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STATUTORY INSTRUMENTS

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**1992 No. 284**

**HARBOURS, DOCKS, PIERS AND FERRIES**

**The Port of Tilbury Transfer Scheme  
1991 Confirmation Order 1992**

*Made* - - - - - *17th February 1992*

*Coming into force* - - - - - *28th February 1992*

Whereas the Port of London Authority, having formed a company in pursuance of section 21 of the Ports Act 1991<sup>(1)</sup>, have in pursuance of subsection (1) of section 22 of that Act submitted to the Secretary of State for Transport a scheme providing for the transfer to the said company of property, rights and liabilities of the said Authority:

Now therefore the Secretary of State, after consulting the said Authority in pursuance of subsection (4) of the said section 22, in exercise of the powers conferred on him by subsections (4) and (9) of that section, and of all other powers enabling him in that behalf, hereby makes the following Order:—

**Citation and commencement**

1. This Order may be cited as the Port of Tilbury Transfer Scheme 1991 Confirmation Order 1992, and shall come into force on 28th February 1992.

**Confirmation of Scheme**

- 2.—(1) The Port of Tilbury Transfer Scheme 1991 is hereby confirmed with modifications.  
(2) The text of the said Scheme as so confirmed is set out in the Schedule hereto.

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(1) 1991 c. 52.

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Signed by authority of the Secretary of State for Transport

17th February 1992

*Patrick McLoughlin*  
Parliamentary Under Secretary of State,  
Department of Transport

## SCHEDULE

Article 2

### PORT OF TILBURY TRANSFER SCHEME 1991

The Port of London Authority make this Scheme under Part II of the Ports Act 1991:–

#### Citation and interpretation

1.—(1) This Scheme may be cited as the Port of Tilbury Transfer Scheme 1991.

(2) In this Scheme, unless the context otherwise requires–

“the 1968 Act” means the Port of London Act 1968<sup>(2)</sup>;

“the 1991 Act” means the Ports Act 1991;

“the Company” means Port of Tilbury London Limited, being the company formed in pursuance of section 21 of the 1991 Act and registered under the Companies Act 1985<sup>(3)</sup> with the number 2659118;

“the Port Authority” means the Port of London Authority;

“the transfer date” means the date on which this Scheme takes effect.

(3) Unless the context otherwise requires, a reference in this Scheme to a numbered paragraph or Schedule is to the paragraph in or, as the case may be, the Schedule to this Scheme bearing that number.

#### Transfer to the Company

2.—(1) The property, rights and liabilities transferred to the Company by this Scheme are–

(a) the freehold land of the Port Authority the landward limit of which is delineated and shown edged red on Plan 1 and the riverside limit of which is–

(i) in the case of the entrance to the Company’s docks, an imaginary line drawn across the lock entrance between Ordnance Survey National Grid Reference point TQ62574: 75500 and Ordnance Survey National Grid Reference point TQ62584: 75459;

(ii) in the case of the Tilbury Docks Tidal Basin, an imaginary line drawn across the entrance to the basin between Ordnance Survey National Grid Reference points TQ63804: 75115 and TQ63975: 75112; and

(iii) elsewhere, the level of mean high water from time to time between the two extreme points where the line of the landward limit so delineated and shown meets the level of mean high water from time to time; and

(b) all the other property of the Port Authority (other than freehold land) comprised in that part of the Port Authority’s undertaking which consists in operating the port of Tilbury (with the exception of the property mentioned in sub-paragraph (2) below), and all rights and liabilities of the Port Authority so comprised; and

(c) the freehold land of the Port Authority the landward limit of which is delineated and shown edged red on Plan 2 and the riverside limit of which is the level of mean high water from time to time between the two extreme points where the line of the landward limit so delineated and shown meets the level of mean high water from time to time; and

(d) all the rights and liabilities of the Port Authority which relate to the operating of the port of Tilbury before the transfer date, with the exception of–

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(2) 1968 c.xxxii.

(3) 1985 c. 6.

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- (i) any liability of the Port Authority to pay to or in respect of any former employee of the Port Authority any pension or any allowance known as a retirement allowance or benevolent allowance; and
  - (ii) any liability of the Port Authority to pay any benevolent allowance on or after the transfer date to or in respect of any person employed by the Port Authority immediately before that date.
- (2) The property excepted from the transfer made by sub-paragraph (1)(b) above is all paintings, drawings and artefacts of the Port Authority.
- (3) For the avoidance of doubt it is hereby stated that—
- (a) there is included in the transfer made by sub-paragraph (1)(b) above—
    - (i) the property, rights and liabilities of the Port Authority in respect of the body of constables maintained by the Port Authority;
    - (ii) subject to sub-paragraph (4) below, so much of a contract of employment or collective agreement as relates to an occupational pension scheme within the meaning of the Social Security Pensions Act 1975(4) or the Social Security Pensions (Northern Ireland) Order 1975(5); and
    - (iii) all the interest of the Port Authority in the companies listed in Schedule 1; and
  - (b) the property, rights and liabilities referred to in sub-paragraph (1)(b) above do not include property, rights and liabilities of the Port Authority in respect of—
    - (i) Port of London Stock;
    - (ii) money loaned to the Port Authority under section 11 of the Harbours Act 1964(6); or
    - (iii) the central audit staff maintained by the Port Authority.
- (4) Any contract of employment of a person who is transferred to the employment of the Company which includes a right for the employee to be a member of the Port of London Authority Pension Fund shall be deemed to be amended to include instead a right for the employee to be a member of any relevant pension scheme (within the meaning of Schedule 2).
- (5) In this paragraph—
- (a) reference to a numbered plan is a reference to that plan as authenticated by the seal of the Port Authority and the signature of their secretary as being the plan of that number referred to in this Scheme;
  - (b) “Port of London Stock” means the 3 per cent. “A” Port Stock 1929–1999 issued by the Port Authority in 1909 and the 3 per cent. Inscribed Port Stock 1949–1999 issued by the Port Authority in 1911.

