulsory acquisition of land, any person who is entitled to be served with notice under paragraph 11.]

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(2) Where an objector is heard in accordance with [F334 sub-paragraph (1B)(b)] [F335 sub-paragraph (1B)(b)], the [F336 Secretary of State] [F336 appropriate authority] shall allow the applicant and such other persons as [F337 he] [F337 the authority] thinks appropriate to be heard on the same occasion.

(3) The [F338 Secretary of State] [F338 appropriate authority] may disregard an objection—

<sup>F339</sup>(a) .....

(b) in the case of an objection about compulsory acquisition, if [F341 he] [F341 the appropriate authority] is satisfied that the objection relates exclusively to matters which can be dealt with by the tribunal by whom compensation in respect of the acquisition will fall to be assessed in default of agreement.

[F342 (4) In this paragraph—

“the appropriate authority” means—

(a) in a case where the application was made to the Secretary of State, the Secretary of State;

(b) in a case where the application was made to the Welsh Ministers, the Welsh Ministers;

“local authority” means—

(a) in England, a county council, a district council, a London borough council, the Common Council of the City of London, the Council of the Isles of Scilly, a parish council and a parish meeting of a parish not having a separate parish council, and

(b) in Wales, a county council, a county borough council and a community council;

“the relevant conservation body” means—

(a) if the harbour (or any part of it) is situated in England, Natural England, and

(b) if the harbour (or any part of it) is situated in Wales, [F343 the Natural Resources Body for Wales].]

#### Textual Amendments

**F331** Sch. 3 para. 18(1)-(1E) substituted for Sch. 3 para. 18(1) (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), **Sch. 21 para. 5(2)** (with [Sch. 21 para. 7](#)); S.I. 2009/3345, art. 2, Sch. para. 26

**F332** Sch. 3 para. 18(1)-(1D) substituted (S.) for Sch. 3 para. 18(1) (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 46(2), 54(2)** (with s. 48); S.S.I. 2005/454, art. 2, sch. 2

**F333** Sch. 3 para. 18(1D)(aa) inserted (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(h), 30(4)**; S.S.I. 2007/516, art. 2

**F334** Words in Sch. 3 para. 18(2) substituted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), **Sch. 21 para. 5(3)(a)** (with [Sch. 21 para. 7](#)); S.I. 2009/3345, art. 2, Sch. para. 26

**F335** Words in Sch. 3 para. 18(2) substituted (S.) (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 46(3), 54(2)** (with s. 48); S.S.I. 2005/454, art. 2, sch. 2

**F336** Words in Sch. 3 para. 18(2) substituted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), **Sch. 21 para. 5(3)(b)** (with [Sch. 21 para. 7](#)); S.I. 2009/3345, art. 2, Sch. para. 26

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- F337** Words in Sch. 3 para. 18(2) substituted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), [Sch. 21 para. 5\(3\)\(c\)](#) (with [Sch. 21 para. 7](#)); S.I. 2009/3345, art. 2, Sch. para. 26
- F338** Words in Sch. 3 para. 18(3) substituted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), [Sch. 21 para. 5\(4\)\(a\)](#) (with [Sch. 21 para. 7](#)); S.I. 2009/3345, art. 2, Sch. para. 26
- F339** Sch. 3 para. 18(3)(a) repealed (S.) (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), [ss. 46\(4\), 54\(2\)](#) (with s. 48); S.S.I. 2005/454, art. 2, sch. 2
- F340** Sch. 3 para. 18(3)(a) repealed (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), [Sch. 21 para. 5\(4\)\(b\)](#), [Sch. 22 Pt. 6](#) (with [Sch. 21 para. 7](#)); S.I. 2009/3345, art. 2, Sch. paras. 2627(c)
- F341** Words in Sch. 3 para. 18(3)(b) substituted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), [Sch. 21 para. 5\(4\)\(c\)](#) (with [Sch. 21 para. 7](#)); S.I. 2009/3345, art. 2, Sch. para. 26
- F342** Sch. 3 para. 18(4) inserted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), [Sch. 21 para. 5\(5\)](#) (with [Sch. 21 para. 7](#)); S.I. 2009/3345, art. 2, Sch. para. 26
- F343** Words in Sch. 3 para. 18(4) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 32](#) (with [Sch. 7](#))

*<sup>F344</sup> Reasoned conclusion about environmental impact*

**Textual Amendments**

- F344** Sch. 3 para. 18A and cross-heading inserted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), [Sch. 1 para. 8\(17\)](#) (with [Sch. 6 paras. 2\(2\), 3\(3\)](#))

- 18A. (1) This paragraph applies where an EIA application is made.
- (2) The Secretary of State must consider—
- (a) the environmental statement relating to the project,
  - (b) any information supplied in pursuance of a direction under paragraph 8A in relation to the project,
  - (c) any information about the project made available on an official website under paragraph 10ZB,
  - (d) the results of any consultations under paragraph 15 or 16(6)(a) in relation to the project,
  - (e) any opinion about the project which is sent under paragraph 16(5)(b),
  - (f) any relevant objections made about the project and not withdrawn,
  - (g) any relevant representations about the project made in accordance with a notice published under paragraph 10 or 10A,
  - (h) where an inquiry or hearing relating to the project is held under paragraph 18, any relevant report of the person who held the inquiry or person appointed for the purpose of hearing the objector, or any relevant part of such a report, and
  - (i) any features of the project or measures envisaged to avoid, prevent or reduce, and, if possible, offset any likely significant adverse effects of the project on the environment.

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- (3) For the purposes of sub-paragraph (2), an objection, representation, report or part of a report is “relevant” if it concerns the likely significant effects of the project on the environment.
- (4) Following the consideration required by sub-paragraph (2), the Secretary of State must reach a reasoned conclusion about the likely significant effects of the project on the environment.
- (5) The Secretary of State must obtain such expert advice as appears to the Secretary of State to be necessary for the purposes of considering the environmental statement.]

