



Ports Act 1991

1991 CHAPTER 52

PART I

TRANSFER OF STATUTORY PORT UNDERTAKINGS

Procedure for schemes

12 Schemes made by the Secretary of State.

[^{F1}(1) Where—

- (a) a scheme (“the authority’s scheme”) has been submitted to the Secretary of State by a relevant port authority under section 10 above; but
- (b) it appears to the Secretary of State that the scheme does not accord with any advice given by him as mentioned in subsection (4) of that section and cannot be made to do so by any modifications it is within his power to make;

the Secretary of State may himself make a scheme for the purposes of a transfer under section 2 above to the company specified in the authority’s scheme of the authority’s property, rights, liabilities and functions.

- (2) The Secretary of State shall consult the authority concerned before preparing the scheme.
- (3) Before making the scheme the Secretary of State shall publish by Gazette and local advertisement a notice—
 - (a) stating that he proposes to make a scheme for the purposes of a proposed transfer under section 2 above to a company formed by the authority of the authority’s property, rights, liabilities and functions;
 - (b) naming a place where copies of the proposed scheme and any associated company documents may be seen at all reasonable hours; and
 - (c) stating that any person who wishes to make representations to him with respect to—
 - (i) the proposed transfer; or

Changes to legislation: There are currently no known outstanding effects for the Ports Act 1991, Section 12. (See end of Document for details)

- (ii) any provisions of the proposed scheme or of any associated company documents;
- should do so in writing before the end of the period of forty-two days beginning with the date (specifying it) of the first local advertisement.
- (4) On or before the date of the first local advertisement the Secretary of State shall serve on the relevant port authority in question—
- (a) a notice complying with subsection (5) below; and
 - (b) a copy of the proposed scheme.
- (5) A notice under subsection (4)(a) above must—
- (a) state that the Secretary of State proposes to make the scheme; and
 - (b) direct the authority concerned to take such steps as are reasonably practicable to give such information as may be specified in the notice, in such manner as may be so specified, to every person on whom that authority would be required under section 9(3)(b) above to serve notice relating to such a scheme prepared by that authority.
- (6) The Secretary of State shall not make the scheme until after the end of the period allowed for making representations to him with respect to the proposed transfer or any provisions of the proposed scheme or of any associated company documents.
- (7) The Secretary of State shall decide whether or not to make the scheme after considering any such representations duly made to him before the end of that period and not withdrawn; and if he decides to make the scheme—
- (a) he may make it as proposed or with such modifications as he thinks fit after consulting the authority concerned; and
 - (b) he may first (if he thinks fit) give the authority a direction requiring them, before such date as may be specified in the direction, to secure that such alterations are made to the [^{F2}articles] of the company mentioned in subsection (1) above as may be specified in the direction.
- (8) Any scheme made by the Secretary of State under this section shall be made by order; and a scheme so made takes effect on the date on which the order in question comes into force or on such date as may be specified in that order.
- (9) References in this section to any associated company documents are references to any documents submitted under section 9(2) above with the authority's scheme.]

Textual Amendments

- F1** S. 12 repealed (S.) (3.12.2015) by [Harbours \(Scotland\) Act 2015 \(asp 13\)](#), **ss. 1(2)(c)**, 3
- F2** Word in s. 12(7)(b) 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. 124(5)** (with art. 10)
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Modifications etc. (not altering text)

- C1** Pt. 1: transfer of functions in part (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 29(2)(g)**, 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.](#))

Changes to legislation:

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