### **Consideration**

3. The consideration for the transfer made by this Scheme shall be the issue to the Port Authority of 25 million ordinary shares in the Company of £1 each.

### **Pension rights**

4. Schedule 2, which makes provision for the protection of pension rights, shall have effect.

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(4) 1975 c. 60.

(5) S.I.1975/1503 (N.I. 15).

(6) 1964 c. 40.

### **Functions of the Port Authority excepted from transfer**

5. There shall be excepted from the functions of the Port Authority which, apart from this paragraph, would or might be transferred to and by virtue of section 22(8)(b) of the 1991 Act become functions of the Company, the functions of the Port Authority specified in Schedule 3.

### **Amendments to 1968 Act**

6. Schedule 4, which provides for certain provisions of the 1968 Act to be treated as amended, shall have effect.

### **Works licences**

7.—(1) Each of the works specified in column 1 of Part I of Schedule 5 is a work constituting or comprised in property transferred by this Scheme which requires a works licence, and accordingly a works licence to maintain and retain each of those works is to be regarded as having by virtue of section 25(1) of the 1991 Act been granted by the Port Authority to the Company on the transfer date.

(2) Each such licence is to be regarded as having been granted—

- (a) unless otherwise agreed in writing between the Port Authority and the Company, on the terms that—
  - (i) the consideration therefor is to be reassessed at such intervals as may from time to time be agreed in writing between the Port Authority and the Company;
  - (ii) subject to section 69 of the 1968 Act (which provides for appeals against the revocation of a licence), the Port Authority may revoke the licence by giving to the Company not less than the period of notice (to expire at any time) specified in relation to the work the subject of the licence in column 2 of Part I of Schedule 5; and
  - (iii) the Company is to use the work the subject of the licence only for the purpose specified in relation thereto in column 3 of the said Part I; and
- (b) on the other terms specified in Part II of the said Schedule or on such other terms as may from time to time be agreed in writing between the Port Authority and the Company.

### **Membership of the Port Authority**

8.—(1) A person who is both an employee and a director of the Company shall be treated as an officer of the Port Authority for the purposes of paragraph 6 of Schedule 2 to the 1968 Act<sup>(7)</sup> as regards any time when the Company is a subsidiary of the Port Authority.

(2) Accordingly, a person who—

- (a) immediately before the transfer date is an officer of the Port Authority who has in pursuance of the said paragraph 6 been appointed to serve as a member of the Port Authority; and
- (b) on that date—
  - (i) ceases by virtue of the transfer under paragraph 2 of this Scheme to be an officer of the Port Authority; but
  - (ii) is by virtue of sub-paragraph (1) above to be treated as such an officer for the purposes of the said paragraph 6;

shall not cease to be a member of the Port Authority by reason of having ceased to be an officer of the Port Authority.

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(7) Part I of Schedule 2, which includes paragraph 6, was substituted by the Port of London Authority (Constitution) Revision Order 1975 (S.I. 1975/1890), article 5(3).

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### **Port police federation**

9.—(1) The organisation established pursuant to section 159 of the 1968 Act and called the Port of London Police Federation (in this paragraph referred to as “the federation”) shall continue on and after the transfer date by the name of the Port of Tilbury Police Federation for the purpose of representing constables appointed under section 154 of that Act (whether by the Port Authority before the transfer date or by the Company on or after that date) in all matters affecting their welfare and efficiency, other than questions of discipline and promotion affecting individuals.

(2) The regulations made by the Port Authority under subsection (2)(a) of the said section 159 prescribing the constitution and proceedings of the federation and having effect immediately before the transfer date shall continue to have effect on and after that date—

- (a) as if for any reference (whether express or implied and, if express, however worded) to the Port Authority there were substituted, as respects anything falling to be done on or after that date, a reference to the Company; and
- (b) as if any reference (whether express or implied and, if express, however worded) to a person employed by, or engaged in the business of, the Port Authority and holding a specified office or serving in a specified capacity were, as respects anything falling to be done on or after that date, a reference—
  - (i) to such person as the Company may appoint; or
  - (ii) in default of appointment, to a person employed by, or engaged in the business of the Company who corresponds as nearly as may be to the person referred to in the regulations.

(3) On and after the transfer date the Company may after consultation with the federation amend the said regulations and, without prejudice to the generality of that power, amendments made under this sub-paragraph may make provision—

- (a) with respect to the membership of the federation;
- (b) with respect to the raising of funds by the federation by voluntary subscription and the use and management of funds derived from such subscriptions;
- (c) with respect to the manner in which representations may be made to the Company and, in particular, to the directors or to committees of directors or to managers of the Company.

(4) The federation shall continue to be entirely independent of, and unassociated with, any body or person outside the police service but may employ a person outside that service in an administrative or advisory capacity.

(5) Subject to the provisions of this paragraph, a constable appointed under section 154 of the 1968 Act (whether by the Port Authority before the transfer date or by the Company on or after that date) shall not be a member of a trade union or an association having for its objects or one of its objects to control or influence the pay, pensions or conditions of service of police constables:

Provided that, where the Company is satisfied that there are special circumstances which warrant it, the Company may permit a constable so appointed to be a member of such a trade union or association.