#### *The decision*

- [<sup>F345</sup>19(1) The Secretary of State must—
- (a) in the case of an EIA application, consider the matters specified in sub-paragraph (2) and, if relevant, sub-paragraph (5);
  - (b) in the case of any other application, consider the matters specified in sub-paragraph (4) and, if relevant, sub-paragraph (5).
- (2) The matters to be considered in respect of an EIA application are—
- (a) the reasoned conclusion (including whether it is up to date);
  - (b) to the extent that they were not required to be taken into account in reaching the reasoned conclusion—
    - (i) any objections made and not withdrawn;
    - (ii) the report of any person who held an inquiry or of any person appointed for the purpose of hearing an objector;
  - (c) if the Secretary of State is minded to make the order applied for, whether monitoring of the significant adverse effects of the project on the environment is appropriate, and if so—
    - (i) whether it is necessary to modify the order to include a monitoring measure, and
    - (ii) whether or not to include provision in the order for potential remedial action.
- (3) For the purpose of determining whether it is appropriate to impose a monitoring measure, the Secretary of State must have regard to any existing monitoring arrangements which are carried out in accordance with an obligation under the law of any part of the United Kingdom (other than a provision implementing the EIA Directive).
- (4) The matters to be considered in respect of an application mentioned in sub-paragraph (1)(b) are—
- (a) any objections made and not withdrawn, and
  - (b) the report of any person who held an inquiry or of any person appointed for the purpose of hearing an objector.
- (5) If an application for a harbour revision order relates to a project to be carried out in Scotland, the Scottish Ministers must also consider any written representations—
- (a) submitted to them by the applicant in elaboration of the application, or
  - (b) submitted to them by an objector in elaboration of any objection.

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- (6) Following the consideration required by sub-paragraph (1), the Secretary of State must decide—
- (a) not to make the order applied for,
  - (b) to make the order in the form of the draft submitted to him, or
  - (c) to make the order with modifications.
- (7) Sub-paragraph (6) is subject to paragraph 19A.
- (8) In this paragraph and paragraph 19A “monitoring measure” means a requirement to monitor any significant adverse effects of a project on the environment.]

#### Textual Amendments

**F345** Sch. 3 paras. 19-19B substituted for Sch. 3 para. 19 (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(18)** (with Sch. 6 paras. 2(2), 3(3))

- [<sup>F345</sup>19(A)] The Secretary of State must make a decision under paragraph 19(6) in respect of an EIA application only if satisfied that the reasoned conclusion relating to that application is up to date.
- (2) A reasoned conclusion is to be taken to be up to date if, in the opinion of the Secretary of State, it addresses the likely significant effects of the project on the environment.
  - (3) The Secretary of State may decide to modify an order to include a monitoring measure only if satisfied that the type of parameters which will be required to be monitored and the duration of such monitoring are proportionate having regard to—
    - (a) the nature, location and size of the project, and
    - (b) the significance of the effects of the project on the environment.

#### Textual Amendments

**F345** Sch. 3 paras. 19-19B substituted for Sch. 3 para. 19 (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(18)** (with Sch. 6 paras. 2(2), 3(3))

- 19B. The Secretary of State must make the decision required by paragraph 19(6) in respect of an EIA application within a reasonable period of time (having regard to the nature and complexity of the application and the project to which it relates) beginning with the day on which the Secretary of State has all the information needed to make that decision.]

#### Textual Amendments

**F346** Sch. 3 paras. 19-19B substituted for Sch. 3 para. 19 (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(18)** (with Sch. 6 paras. 2(2), 3(3))

- [<sup>F346</sup>20(1)] This paragraph applies where the Secretary of State makes a decision under paragraph 19(6) in relation to an EIA application.
- (2) The Secretary of State—



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- (a) as soon as reasonably practicable after making the decision, must make the information specified in sub-paragraph (3) available on an official website, and
  - (b) must keep the information available on the website throughout the period of three months beginning with the day on which it is first made available on the website in accordance with this paragraph.
- (3) The specified information is—
- (a) the content of the decision whether or not to make the order and any conditions attached to it,
  - (b) the main reasons and considerations on which the decision is based,
  - (c) a summary of the results of any consultations under paragraph 15 or 16(6)(a),
  - (d) a copy of any opinion given under paragraph 16(5)(b),
  - (e) the details of the provision made for public participation in the making of the decision,
  - (f) a summary of any objections—
    - (i) made about the likely significant adverse effects of the project on the environment, and
    - (ii) not withdrawn,
  - (g) a summary of any representations made under paragraph 10 or 10A about the likely significant adverse effects of the project on the environment,
  - (h) a copy of the reasoned conclusion,
  - (i) a description of any features of the project or measures envisaged to avoid, prevent or reduce and, if possible, offset, any likely significant adverse effects of the project on the environment,
  - (j) a summary of how the information mentioned above (and, in particular, any opinion given under paragraph 16(5)(b) or the results of any consultations under paragraph 16(6)(a)) have been taken into account in making the decision, and
  - (k) a statement regarding the right to challenge the validity of the decision and the procedure for doing so.
- (4) A failure to make the specified information available throughout the period specified in sub-paragraph (2)(b) is to be disregarded if—
- (a) the information was available on the official website for part of that period, and
  - (b) the failure is wholly attributable to circumstances that it would not be reasonable to expect the Secretary of State to prevent or avoid.
- (5) The Secretary of State, as soon as reasonably practicable after making the decision, must also publish by Gazette and local advertisement the following information—
- (a) the content of the decision whether or not to make the order and any conditions attached to it,
  - (b) the main reasons and considerations on which the decision is based,
  - (c) a statement regarding the right to challenge the validity of the decision and the procedure for doing so,
  - (d) a statement that the matters referred to in paragraph 19(1) have been taken into consideration, and
  - (e) details of the official website on which the information referred to in sub-paragraph (2) is made available.

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- (6) The Secretary of State must also give notice of the information referred to in sub-paragraph (5) to such bodies likely to have an interest in the project by reason of their environmental responsibilities, or their local or regional competencies, as the Secretary of State considers appropriate.]

#### Textual Amendments

**F346** Sch. 3 para. 20 substituted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(19)** (with Sch. 6 paras. 2(2), 3(3))

*<sup>F347</sup>Defence projects: exemption from environmental impact assessment*

#### Textual Amendments

**F347** Sch. 3 paras. 20A-20G and cross-headings inserted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(20)** (with Sch. 6 paras. 2(2), 3(3))

- 20A. (1) The Secretary of State may direct that an environmental impact assessment is not required for a project if satisfied that—
- (a) the sole purpose of the project is national defence, and
  - (b) carrying out the assessment would have an adverse effect on the fulfilment of that purpose.
- (2) The Secretary of State must, as soon as reasonably practicable, send a copy of a direction given under sub-paragraph (1)—
- (a) to the Scottish Ministers, if the application for a harbour revision order authorising the project is required to be made to the Scottish Ministers;
  - (b) to the Welsh Ministers, if the application for a harbour revision order authorising the project is required to be made to the Welsh Ministers;
  - (c) to a person designated by an order made under section 42A(1), if the application for a harbour revision order authorising the project is required to be made to that person.