IN WITNESS whereof the Common Seal of the Port Authority has been hereunto affixed this 29th day of October 1991.

## SCHEDULE 1

Paragraph 2(3)(a)(iii)

### COMPANIES TRANSFERRED

Tilbury Cargo Handling Limited  
42 Berth Tilbury Limited  
44 Berth Limited  
46 Berth Limited  
Tilbury Plant Services Limited  
Port of Tilbury Container Handling Limited  
Tilbury Container Engineering Services Limited  
Tilbury Grain Handling Limited  
Tilbury Stevedores Limited.

## SCHEDULE 2

Paragraph 4

### PROTECTION OF PENSION RIGHTS

## PART I

### GENERAL PROVISIONS

#### Interpretation

**1.** In this Schedule—

“accrued pension rights” means, in relation to a protected person, the pension rights, other than future pension rights, to which he is at the time in question entitled under the rules of the Fund or a relevant pension scheme, calculated—

- (i) if he is a protected employee or a protected beneficiary by virtue of paragraph 3(1)(a) below, by reference to the period of his pensionable service (whether actual or credited) as a member of the Fund or of one or more relevant pension schemes and to his earnings (however defined) at the time in question; or
- (ii) if he is a protected beneficiary by virtue of paragraph 3(1)(b) below, by reference to the accrued pension rights of the protected employee in respect of whom his pension rights arise and to any entitlement to pension increases accrued up to that time;

“employer”, so far as relating to a protected beneficiary, means—

- (a) if the protected beneficiary is such by virtue of paragraph 3(1)(a) below, the person who was his employer immediately before he ceased to be a protected employee;
- (b) if the protected beneficiary is such by virtue of paragraph 3(1)(b) below, the person who immediately before the death of the person there mentioned was the employer of that person;

or (in either case) means, if there is another employer within a group of companies to whom the protected beneficiary is treated as allocated for the purpose of valuing his accrued pension rights, that employer, and “employment” shall be construed accordingly;

“Fund” means the Port of London Authority Pension Fund;

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“future pension rights”, in relation to a protected employee, means the right for him to accrue pension rights on a basis no worse than that on which he was immediately before the transfer date entitled to accrue pension rights under the rules of the Fund;

“protected beneficiary” means a person to whom paragraph 3 below applies;

“protected employee” means a person to whom paragraph 2 below applies;

“protected person” means a person who is a protected beneficiary or a protected person;

“relevant pension scheme” means a scheme to which paragraph 5 below applies.

### **Protected employee**

2.—(1) Subject to sub-paragraph (2) below, this paragraph applies to any person transferred by virtue of the transfer under section 22(8) of the 1991 Act from the employment of the Port Authority to that of the Company who—

- (a) immediately before the transfer date is a member of the Fund; and
- (b) ceases to be such a member by virtue of the transfer.

(2) Sub-paragraph (1) above shall cease to apply to any person who—

- (a) gives notice in the form set out in Part II of this Schedule that he elects to cease to be a protected employee;
- (b) ceases to be in continuous employment; or
- (c) voluntarily withdraws from membership of a relevant pension scheme;

and the time at which the said sub-paragraph ceases to apply to a person mentioned in paragraph (a) above shall be the date on which the notice mentioned in that paragraph takes effect.

(3) Sub-paragraph (1) above shall not cease to apply to a person by virtue of paragraph (c) of sub-paragraph (2) above if he withdraws from a relevant pension scheme in order to transfer to another such scheme and does so transfer without ceasing to be in continuous employment.

### **Protected beneficiary**

3.—(1) Subject to sub-paragraph (2) below, this paragraph applies to any person—

- (a) to whom paragraph 2 above has ceased to apply pursuant to sub-paragraph (2) of that paragraph but who has accrued pension rights under a relevant pension scheme; or
- (b) who, on or after the transfer date, acquires pension rights under a relevant pension scheme by reason of the death of a person who was at the date of his death—
  - (i) a protected employee; or
  - (ii) a person to whom paragraph (a) above applies.

(2) Subject to paragraph (3) below, paragraph (1) above shall cease to apply to any person—

- (a) who gives notice in the form set out in Part II of this Schedule that he elects to cease to be a protected beneficiary; or
- (b) in respect of all or part of whose accrued pension rights a payment is, at his request, made to a pension scheme not being a relevant pension scheme.

(a) (3) (a) The time at which sub-paragraph (1) above ceases to apply to a person mentioned in paragraph (a) of sub-paragraph (2) above shall be the date on which the notice mentioned in that paragraph takes effect.

(b) Where a payment mentioned in paragraph (b) of the said sub-paragraph (2) is in respect of part only of the accrued pension rights of the protected person, the said sub-paragraph (1)



shall cease to apply only as respects the accrued pension rights in respect of which the payment mentioned in the said paragraph (b) is made.

### **Continuity of employment**

4. So much of Schedule 13 to the Employment Protection (Consolidation) Act 1978<sup>(8)</sup> as has effect for the purpose of ascertaining whether any employment is continuous shall apply for the purposes of the provisions of this Schedule as if those provisions were contained in that Act.

### **Relevant pension scheme**

5.—(1) This paragraph applies to a pension scheme which—

- (a) provides for the payment of contributions by protected employees and for valuations of the scheme on a basis (both as to the rate of such contributions and as to the frequency of valuations and the funding of deficits) which would not cause a protected person to be placed in any worse position than under the corresponding provisions of the rules of the Fund in force immediately before the transfer date;
- (b) is capable of receiving, at the request or with the consent of a protected person,—
  - (i) from the Fund, a transfer payment in respect of his accrued pension rights under the rules of the Fund; or
  - (ii) from a pension scheme which has itself received from the Fund or from another pension scheme a transfer payment in respect of his accrued pension rights under the rules of the Fund, a transfer payment in respect of his rights under that pension scheme (including—
    - (A) pension rights provided by that scheme in respect of his accrued pension rights under the rules of the Fund; and
    - (B) pension rights provided by that scheme in respect of accrued pension rights under another such scheme pursuant to the provisions of this Schedule); and
- (c) provides future pension rights for each protected employee who participates in the scheme.

(2) A scheme to which this paragraph applies may—

- (a) in addition to providing benefits for protected persons, provide benefits for other persons upon such terms as the employer or other person having the right to make or change the provisions of the scheme may determine; and
- (b) include provision for any one or more of the protected persons who participate in the scheme of benefits additional to those provided in pursuance of the provisions of sub-paragraph (1) above, with or without an obligation to pay additional contributions, so however that it may not be a condition of membership of the scheme that a protected person shall be required to pay contributions at a higher percentage rate in relation to his remuneration than he was required to pay under the rules of the fund in force immediately before the transfer date.

(3) A relevant pension scheme which ceases to conform to the provisions of any paragraph of sub-paragraph (1) above shall cease to be a relevant pension scheme.

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(8) 1978 c. 44; Schedule 13 was amended by the Employment Act 1980 (c. 42), Schedule 1, paragraphs 31 and 32, by the Employment Act 1982 (c. 46), Sections 20 and 21 and Schedule 2, paragraphs 7(2) and (3), Schedule 3, paragraph 2(2) and Schedule 4 and by the Reserve Forces (Safeguard of Employment) Act 1985 (c. 17), Section 21(2)(a) and Schedule 4, paragraph 6 and Schedule 5.

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### **Duty to provide relevant pension scheme**

6.—(1) The employer of one or more protected employees shall at all times provide for the protected employees in his employment a relevant pension scheme and shall enable each such protected employee to participate in that scheme in order to accrue future pension rights.

(2) If a transfer payment is made to a relevant pension scheme in respect of the accrued pension rights of a protected person, the employer providing that scheme shall procure that the rules of that scheme secure for that person in respect of that payment—

- (a) in so far as the accrued pension rights are or are in respect of rights to which immediately before the transfer date the protected person was entitled under the rules of the Fund, pension rights which are no worse than those accrued pension rights;
- (b) in so far as the accrued pension rights are or are in respect of rights which he has since the transfer date accrued pursuant to the provisions of this Schedule, pension rights which are no worse than the pension rights so far accrued.

### **Protection of accrued pension rights**

7.—(1) Subject to sub-paragraphs (2) and (3) below, the employer of a protected person shall at all times ensure that the assets of any relevant pension scheme provided by the employer in respect of that person are such that, in the event of the winding up of that scheme, there would be available in respect of the accrued pension rights of that person a sum equal to or exceeding the liability of that scheme in respect of those rights.

(2) Where the assets of the scheme do not at any time equal or exceed that liability, but—

- (a) a valuation of that scheme has been produced by a Fellow of the Institute of Actuaries or of the Faculty of Actuaries having its effective date no later than three years and six months after—
  - (i) the effective date of the previous valuation of that scheme; or
  - (ii) if the scheme has not been established for three years and six months, the date the scheme was established; and
- (b) the employer has taken and continues to take such steps as are reasonable in all the circumstances (having regard to good actuarial practice) to make good any deficiency in respect of the accrued pension rights of the protected person (calculated on the same basis as that applicable under sub-paragraph (1) above) stated, whether expressly or by implication, in that valuation;

the employer shall not be in breach of his duty under sub-paragraph (1) above.

- (a) (3) (a) In the event of the winding up, in whole or in part, of a relevant pension scheme, each employer who will as a result cease to participate in that scheme shall cause a valuation to be made by a Fellow of the Institute of Actuaries or the Faculty of Actuaries of the assets and liabilities of that scheme in respect of the protected persons whose employer he is.
- (b) If the valuation required under paragraph (a) above indicates that the assets held in respect of the accrued pension rights are insufficient to meet the liabilities of the scheme in respect of those rights, then, subject to paragraph (c) below, the employer shall forthwith pay—
  - (i) into the scheme; or
  - (ii) to an insurance company (being an insurance company to which Part II of the Insurance Companies Act 1982(9) applies and which is authorised by or under

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(9) 1982 c. 50.

section 3 or 4 of that Act to carry on ordinary long-term insurance business as defined in that Act) for the purchase of an annuity;

an amount such as will secure that those liabilities are met.

- (c) The employer shall not be required to make under paragraph (b) above a payment in respect of the liabilities of the scheme for the accrued pension rights of a protected person if—
- (i) those accrued pension rights are transferred to another relevant pension scheme; and
  - (ii) the rules of the relevant pension scheme to which the accrued pension rights are transferred require a valuation of its assets to be produced as at a date within three years and six months of the effective date of the last valuation of the relevant pension scheme from which those rights are transferred.