*Civil emergencies: exemption from environmental impact assessment*

- 20B. The Secretary of State may direct that an environmental impact assessment is not required for a project if satisfied that—
- (a) the sole purpose of the project is the response to a civil emergency, and
  - (b) carrying out the assessment would have an adverse effect on the fulfilment of that purpose.

*Exemption from environmental impact assessment in exceptional circumstances*

- 20C. (1) The Secretary of State may direct that an environmental impact assessment is not required for a project if satisfied that—
- (a) it is appropriate to do so by reason of exceptional circumstances,

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- (b) carrying out the assessment would have an adverse effect on the fulfilment of the purpose of the project,
  - (c) the objectives of the EIA Directive will be met even though the assessment is not carried out, and
  - (d) the project is unlikely to have significant effects on the environment in [<sup>F348</sup>an EEA State].
- (2) Before giving a direction under sub-paragraph (1), the Secretary of State must consider whether another form of assessment of the effects of the project on the environment would be appropriate.
- (3) The Secretary of State must—
- (a) as soon as reasonably practicable, make a copy of any direction given and a statement of the reasons for which it is given available for inspection on an official website,
  - (b) publish the results of any other assessment considered appropriate for the purposes of sub-paragraph (2), and
  - (c) keep the copy of the direction and the results (if any) available on the website throughout the period of three months beginning with the day on which the information is first made available on the website in accordance with this paragraph.
- (4) A failure to make information available throughout the period specified in sub-paragraph (3)(c) is to be disregarded if—
- (a) the information was available on the official website for part of that period, and
  - (b) the failure is wholly attributable to circumstances that it would not be reasonable to expect the Secretary of State to prevent or avoid.
- (4) If the Secretary of State gives a direction under sub-paragraph (1), paragraph 19 applies in relation to the relevant application as if the matters listed in sub-paragraph (4) of that paragraph included any results published under sub-paragraph (3)(b) of this paragraph.

#### Textual Amendments

**F348** Words in *Sch. 3 para. 20C(1)(d)* substituted (31.12.2020) by *The Harbours and Highways (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/460)*, regs. 1, **2(4)(i)**

#### *Deferral of environmental impact assessment: direction and effect of direction*

- 20D. (1) The Secretary of State may give a deferral direction in respect of a project which requires an environmental impact assessment if satisfied that—
- (a) an assessment of the effects of the project on the environment, or any activity to be carried out in the course of it, has been, is being or will be carried out by a consenting authority, and
  - (b) the assessment [<sup>F349</sup>comprises, or will comprise, the steps set out in paragraphs (a) to (d) of the definition of “environmental impact assessment” in paragraph 1] in respect of the project.

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- (2) In this paragraph, “consenting authority”, in relation to a project or an activity, means an authority (including the Secretary of State) whose consent to, or authority for, the project or the activity is required under an enactment (other than this Act).
- (3) The Secretary of State must—
- (a) as soon as reasonably practicable, make a copy of any deferral direction given and a statement of the reasons for which it is given available on an official website, and
  - (b) keep the copy of the direction and statement available throughout the period required to ensure the effective participation of the public in the environmental impact assessment.
- (4) A failure to make a copy of a deferral direction or statement available throughout the period specified in sub-paragraph (3)(b) is to be disregarded if—
- (a) the copy was available on the official website for part of that period, and
  - (b) the failure is wholly attributable to circumstances that it would not be reasonable to expect the Secretary of State to prevent or avoid.
- (5) The effect of a deferral direction is set out in paragraphs 20E to 20G.

#### Textual Amendments

**F349** Words in [Sch. 3 para. 20D\(1\)\(b\)](#) substituted (31.12.2020) by [The Harbours and Highways \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/460\)](#), regs. [1, 2\(4\)\(j\)](#)

- 20E. (1) If a deferral direction is given in respect of a project (referred to in this Part as a “deferred project”), the following provisions of this Part of this Schedule do not apply in relation to an application for a harbour revision order authorising the deferred project—
- (a) paragraph 6(2)(c);
  - (b) paragraphs 8 to 8B;
  - (c) paragraph 9(c);
  - (d) paragraph 10(6) to (8);
  - (e) paragraphs 10ZA to 10A;
  - (f) paragraph 15, in so far as it requires consultation about the likely effects of the project on the environment;
  - (g) paragraph 16;
  - (h) paragraph 18A;
  - (i) paragraphs 19A and 19B.
- (2) Paragraph 19 applies to an application for a harbour revision order authorising a deferred project but as if—
- (a) the matters the Secretary of State is required to consider under sub-paragraph (1) were the specified matters, and
  - (b) the reference to paragraph 19A in sub-paragraph (7) were a reference to paragraph 20F(1).
- (3) The specified matters are—

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- (a) the conclusion on the significant effects of the deferred project on the environment reached by the consenting authority following the assessment mentioned in paragraph 20D(1)(a);
  - (b) to the extent they were not taken into account for the purposes of that conclusion, any objections made and not withdrawn;
  - (c) the report of any person who held an inquiry or of any person appointed for the purpose of hearing an objector;
  - (d) any comments made by the consenting authority about the deferred project or any activity to be carried on during the course of the project;
  - (e) if consent or authorisation has been granted by the consenting authority—
    - (i) any conditions attached to the consent or authorisation which relate to the significant effects of the deferred project on the environment;
    - (ii) any description of any features of the deferred project or any measures envisaged to avoid, prevent or reduce and, if possible, offset any significant adverse effects of the project on the environment;
    - (iii) any measures considered appropriate by the consenting authority for the purpose of monitoring the significant adverse effects of the deferred project on the environment;
  - (f) if the Secretary of State is minded to make the order applied for, whether monitoring of the significant adverse effects of the deferred project on the environment is appropriate, and if so—
    - (i) whether it is necessary to modify the order to include a monitoring measure, and
    - (ii) whether to include provision in the order for potential remedial action;
  - (g) if the application relates to a deferred project which is to be carried out in Scotland, any written representations submitted to the Scottish Ministers by the applicant in elaboration of the application or by an objector in elaboration of an objection.
- (4) For the purpose of determining whether it is appropriate to impose a monitoring measure, the Secretary of State must have regard to any existing monitoring arrangements which are carried out in accordance with an obligation under the law of any part of the United Kingdom (other than a provision implementing the EIA Directive).
- 20F. (1) The Secretary of State may make an order authorising a deferred project only if satisfied that—
- (a) the conclusion mentioned in paragraph 20E(3)(a) is up to date, and
  - (b) making the order in the form of the draft submitted with the application, or with modifications, would be compatible with the decision made by the consenting authority following the assessment mentioned in paragraph 20D(1)(b).
- (2) A conclusion is to be taken to be up to date for the purposes of sub-paragraph (1)(a) if, in the opinion of the Secretary of State, it addresses the likely significant effects of the project on the environment.
- (3) The Secretary State must consult the consenting authority if satisfied that it is appropriate to do so for the purposes of sub-paragraph (1)(b).

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- 20G. The Secretary of State must make the decision required by paragraph 19(6) in respect of an application for an order authorising a deferred project within a reasonable period of time (having regard to the nature and complexity of the application and the project to which it relates) beginning with the day on which the Secretary of State has all the information needed to make that decision.]

*The order*

- 21 (1) Where the Secretary of State proposes to make the order applied for with modifications which appear to him substantially to affect the character of the order he—
- (a) shall take such steps as appear to him to be sufficient and reasonably practicable for informing the applicant and other persons likely to be concerned, and
  - (b) shall not make the order [<sup>F350</sup>or, if the order is subject to the affirmative procedure by virtue of section 54A(4) of this Act, lay before the Scottish Parliament a draft statutory instrument containing it,] until such period for consideration of, and comment upon, the proposed modifications by the applicant and those other persons as he thinks reasonable has expired.
- (2) The Secretary of State shall not make the order with a modification authorising the compulsory acquisition of land that was not described in the draft submitted to him as land subject to be acquired compulsorily, unless all persons interested consent.

**Textual Amendments**

**F350** Words in Sch. 3 para. 21(1)(b) inserted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, **7(a)** (with arts. 8, 9)

- 22 (1) This paragraph applies where the Secretary of State makes an order which authorises the compulsory purchase of land and is—
- (a) a harbour revision order relating to a harbour in England or Wales, or
  - (b) a harbour empowerment order relating to a harbour or to works to be carried out in England or Wales.
- (2) The order shall be subject to special parliamentary procedure to the same extent as it would be, by virtue of section 18 or 19 of the Acquisition of Land Act 1981 or paragraph 5 or 6 of Schedule 3 to that Act (National Trust land, commons etc), if it were an order under section 2(1) of that Act.
- [<sup>F351</sup>23(1) This paragraph applies to—
- (a) a harbour revision order relating to a harbour in Scotland, or
  - (b) a harbour empowerment order relating to a harbour or to works to be carried out in Scotland,
- where the order authorises the compulsory purchase of land.
- (2) The order shall be subject to special parliamentary procedure to the same extent as it would be, by virtue of section 1(2)(b) of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (land forming part of a common or open space or held inalienably by the National Trust for Scotland) if it were an order under section 1(1) of that Act.]

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### Textual Amendments

**F351** Sch. 3 para. 23 repealed (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\), s. 30\(4\), Sch. 3; S.S.I. 2007/516, art. 2](#)

- 24 (1) As soon as possible after a harbour revision order has been made<sup>[F352]</sup>, or where (by virtue of section 54A(4) of this Act) the order is subject to the affirmative procedure a draft statutory instrument containing it has been laid before the Scottish Parliament], the applicant shall—
- (a) publish a notice by Gazette and local advertisement,
  - (b) serve on the harbour authority (unless the applicant is the harbour authority) a copy of the order and a copy of any map annexed to it,
  - (c) serve a copy of the order and of any map annexed to it on each local authority on whom, in compliance with a requirement imposed by virtue of paragraph 12, a notice was served, and
  - (d) serve a copy of the order and of any map annexed to it on each person on whom, in compliance with a requirement imposed by virtue of paragraph 14, a copy of the draft order was served.
- (2) The notice mentioned in sub-paragraph (1)(a) must—
- (a) state that the order has been made<sup>[F353]</sup>, or as the case may be that a draft statutory instrument containing it has been laid before the Scottish Parliament],
  - (b) name a place where a copy of the order and any map annexed to it may be inspected at all reasonable hours, <sup>[F354]</sup>and
  - <sup>[F354]</sup>(c) if subsection (4) of section 54A of this Act does not apply to the statutory instrument containing the order, give information regarding—
    - (i) the date on which the order comes into operation, and
    - (ii) the right to challenge the validity of the order and the procedure for doing so, and
  - <sup>[F355]</sup>(d) if that subsection does apply to the order, state that the order cannot be made unless the Scottish Parliament, by resolution, approves the draft statutory instrument containing it.]]
- <sup>[F356]</sup>(2A) Sub-paragraphs (2B) to (2F) apply where a harbour revision order—
- (a) authorises the compulsory acquisition of land in England or Wales, and
  - (b) applies Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981 to the acquisition.
- (2B) The applicant must serve the notice on any person who, if Part 2 of the Acquisition of Land Act 1981 applied to the acquisition, would be entitled to a notice under section 12 of that Act (notice to owners, lessees and occupiers).
- (2C) The notice must—
- (a) contain a statement about the effect of Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981), and
  - (b) invite any person who would be entitled to claim compensation if a declaration were executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 to give the applicant information about the person's name, address and interest in land, using a form set out in the notice.



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- (2D) The statement referred to in sub-paragraph (2C)(a) must be the same as the relevant statement prescribed under section 15(4)(e) of the Acquisition of Land Act 1981, subject to any necessary modifications.
- (2E) The form mentioned in sub-paragraph (2C)(b) must be the same as the relevant form that is prescribed under section 15(4)(f) of the Acquisition of Land Act 1981, subject to any necessary modifications.
- (2F) The applicant must send a copy of the notice to the Chief Land Registrar and it shall be a local land charge in respect of the land in England or Wales to which it relates.
- (2G) For the purposes of sub-paragraphs (2D) and (2E), a statement or a form is “relevant”—
- (a) where the harbour revision order is made by the Welsh Ministers, if it was prescribed by the Welsh Ministers, or
  - (b) where the harbour revision order is made by the Secretary of State, if it was prescribed by the Secretary of State.]
- [<sup>F357</sup>(3) [<sup>F358</sup>Where a harbour revision order is subject to the affirmative procedure by virtue of section 54A(4) of this Act, as soon as possible after the order has been made or the Scottish Parliament has decided not to approve the draft statutory instrument containing it], the applicant for that order shall publish by Gazette and local advertisement a notice—
- [<sup>F359</sup>(a) stating that the order has been made, or as the case may be that the Scottish Parliament has decided not to approve the draft statutory instrument containing it, and]
  - (b) where [<sup>F360</sup>the order has been made], providing information regarding—
    - (i) the place where a copy of the order and any map annexed to it may be inspected at all reasonable hours,
    - (ii) the date on which the order comes into operation, and
    - (iii) the right to challenge the validity of the order and the procedure for doing so.]