### **Winding up of relevant pension scheme**

**8.** If any action is taken under the rules of a relevant pension scheme for the winding up, in whole or in part, of the scheme, each employer of protected employees who participates in the scheme shall forthwith notify each of his protected employees of the alternative arrangements he proposes to make and of the relevant pension scheme which he will provide for them to participate in instead of the first-mentioned relevant pension scheme.

### **Amendment of relevant pension scheme**

**9.** No amendment shall be made to the provisions of a relevant pension scheme which would result in the benefits under that scheme for or in respect of a protected person being reduced, or his contributions as a percentage of his remuneration being increased, without that person's written consent.

### **Persons owing a duty**

**10.—(1)** A duty imposed by a provision of this Schedule on the employer of a protected person shall also be a duty owed by—

- (a) if the employer is not the Company, the Company; and
- (b) any other person who has been an employer of the protected person while he was a protected person.

(2) If a protected employee becomes the employee of a new employer and does not require the accrued pension rights to which he is entitled immediately before the change of employer to be transferred to a relevant pension scheme provided by his new employer in accordance with the provisions of this Schedule, any former employer of whose relevant pension scheme those rights remain a liability shall be treated as the employer of that person for the purposes of this Schedule in respect of those rights until such time as they are transferred to another relevant pension scheme.

### **Indemnities for breaches of duty**

**11.—(1)** The provisions of this paragraph shall have effect in the event that an employer of a protected person is in breach of a duty imposed by a provision of this Schedule.

(2) In this paragraph—

“relevant duty” means a duty imposed by a provision of this Schedule;

“relevant employer” means an employer who is in breach of a relevant duty.

(3) If—

- (a) the Company (not being itself the relevant employer); or

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(b) any other person who has been an employer of the protected person while he was a protected person;  
is required to fulfil a relevant duty, the relevant employer shall be liable to indemnify the Company or that other person.

**PART II**  
**NOTICE OF ELECTION**

To .....  
(Name of Employer – Note 1)  
.....  
(Address of Employer – Note 2)  
.....  
.....

1. I ..... of .....  
(Full Name) (Address)  
.....  
am a person to whom section 24 of the Ports Act 1991 (which provides for the protection of pension rights) applies.
2. I give you notice that I elect that the said section 24 shall cease to apply to me and, in particular, that I elect to cease to be a protected employee/protected beneficiary.  
(Note 3)
3. This election shall take effect on .....  
(Note 4)

SIGNED ..... DATE .....  
(Note 5)

**NOTES**

1. A protected employee should insert the name of his or her employer at the date of the notice. A protected beneficiary should insert the name of the person satisfying the definition of employer in paragraph 1 of Schedule 2 to the Port of Tilbury Transfer Scheme 1991.
2. Insert the address of the principal office or the registered office in the United Kingdom of the employer.
3. Delete the category which does not apply. The terms “protected employee” and “protected beneficiary” are defined in paragraphs 1, 2 and 3 of the 1991 Scheme.
4. The effective date, from which the protection will cease, should be inserted. This must not be less than 30 days after the date on which the notice is sent to the employer.
5. A NOTICE, ONCE GIVEN, CANNOT BE WITHDRAWN.

**SCHEDULE 3**

Paragraph 5

**FUNCTIONS EXCEPTED FROM TRANSFER**

1. The functions of the Port Authority under Part III of the 1968 Act to the extent to which, apart from the provisions of this paragraph, those functions would or might be transferred, with the exception of the functions of the Port Authority under sections 5, 6, 9, 11(2) to (4) and (6), 16 and 18(2) of that Act.

2. The functions of the Port Authority under sections 46 to 59 of the 1968 Act to the extent to which, apart from the provisions of this paragraph, those functions would or might be transferred.

3. The functions of the Port Authority under Part V of the 1968 Act to the extent to which, apart from the provisions of this paragraph, those functions would or might be transferred, with the exception of the functions of the Port Authority under sections 64, 83 and 85 of that Act.

4. The power of the Port Authority under Part VII of the 1968 Act to designate a part of the Thames as an area in which the power to give directions under section 112 of that Act is to be exercisable by a dockmaster and the power of the Port Authority under that Part to revoke the designation of such an area if, apart from the provisions of this paragraph, those powers would be transferred.

5. The power of the Port Authority under section 121(1)(a) of the 1968 Act to remove anything, other than a vessel, causing or likely to become an obstruction or impediment in any part of the Thames (in so far as, if at all, that power would or might apart from the provisions of this paragraph be to any extent transferred).

6. The other functions of the Port Authority under Part VII of the 1968 Act to the extent to which, apart from the provisions of this paragraph, those functions would or might be transferred, with the exception of—

- (a) the functions of the Port Authority under sections 113, 114, 118, 120(1) to (5) and (7), 121, 134 and 138 of that Act; and
- (b) the functions of a dockmaster under sections 112(1)(b) and 136 and of a duly authorised officer of the Port Authority under section 137 of that Act (in so far as, if at all, those functions are functions of the Port Authority).

7. The functions of the Port Authority under sections 162 and 163 of the 1968 Act to the extent to which, apart from the provisions of this paragraph, those functions would or might be transferred.

8. The functions of the Port Authority under subsection (5) of section 200 of the 1968 Act to the extent to which, apart from the provisions of this paragraph, those functions would or might be transferred.

9. The functions of the Port Authority under section 205 of the 1968 Act to the extent to which, apart from the provisions of this paragraph, those functions would or might be transferred.

10. The functions of the Port Authority under the rules set out in Schedule 3 to the 1968 Act, altered as provided for by the said rules, to the extent to which, apart from the provisions of this paragraph, those functions would or might be transferred.