### Textual Amendments

- F352** Words in Sch. 3 para. 24(1) inserted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, **7(b)** (with arts. 8, 9)
- F353** Words in Sch. 3 para. 24(2)(a) inserted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, **7(c)(i)** (with arts. 8, 9)
- F354** Sch. 3 para. 24(2)(c)(d) substituted (S.) for Sch. 3 para. 24(2)(c) and preceding word (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), ss. **25(5)(k)**, 30(4); S.S.I. 2007/516, art. 2
- F355** Sch. 3 para. 24(2)(d) substituted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, **7(c)(ii)** (with arts. 8, 9)
- F356** Sch. 3 para. 24(2A)-(2G) inserted (E.W.) (2.2.2017) by [The Housing and Planning Act 2016 \(Compulsory Purchase\) \(Corresponding Amendments\) Regulations 2017 \(S.I. 2017/16\)](#), reg. 1(2), **Sch. para. 2(1)** (with Sch. para. 2(2))
- F357** Sch. 3 para. 24(3) added (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), ss. **25(5)(l)**, 30(4); S.S.I. 2007/516, art. 2

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- F358** Words in Sch. 3 para. 24(3) substituted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, [7\(d\)\(i\)](#) (with arts. 8, 9)
- F359** Sch. 3 para. 24(3)(a) substituted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, [7\(d\)\(ii\)](#) (with arts. 8, 9)
- F360** Words in Sch. 3 para. 24(3)(b) substituted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, [7\(d\)\(iii\)](#) (with arts. 8, 9)

### *Statutory undertakers' land*

- 25 (1) This paragraph applies where application is made to the Secretary of State for a harbour revision order which will authorise the compulsory acquisition of land which includes land which has been acquired by statutory undertakers for the purposes of their undertaking.
- (2) If on a representation made to it the appropriate authority is satisfied—
- (a) that any of the said land is used for the purposes of the carrying on of the statutory undertakers' undertaking, or
  - (b) that an interest in any of the said land is held for those purposes,
- the order shall not be so made as to authorise the acquisition of any such land unless sub-paragraph (3) applies.
- (3) This sub-paragraph applies where that authority certifies that the nature and situation of the land are such—
- (a) that, without serious detriment to the carrying on of the undertaking, it can be acquired and not replaced, or
  - (b) that, if acquired, it can, without such detriment as aforesaid, be replaced by other land belonging to, or available for acquisition by, the undertakers.
- (4) The representation mentioned in sub-paragraph (2) must be made before the expiry of the period of 42 days starting with the date on which the notice that the application has been made for the order first appears in a local newspaper.
- (5) In this paragraph "statutory undertakers" means any person authorised by an Act (whether public general or local) or by any order or scheme made under or confirmed by an Act to carry on any of the following undertakings—
- (a) a railway, light railway, tramway or road transport undertaking;
  - (b) an undertaking the activities of which consist in—
    - (i) the maintenance of a canal;
    - (ii) the conservation or improvement of a river or other inland navigation;
    - (iii) the improvement, maintenance or management of a harbour (whether natural or artificial), port, haven or estuary, a dock (whether used by sea-going ships or not) or a wharf, quay, pier, jetty or other place at which ships (whether sea-going or not) can ship or unship goods or embark or disembark passengers; or
    - (iv) the provision and maintenance of a lighthouse; or
  - (c) an undertaking for the supply of hydraulic power.
- (6) In this paragraph, "the appropriate authority" means—

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- (a) in relation to a statutory undertaker authorised to carry on an undertaking whose activities consist in the improvement, maintenance or management of—
  - (i) a fishery harbour in England, the Minister of Agriculture, Fisheries and Food; or
  - (ii) [<sup>F361</sup>a harbour that is wholly in Wales other than a reserved trust port, the Welsh Ministers;]
- (b) in relation to a statutory undertaker authorised to carry on an undertaking in Scotland, and in relation to whom the relevant Ministerial function has been transferred to the Scottish Ministers under the Scotland Act 1998, the Scottish Ministers; and
- (c) in relation to any other statutory undertaker, the Secretary of State.

#### Textual Amendments

**F361** Sch. 3 para. 25(6)(a)(ii) substituted (1.4.2018) by Wales Act 2017 (c. 4), ss. 30(7), 71(4) (with Sch. 7 paras. 1, 6, 9); S.I. 2017/1179, reg. 3(g)

## PART II

### ORDERS MADE BY THE SECRETARY OF STATE OF HIS OWN MOTION

#### *Notices*

- 26 (1) Where the Secretary of State proposes to make a harbour revision order of his own motion, he shall first—
- (a) publish a notice by Gazette and local advertisement and in such other ways as he thinks appropriate, and
  - (b) serve on the harbour authority, and on any other person who he thinks ought to have notice of the proposal, a copy of the draft order and a notice.
- (2) The notice mentioned in sub-paragraph (1)(a) must—
- (a) state that the Secretary of State proposes to make the order,
  - (b) contain a concise summary of the draft order,
  - (c) name a place where a copy of the draft order may be inspected at all reasonable hours, and
  - (d) state that any person who desires to object to the proposal should do so in writing to the Secretary of State, specifying the grounds of his objection, before the expiry of the period of 42 days starting with the date specified in the notice.
- (3) The date specified in accordance with sub-paragraph (2)(d) must be the date on which the notice first appears in a local newspaper.
- (4) The notice mentioned in sub-paragraph (1)(b) must—
- (a) state that the Secretary of State proposes to make the order, and
  - (b) state that if the harbour authority or other person served desires to object to the proposal he should do so in writing to the Secretary of State, specifying the grounds of his objection, before the expiry of the period of 42 days starting with the date on which the notice is served on him.

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### Objections

- 27 (1) The following paragraphs in this Part have effect where—
- (a) all notices concerning a proposal of the Secretary of State to make a harbour revision order have been published under paragraph 26(1)(a),
  - (b) all notices and other documents which are required to be served under paragraph 26(1)(b) have been served, and
  - (c) every period for the making of objections to the Secretary of State in respect of the proposal has expired.
- 28<sup>F362</sup>(1) This paragraph applies if an objection to the proposal was made to the proposing authority and has not been withdrawn.
- (2) This paragraph does not apply if—
- (a) the proposing authority decides that the proposal is not to proceed further,
  - (b) the proposing authority considers that the objection is frivolous or trivial,
  - (c) the objection does not specify the grounds on which it is made, or
  - (d) the objection was not made within the period allowed for making it.
- (3) Before deciding the application under paragraph 29, the proposing authority may—
- (a) cause an inquiry to be held, or
  - (b) give to the person who made the objection an opportunity of appearing before, and being heard by, a person appointed by the proposing authority.
- (4) If the objection was made by the Welsh Ministers to the Secretary of State, the Secretary of State must cause an inquiry to be held under sub-paragraph (3)(a).
- (5) Where—
- (a) the objection was made by a person within sub-paragraph (6), and
  - (b) that person makes a request in writing to the proposing authority that the objection be referred to an inquiry or dealt with in accordance with sub-paragraph (3)(b),
- the proposing authority must either cause an inquiry to be held under sub-paragraph (3)(a) or cause the objection to be dealt with in accordance with sub-paragraph (3)(b), as the proposing authority may determine.
- (6) The persons within this sub-paragraph are—
- (a) any local authority for an area in which the harbour (or any part of it) is situated, and
  - (b) the relevant conservation body.
- (7) Where an objector is heard in accordance with sub-paragraph (3)(b), the proposing authority must allow such other persons as the proposing authority thinks appropriate to be heard on the same occasion.
- (8) In this paragraph—
- “local authority” has the same meaning as in paragraph 18;
- “the proposing authority” means—
- (a) the Secretary of State, in a case where it is the Secretary of State who proposes to make a harbour revision order;
  - (b) the Welsh Ministers, in a case where it is the Welsh Ministers who propose to make a harbour revision order;

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“the relevant conservation body” has the same meaning as in paragraph 18.]

- [<sup>F363</sup>(1) This paragraph applies if an objection to the proposal was made to the Scottish Ministers and has not been withdrawn.
- (2) It does not, however, apply if—
- (a) the Scottish Ministers decide that the proposal is not to proceed further;
  - (b) they consider the objection is frivolous or trivial;
  - (c) the objection does not specify the grounds on which it is made; or
  - (d) the objection was not made within the period allowed for making it.
- (3) Before making their decision under paragraph 29, the Scottish Ministers may—
- (a) cause an inquiry to be held; or
  - (b) give to the person who made the objection referred to in sub-paragraph (1) an opportunity of appearing before and being heard by a person appointed by them.
- (4) Where—
- (a) the objection referred to in sub-paragraph (1) is made by a council constituted under the Local Government etc. (Scotland) Act 1994 (c. 39) for an area in which the harbour (or any part of it) is situated [<sup>F364</sup>or by the harbour authority]; and
  - (b) the council [<sup>F365</sup>or the authority] informs the Scottish Ministers in writing that it wishes the objection to be referred to an inquiry or dealt with in accordance with sub-paragraph (3)(b),
- the Scottish Ministers shall, before making their decision under paragraph 29, either cause an inquiry to be held or, if they so determine, cause the objection to be dealt with in accordance with sub-paragraph (3)(b).
- (5) Where an objector is heard in accordance with sub-paragraph (3)(b), the Scottish Ministers shall allow such other persons as they think appropriate to be heard on the same occasion.]

#### Textual Amendments

- F362** Sch. 3 para. 28 substituted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), **Sch. 21 para. 6(1)** (with Sch. 21 para. 7); S.I. 2009/3345, art. 2, Sch. para. 26
- F363** Sch. 3 para. 28 substituted (S.) (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 47(1), 54(2)** (with s. 48); S.S.I. 2005/454, art. 2, sch. 2
- F364** Words in Sch. 3 para. 28(4)(a) added (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(m)(i), 30(4)**; S.S.I. 2007/516, art. 2
- F365** Words in Sch. 3 para. 28(4)(b) inserted (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(m)(ii), 30(4)**; S.S.I. 2007/516, art. 2

#### *The decision*

- 29 (1) The Secretary of State shall consider—
- (a) any objections made and not withdrawn, [<sup>F366</sup>and]

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- (b) the report of any person who held an inquiry [<sup>F367</sup>and of any person appointed for the purpose of hearing an objector][<sup>F368</sup>and of any person appointed for the purpose of hearing an objector] under paragraph 28[<sup>F369</sup>; and
  - (c) any written representations submitted to the Scottish Ministers by an objector in elaboration of the objection.]
- (2) Following the consideration required by sub-paragraph (1) the Secretary of State shall decide—
- (a) not to make the order proposed,
  - (b) to make the order in the form of the draft, or
  - (c) to make it with modifications.

#### Textual Amendments

**F366** Word in Sch. 3 para. 29(1) repealed (S.) (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 47(2), 54(2)** (with s. 48); S.S.I. 2005/454, art. 2, sch. 2

**F367** Words in Sch. 3 para. 29(1)(b) inserted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d), **Sch. 21 para. 6(2)** (with Sch. 21 para. 7); S.I. 2009/3345, art. 2, Sch. para. 26

**F368** Words in Sch. 3 para. 29(1)(b) inserted (S.) (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 47(2)(a), 54(2)** (with s. 48); S.S.I. 2005/454, art. 2, sch. 2

**F369** Sch. 3 para. 29(1)(c) and preceding word inserted (S.) (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 47(2)(b), 54(2)** (with s. 48); S.S.I. 2005/454, art. 2, sch. 2

#### *The order*

- 30 Where the Secretary of State proposes to make the order with modifications which appear to him substantially to affect the character of the order as originally proposed to be made, he—
- (a) shall take such steps as appear to him to be sufficient and reasonably practicable for informing persons likely to be concerned, and
  - (b) shall not make the order [<sup>F370</sup>or, if the order is subject to the affirmative procedure, lay before the Scottish Parliament a draft statutory instrument containing it,] until a reasonable period for consideration of, and comment upon, the proposed modifications by those persons has expired.

#### Textual Amendments

**F370** Words in Sch. 3 para. 30(b) inserted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, **7(e)** (with arts. 8, 9)

- 31 (1) As soon as possible after a harbour revision order has been made by the Secretary of State of his own motion he shall—
- (a) publish a notice by Gazette and local advertisement, and
  - (b) serve a copy of the order on each person on whom notice was served under paragraph 26(1)(b).
- (2) The notice mentioned in sub-paragraph (1)(a) must[<sup>F371</sup>—  
[<sup>F371</sup>contain the information specified in paragraph 24(2)].