#### SCHEDULE 4

Paragraph 6

#### AMENDMENTS TO THE PORT OF LONDON ACT 1968

1. The following shall be treated as inserted after the definition of “charges” in section 2(1) of the 1968 Act—

““the Company” means Port of Tilbury London Limited, being the company formed in pursuance of section 21 of the Ports Act 1991 and registered under the Companies Act 1985 with the number 2659118;

“the Company’s docks” means the docks at Tilbury belonging to or administered by the Company and includes locks, basins and cuts forming part of those docks, and “a dock of the Company” shall be construed accordingly;

“the Company’s port premises” means the docks and landing places at Tilbury at any time vested in, belonging to or administered by the Company and all other works and land at any

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time vested in, belonging to or administered by the Company for the purpose of operating those docks and landing places;

“the Company’s Tilbury undertaking” means the undertaking for the time being of the Company which consists in operating the Company’s port premises or, if the undertaking for the time being of the Company consists in more than that, that part of the undertaking of the Company which for the time being so consists;”.

2. At the end of the definition of “harbourmaster” in section 2(1) of the 1968 Act there shall be treated as being added the words “but does not mean or include a person appointed by the Company or the deputies or assistants of a person appointed by the Company”.

3. The following shall be treated as substituted for the definition of “port police area” in section 2(1) of the 1968 Act–

““port police area” means the Company’s port premises and any place within one mile of those premises;”.

4. The following subsection shall be treated as inserted after subsection (1) of section 2 of the 1968 Act–

“(1A) For the purpose of construing this Act as it applies in relation to functions of the Port Authority under this Act to the extent to which those functions are by virtue of section 22(8)(b) of the Ports Act 1991 transferred to the Company–

“docks” means the Company’s docks, and “dock” shall be construed accordingly;

“the limits” means the area of the Company’s port premises, and, in addition, includes the waters immediately adjoining any of the landing places at Tilbury belonging to or administered by the Company;

“port premises” means the Company’s port premises;

“undertaking” means the Company’s Tilbury undertaking.”.

5. Section 5 of the 1968 Act shall be treated as amended by–

(a) the substitution of the following subsections for subsection (1) of that section–

“(1) It shall be the duty of the Port Authority to take such action as they consider necessary or desirable for or incidental to the improvement and conservancy of the Thames.

(1A) The Port Authority shall have power to provide, maintain, operate and improve such port and harbour services and facilities in, or in the vicinity of, the Thames as they consider necessary or desirable and to take such action as they consider incidental to the provision of such services and facilities.”; and

(b) the insertion in subsection (3) of that section of “, (1A)” after “(1)”.

6. The following sections shall be treated as inserted after section 5 of the 1968 Act–

**“5A General duties and powers of the Company.**

(1) It shall be the duty of the Company to provide, maintain, operate and improve such port and harbour services and facilities at the Company’s port premises as the Company considers necessary or desirable and to take such action as it considers incidental to the provision of such services and facilities.

(2) The Company shall have power either itself or by arrangement between itself and another person to take such action as the Company considers necessary or desirable in, or in the vicinity of, the Company’s docks–

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- (a) for the purpose of discharging or facilitating the discharge of any of its duties, including the proper development or operation of the company's tilbury undertaking;
- (b) for the provision, maintenance and operation of—
  - (i) warehousing services and facilities;
  - (ii) services and facilities for the consignment of goods on routes which include the Company's port premises.

(3) Particular powers conferred or particular duties laid upon the Company by this Act (as having effect by virtue of subsection (8)(b) of section 22 of the Ports Act 1991 or any provision of a scheme made under that section) shall not be construed as derogating from each other or from the generality of subsections (1) and (2) of this section.

#### **5AA Company's functions subordinate to Port Authority's functions.**

**5AA.** the exercise in, under or over the thames by the company or by any officer of the company of any function which is, by virtue of section 22(8)(b) of the ports act 1991 or otherwise, conferred on it or him by or under this or any other act shall be subject to—

- (a) any enactment (including any provision of this Act or of any subordinate legislation) relating to or made by the Port Authority; and
- (b) the exercise by the Port Authority or their harbourmaster of any function conferred on them or him by or under any local statutory provision.”.

**7.** The power of the Port Authority under paragraph (ii) of section 39(3) of the 1968 Act to detain goods which are on the port premises shall be treated as including power to seize any such goods from the Company's port premises and detain them.

**8.** Section 120(1) of the 1968 Act shall be treated (if, apart from the provision made by this paragraph, it would not have been treated) as if—

- (a) as regards the opinion of the harbourmaster there mentioned, the reference were only to a vessel sunk, stranded or abandoned in the Thames which is, or is likely to become, an obstruction, impediment or danger to the safe and convenient navigation or use of the Thames; and
- (b) as regards the opinion of the dockmaster so mentioned, the reference were only to a vessel sunk, stranded or abandoned in the docks which is, or is likely to become, an obstruction, impediment or danger to the safe and convenient navigation or use of the docks.

**9.** In its application to the Company section 121 of the 1968 Act shall have effect as if in subsection (1)(a) thereof the reference to an obstruction or impediment in any part of the Thames or in a dock were a reference to an obstruction or impediment in the Company's docks.

**10.** In so far as section 137 of the 1968 Act relates to the purposes of any enactment relating to the Port Authority or of any byelaw of the Port Authority (as distinct from the purposes of any enactment relating to the Company or of any byelaw of the Company) or to the prevention or extinguishing of fire, the reference in that section to the docks shall be treated as including a reference to the Company's docks.

**11.—(1)** Where—

- (a) a vessel is intended to be brought into the Company's docks carrying dangerous goods; or
- (b) it is intended to place dangerous goods on a vessel in the Company's docks;

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section 150 of the 1968 Act, so far as still in force<sup>(10)</sup>, shall be treated as applying as it applies where—

- (i) a vessel is intended to be brought into the limits carrying dangerous goods; or
- (ii) it is intended to place dangerous goods on a vessel within the limits;

and in that section as treated as so applying—

- (A) the references to the limits shall be treated as references to the Company's docks;
- (B) the reference to the harbourmaster of the Port Authority shall be treated as a reference to the dockmaster of the Company; and
- (C) the references to the Port Authority in subsection (3) shall be treated as references to the Company.

(2) A requirement imposed on the owner or master of a vessel by the said section 150 as treated as applying by virtue of sub-paragraph (1) above is without prejudice to any requirement imposed on him by that section otherwise than by virtue of that sub-paragraph.

**12.** In so far as section 154 of the 1968 Act would, apart from the provisions of this paragraph, continue to confer functions on the Port Authority (as distinct from conferring functions on the Company by virtue of the transfer of functions under section 22(8)(b) of the 1991 Act), that section shall cease to have effect.

**13.** Sections 158 and 159 of the 1968 Act and all references in that Act to “specified premises” shall be treated as having ceased to have effect.

**14.** In so far as section 169 of the 1968 Act relates to—

- (a) a byelaw of the Company; or
- (b) a byelaw of the Port Authority which, by virtue of paragraph 7 of Schedule 2 to the 1991 Act, applies in relation to the Company's docks or the Company's port premises;

the reference in that section to authentication of a copy of the byelaw by the seal of the Port Authority and the signature of their secretary shall be treated as a reference to authentication of a copy of the byelaw in accordance with section 41 of the Companies Act 1985<sup>(11)</sup>.

**15.** In its application to the Company subsection (1) of section 175 of the 1968 Act shall have effect as if the reference to section 5 of that Act were replaced by a reference to section 5A of that Act (which is to be treated as inserted in that Act by virtue of paragraph 6 of this Schedule).

**16.** The limits described in paragraph 2 of Schedule 1 to the 1968 Act shall be treated as including (if, apart from the provision made by this paragraph, they would not have included) the Company's docks.

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<sup>(10)</sup> Section 150 was repealed by the Dangerous Substances in Harbour Areas Regulations 1987 (S.I. 1987/37), Schedule 8, Part II, to the extent stated in regulation 47(5).

<sup>(11)</sup> 1985 c. 6; section 41 was amended by the Companies Act 1989 (c. 40), section 130(7) and Schedule 17, paragraph 4.



## SCHEDULE 5

Paragraph 7

## WORKS LICENCES

## PART I

## THE LICENSED WORKS

(1)	(2)	(3)
<i>Brief Description</i>	<i>Period of Notice</i>	<i>Permitted Use</i>
1 <i>Passenger Landing Stage (London International Cruise Terminal) and Ro/Ro Berth</i>  Main Poontoon, Approach Brows, Booms (A, B, C), Travelling Gangways, safety Chains, Accommodation (Main Pontoon), (i) Bailey Bridge (ii) Breasting Dolphin (iii) Mooring Dolphin (iv) Pontoon (v) Pontoon (First Floor) (vi) Terminal Buildings	12 months	Embarkation and disembarkation of passengers, loading and discharging of goods and cargo, ship repairs, office and storage
2 <i>Tilbury Riverside Station forecourt and jetty supporting bailey bridge</i>  Supports and raft Jetty	12 months	Access to station and parking, access to eastern end of Tilbury Riverside Landing Stage and support for bailey bridge
3 <i>Tidal Basin Lead-in Jetty</i>	3 months	Lead-in jetty for vessels using the Tidal Basin
4 <i>Repair Jetty (Lower) Main Jetty, Approach Jetty, Bailey Bridge, Mooring Dolphin, 2 Cranes,</i>	6 months	Ship repair

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(1) <i>Brief Description</i>	(2) <i>Period of Notice</i>	(3) <i>Permitted Use</i>
	Building, Pipelines.	
5	<i>Repair Jetty (Upper)</i> Main Jetty, Approach Jetty, Mooring Dolphins, Crane.	6 months  Ship repair
6	<i>Cargo Jetty</i> Main Jetty, Approach, Swingbridge, Mooring Dolphin, Crane, Safety Chain/Rail, Building, Covered Warehouse Space	12 months  Covered storage, loading and unloading of cargoes
7	<i>Entrance Lock-Lead- In Jetties</i>	
	(i) <i>Downstream Jetty</i> Walkway, Linear Fendering, Building, Mooring Dolphin, Ladder.	6 months  Berthing and unberthing of vessels using Tilbury Dock
	(ii) <i>Upstream Jetty</i> Main Jetty, Walkway, Fender Piles, Ladders, Safety Chain.	6 months  Berthing and unberthing of vessels using Tilbury Dock
8	<i>Northfleet Hope Container Terminal</i> Main Jetty (False Quay), Fender Piles 21, Inspection Tunnel, 8" F.W. Pipe, Walkway, Building, 2 Cranes.	6 months  Import and export of cargoes
9	<i>Grain Terminal</i>  (i) <i>Approach Jetty</i> Jetty area,	12 months  Import and export of grain, seed, animal