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- [<sup>F372</sup>(2A) Sub-paragraphs (2B) and (3) apply in relation to a harbour revision order where—
- (a) the Scottish Ministers have proposed to make the order of their own motion, and
  - (b) the order is subject to the affirmative procedure by virtue of section 54A(4) of this Act.
- (2B) The reference in sub-paragraph (1) to the order having been made by the Secretary of State of his own motion is to be read as a reference to a draft statutory instrument containing the order having been laid before the Scottish Parliament.]
- [<sup>F373</sup>(3) As soon as possible after the [<sup>F374</sup>order is made or the Scottish Parliament has decided not to approve a draft statutory instrument containing the order, the Scottish] Ministers shall publish by Gazette and local advertisement a notice containing the information specified in head (a) of sub-paragraph (3) of paragraph 24 and, if appropriate, that specified in head (b) of that sub-paragraph.]

#### Textual Amendments

- F371** Words in Sch. 3 para. 31(2) substituted (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(n), 30(4)**; S.S.I. 2007/516, art. 2
- F372** Sch. 3 para. 31(2A)(2B) inserted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, **7(f)(i)** (with arts. 8, 9)
- F373** Sch. 3 para. 31(3) added (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(5)(o), 30(4)**; S.S.I. 2007/516, art. 2
- F374** Words in Sch. 3 para. 31(3) substituted (S.) (11.11.2011) by [The Interpretation and Legislative Reform \(Scotland\) Act 2010 \(Consequential, Savings and Transitional Provisions\) Order 2011 \(S.S.I. 2011/396\)](#), arts. 1, **7(f)(ii)** (with arts. 8, 9)

### PART III

#### HARBOUR EMPOWERMENT ORDERS: MODIFICATIONS OF PART I

- 32 (1) The modifications subject to which Part I of this Schedule is, by virtue of section 17(1)(g) of this Act, to have effect with respect to the procedure for the making of harbour empowerment orders by the Secretary of State are those set out in this paragraph.
- (2) For references to a harbour revision order there shall be substituted references to a harbour empowerment order.
- (3) For paragraphs 13 and 14 there shall be substituted—
- “13 (1) The Secretary of State may require the applicant to serve on any specified person within any specified period of time a copy of the draft order and of any map accompanying the application together with a notice stating—
- (a) that the application has been made to the Secretary of State, and
  - (b) that, if the person wishes to object to the application he should do so in writing to the Secretary of State, specifying the grounds



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of his objection, before the expiry of the period of 42 days starting with the date on which the notice is served on him.”

[<sup>F375</sup>(3A) Paragraph 18(1D)(aa) shall be omitted.]

- (2) The copy of the map referred to in sub-paragraph (1) must be drawn to the same scale as that map. "
- (4) Paragraph 24(1)(b) shall be omitted, and for the reference, in paragraph 24(1)(d), to paragraph 14, there shall be substituted a reference to paragraph 13(1).]

#### Textual Amendments

**F375** Sch. 3 para. 32(3A) inserted (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), [ss. 25\(5\)\(p\), 30\(4\)](#); [S.S.I. 2007/516](#), art. 2

## SCHEDULE 4

Sections 18 and 47.

[<sup>F376</sup>PROCEDURE FOR CONFIRMING AND MAKING HARBOUR REORGANISATION SCHEMES]

#### Textual Amendments

**F376** Heading substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 6\(6\)](#)

#### Modifications etc. (not altering text)

**C107** Sch. 4 amended by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), [s. 42\(2\)](#)

**C108** Sch. 4: transfer of functions (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 29\(2\)\(b\)\(iii\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6, 9](#)); [S.I. 2017/1179](#), [reg. 3\(g\)](#) (with transitional provisions and savings in [S.I. 2018/278](#), [reg. 2](#), [Sch.](#))

## PART I

### PROCEDURE FOR SUBMISSION AND CONFIRMATION OF HARBOUR REORGANISATION SCHEMES

- 1 The submission to the Minister of a harbour reorganisation scheme shall be effected by depositing with him [<sup>F377</sup>not less than six copies][<sup>F377</sup>a copy] of the scheme together with [<sup>F377</sup>not less than six copies][<sup>F377</sup>a copy] of any map or maps which, if the scheme is confirmed in the form submitted, will be required to be annexed to it.

#### Textual Amendments

**F377** Words in Sch. 4 para. 1 substituted (S.) (3.12.2015) by [Harbours \(Scotland\) Act 2015 \(asp 13\)](#), [ss. 2\(3\), 3](#)

- 2 Where a harbour reorganisation scheme is submitted to the Minister he shall take it into consideration and, if he decides that it should proceed,—
  - (a) he shall publish by Gazette and local advertisement and by such (if any) other means as he thinks fit a notice stating that the scheme has been

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submitted to him, containing a concise summary of it and, if it provides for transferring interests in land, a general description of the land interests in which are to be transferred, naming a place where a copy of the scheme and (if copies of a map or maps were deposited with it) a copy of that map or, as the case may be, copies of those maps may be seen at all reasonable hours and stating that any person who desires to make to him objection to the scheme should do so in writing (stating the grounds of his objection) before the expiration of the period of forty-two days from the date (specifying it) of the first local advertisement; and

- (b) if provision is included in the scheme for transferring interests in land, he shall, in the case of each parcel of land interests in which are to be transferred, serve on the owner of each interest to be transferred a notice stating that the scheme has been submitted to the Minister and includes provision transferring the interest in that parcel (describing it) of the person served, naming a place where a copy of the scheme and a copy (on the like scale) of the map deposited therewith on which the boundaries of that parcel are delineated may be seen at all reasonable hours, and stating that, if the person served desires to make to the Minister objection to the scheme so far as regards the inclusion therein of provision transferring his interest in that parcel, he should do so in writing (stating the grounds of his objection) before the expiration of the period of forty-two days from the date on which the notice is served on him; and

- (c) ..... <sup>F378</sup>

- (d) ..... <sup>F379</sup>, he shall on each (if any there be) of the harbour authorities who between them are engaged in improving, maintaining or managing the several harbours comprised in the group and are not parties to the submission of the scheme, and, if [<sup>F380</sup>a local lighthouse authority who are not a harbour authority] are affected by the scheme, on them, contemporaneously serve [<sup>F380</sup>a copy of the scheme, together (if copies of a map or maps were deposited with it) with a copy of that map, or copies of those maps, and, in any event, with a notice stating that the scheme has been submitted to the Secretary of State and that, if the authority served desire to make to the Secretary of State objection to the scheme, they should do so in writing (stating the grounds of their objection) before the expiration of the period of forty-two days from the date on which the notice is served on them].