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(1) <i>Brief Description</i>	(2) <i>Period of Notice</i>	(3) <i>Permitted Use</i>
	Overhead gantry, support structures and conveyor belts, 2 × Site Offices, 6" F.W. Pipes, Dry Riser 6" F.W. Pipes, Wet Main Fire Hydrants, Galvanised Fence, Safety Rail.	foodstuffs and other similar products
(ii) <i>Barge Mooring Station</i>	12 months	Lying-up berth for vessels at the Grain Terminal
(iii) <i>Coaster Berth</i>	12 months	Import and export of grain, seed, animal foodstuffs and other similar products
(iv) <i>Main Jetty</i>	12 months	Import and export of grain, seed, animal foodstuffs and other similar products

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(1) <i>Brief Description</i>	(2) <i>Period of Notice</i>	(3) <i>Permitted Use</i>
<p>6 × Barge Loading Spouts Installations, Ladders, Safety Chains, Overhead Conveyor Installation, Chain Conveyor, Export Conveyor, Sub-Station, Junction Tower and Steps.</p>		
<p>(v) <i>Ships Tier</i> Gravesend Mooring, Tilbury Grain Terminal Mooring.</p>	<p>12 months</p>	<p>Moorings for vessels using the Grain Terminal</p>
<p>10 <i>Impounding Station</i> <i>Intake Heads</i> 4 × pumps.</p>	<p>3 months</p>	<p>Impounding of water into Tilbury Dock.</p>

## PART II

### TERMS OF LICENCES

#### *(a) General*

1. In any case where the reassessed consideration for the licence requires the agreement of the Company, if the Company does not object to any reassessed consideration from time to time proposed by the Port Authority, within 28 days of the receipt by the Company of a notice from the port authority setting out such reassessed consideration, the company shall be deemed to have agreed to such reassessed consideration.

2. The Company may end the licence by giving to the Port Authority notice expiring at any time after the works have been removed from the River Thames and the river bed has been reinstated to the Port Authority’s reasonable satisfaction.

3. If the Company does not alter or remove the works in accordance with the Company’s obligations, the Port Authority may do so and the Company shall repay to the Port Authority on demand any expenses so incurred by the Port Authority.

4.—(1) The licence is personal to the Company and is not assignable.

(2) The licence does not confer on the Company any right which would or might obstruct private rights appurtenant to any other riparian land.

(3) The licence, which is to be regarded as having been granted under section 66(1) of the 1968 Act, does not constitute consent under any other provision of that Act or under any other Act of Parliament (whether public general, local, or private).

*(b) Obligations of the Company*

5. The Company is to observe and perform the following obligations:-

- (a) to pay to the Port Authority in arrear on the anniversary of the transfer date or such other date as may be fixed by the Port Authority the consideration for the licence (proportionately reduced for a period of less than one year) and also to pay the Port Authority's reasonable charges in connection with the negotiation of the consideration and the renegotiation of the consideration from time to time;
- (b) to pay to the Port Authority on demand interest at the rate of 4% above National Westminster Bank PLC base lending rate from time to time on the consideration for the licence for the period starting on the expiration of 30 days from the date when such consideration is due or, if the consideration has not been agreed or assessed, on the expiration of 30 days from the date when such consideration would have been due if agreed or assessed on the transfer date or, in the case of renegotiation of the consideration, on the date when such renegotiation should have taken effect and ending when the consideration or the renegotiated consideration is paid;
- (c) to maintain the works to the Port Authority's satisfaction;
- (d) to alter the works from time to time to such extent and within such time as the Port Authority may by notice require;
- (e) to remove the works from the River Thames and to reinstate the river bed to the Port Authority's reasonable satisfaction before the expiration of any notice of revocation of the licence given by the Port Authority and (unless the Department of Transport have already approved the works) to remove the works immediately if the Department of Transport so require;
- (f) to indemnify the Port Authority against all actions, proceedings, claims, demands, damages, expenses, costs and losses arising out of the works or the grant of the licence;
- (g) not to make any claim against the Port Authority in respect of any loss of or damage to the works arising out of the exercise by the Port Authority of their statutory or other powers;
- (h) to accept responsibility for any siltation or erosion caused by the works;
- (i) to light and mark the works as the Port Authority's Harbour Master may from time to time direct.

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SEALED with the Common Seal of the Port of London Authority in my presence

L.S.

G. ENNALS  
Secretary

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### EXPLANATORY NOTE

*(This note is not part of the Order)*

The Order confirms the Port of Tilbury Transfer Scheme 1991, as modified by the Secretary of State for Transport.

The Scheme was made by the Port of London Authority under section 22 of the Ports Act 1991 to provide for the transfer to Port of Tilbury London Ltd (a company formed by the Authority under section 21 of that Act) of property, rights and liabilities of the Authority comprised in that part of the Authority's undertaking which consists in operating the port of Tilbury.

By virtue of section 22 of the Act, the Scheme takes effect on the date on which the Order comes into force, 28th February 1992. On that date the property, rights and liabilities of the Authority affected by the Scheme are transferred to the company; and (subject to the exceptions provided for under paragraph 5 of the Scheme) functions of the Authority under local statutory provisions are transferred to and become functions of the company to the extent to which those provisions relate to any property, right or liability transferred by the Scheme or to any part of the Authority's undertaking so transferred.

Plan 1 and Plan 2, referred to in paragraph 2(1)(a) and (c) of the Scheme, may be inspected at the offices of the Port of London Authority at International House, 1 St Katharine's Way, London E1 9UN, at all reasonable hours.