**Textual Amendments**

**F378** Para. 2(c) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**

**F379** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**

**F380** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 5 para. 14(5)**

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**Modifications etc. (not altering text)**

**C109** Para. 2(a) amended by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), **s. 42(3)**

- 3 (1) Where effect has been given to paragraph 2 above in the case of a harbour reorganisation scheme submitted to the Minister and the time for the due making to the Minister of objection to the scheme has elapsed, the following provisions of this paragraph shall have effect.

<sup>F381</sup>(2) .....

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- (5) If <sup>F382</sup>... objections thereto that were duly made to the Minister have not been withdrawn, he shall, unless he decides that the scheme shall not proceed further [<sup>F383</sup>and subject to sub-paragraph (5A) below], cause [<sup>F384</sup>an inquiry to be held with respect to] each objection so made and not withdrawn [<sup>F385</sup>to be considered—
- (a) at an inquiry;
  - (b) at a hearing before a person appointed by the Scottish Ministers; or
  - (c) by way of written representations.]
- unless, in his opinion, it is frivolous or too trivial to warrant [<sup>F386</sup>the holding of an inquiry with respect thereto][<sup>F386</sup>being considered in any of these ways]<sup>F382</sup>... .
- <sup>F387</sup>(5A) The Scottish Ministers are not to cause to be considered by way of written representations under sub-paragraph (5)(c) above an objection made by a harbour authority on whom a copy of the scheme was served under paragraph 2(d) above.]
- (6) [<sup>F388</sup>After considering the objections (if any) made and not withdrawn, and the reports of any person who held an inquiry and any person appointed for the purpose of hearing an objector, the Secretary of State] if he then decides to confirm the scheme, may by order confirm it without modifications or (subject to the restrictions imposed by sub-paragraph (7) below) with such modifications as he thinks fit.
- (7) Where the Minister proposes to confirm the scheme with modifications which appear to him substantially to affect the character of the scheme as submitted to him, he shall take such steps as appear to him to be sufficient and reasonably practicable for informing them that submitted the scheme to him, and other persons likely to be concerned, and shall not confirm the scheme until such period for consideration of, and comment upon, the proposed modifications by them that submitted the scheme and those other persons as he thinks reasonable has elapsed; nor shall he confirm the scheme subject to a modification that results in its including provision transferring an interest of a person in property that was not described in the scheme as submitted to him as being property in which interests of that person were subject to be transferred unless that person consents to its being so confirmed.
- (8) The Minister may disregard for the purposes of this paragraph an objection to the scheme unless it states the grounds on which it is made, and may disregard for those purposes such an objection so far as regards the inclusion in the scheme of a provision transferring interests of a person in any property if he is satisfied that the objection relates exclusively to matters in respect of which compensation falls to be provided under the scheme and that the scheme is so framed as to enable those matters to be properly dealt with.

#### Textual Amendments

**F381** Sch. 4 para. 3(2)–(4) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**

**F382** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**

**F383** Words in Sch. 4 para. 3(5) inserted (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(6)(a)(i), 30(4)**; S.S.I. 2007/516, art. 2

**F384** Words in Sch. 4 para. 3(5) repealed (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(6)(a)(ii), 30(4)**; S.S.I. 2007/516, art. 2

**F385** Words in Sch. 4 para. 3(5) inserted (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(6)(a)(iii), 30(4)**; S.S.I. 2007/516, art. 2

**F386** Words in Sch. 4 para. 3(5) substituted (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 25(6)(a)(iv), 30(4)**; S.S.I. 2007/516, art. 2

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**F387** Sch. 4 para. 3(5A) inserted (S.) (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), [ss. 25\(6\)\(b\)](#), [30\(4\)](#); [S.S.I. 2007/516](#), art. 2

**F388** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 5 para. 14\(4\)](#)

**Modifications etc. (not altering text)**

**C110** Para. 3(5) amended by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), [s. 42\(2\)](#)

- 4 So soon as may be after a harbour reorganisation scheme has been confirmed by the Minister, he shall publish by Gazette and local advertisement a notice stating that it has been confirmed and naming a place where a copy of it in the form in which it was confirmed (and, if a map or maps is or are annexed to the scheme, a copy of that map or, as the case may be, copies of those maps) may be inspected at all reasonable hours, and shall serve a copy of the scheme in the form aforesaid (and, if a map or maps is or are annexed to the scheme, a copy of that map or, as the case may be, copies of those maps) on each authority on whom a copy of the scheme as submitted to the Minister was served in compliance with a requirement imposed by paragraph 2 . . . <sup>F389</sup>(d) above . . . <sup>F389</sup>.

**Textual Amendments**

**F389** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)

[<sup>F390</sup>PART II

MODIFICATIONS SUBJECT TO WHICH PART I HAS EFFECT WITH RESPECT  
 TO PROCEDURE FOR MAKING OF HARBOUR REORGANISATION  
 SCHEMES BY THE SECRETARY OF STATE OF HIS OWN MOTION.

**Textual Amendments**

**F390** Pt. II paras. 5–9 inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 6\(7\)](#)

- 5 References to confirming a scheme shall be construed as references to making a scheme.
- 6 Paragraph 1 shall be ommitted.
- 7 In paragraph 2—
- (a) for the opening words down to “proceed” there shall be substituted “Where the Secretary of State proposes to make, of his own motion, a harbour reorganisation scheme”;
  - (b) for the words “has been submitted to” wherever occurring there shall be substituted the words “is proposed to be made by” and in sub-paragraph (d) the words “and are not parties to the submission of the scheme” shall be ommitted;
  - (c) for any reference in sub-paragraph (a), (b) or (d) to a map deposited with the scheme there shall be substituted a reference to a map to be annexed to the scheme.
- 8 In paragraph 3—

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- (a) in sub-paragraph (1) for the words “submitted to” there shall be substituted the words “proposed to be made by”;
  - (b) in sub-paragraph (7) for the words “as submitted to him” there shall be substituted the words “as served under paragraph 2(d) above on the authorities there mentioned”, and there shall be omitted the words “that submitted the scheme to him” and the words “that submitted the scheme”.
- 9 In paragraph 4 for the words “submitted to” there shall be substituted the words “proposed to be made by.”]

SCHEDULE

5. ....

F391

**Textual Amendments**

**F391** Sch. 5 repealed by Transport Act 1981 (c. 56, SIF 58), Sch. 12 Pt. II

SCHEDULE

6. ....

F392

**Textual Amendments**

**F392** Sch. 6 repealed by Statute Law (Repeals) Act 1974 (c. 22), Sch. Pt. XI

**Status:**

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**Changes to legislation:**

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