



# Harbours Act 1964

## 1964 CHAPTER 40

### *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>F1</sup>the Secretary of State] for the exercise and performance of [<sup>F1</sup>his functions] under this Act, it shall be lawful for [<sup>F1</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>F1</sup>the Secretary of State] such information or forecasts . . . <sup>F2</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>F1</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;

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>F3</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>F4</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

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furnished before the date on which the harbour becomes a fishery harbour or marine work.

#### Textual Amendments

- F1** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 5 para. 11**
- F2** Words repealed by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), **s. 48**
- F3** [S. 41\(2\)](#) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**
- F4** 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**)

#### [<sup>F5</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>F6</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.

- (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>F7</sup>Companies Act 1985] as to the form and contents of accounts and reports required to be prepared under [<sup>F8</sup>that Act] shall apply to accounts and reports required to be prepared under this section, as follows—

- (a) the provisions relating to [<sup>F9</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>F10</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—

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- (a) prescribing cases in which the provisions of the [F7Companies Act 1985] 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;
  - [F11 “parent undertaking” and “subsidiary undertaking” have the same meaning as in Part VII of the Companies Act 1985;]
  - “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;
  - (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

- F5** S. 42 substituted by Transport Act 1981 (c. 56, SIF 58), **Sch. 6 para. 10**
- F6** S. 42(2) substituted by Companies Act 1989 (c. 40, SIF 27), s. 23, **Sch. 10 para. 26(2)** (subject to savings in S.I. 1990/355, art. 8, **Sch. 3 para. 1**)
- F7** Words substituted by virtue of Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), s. 30, **Sch. 2**
- F8** Words substituted by Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), s. 30, **Sch. 2**
- F9** Words substituted by Companies Act 1989 (c. 40, SIF 27), s. 23, **Sch. 10 para. 26(3)(a)**, (subject to savings in S.I. 1990/355, art. 8, **Sch. 3 para. 1**)
- F10** 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**
- F11** Definitions substituted by Companies Act 1989 (c. 40, SIF 27), s. 23, **Sch. 10 para. 26(4)** (subject to savings in S.I. 1990/355, art. 8, **Sch. 3**, para. 1)

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

- C1** S. 42 extended by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 4 para. 1(2)(3)**
- C2** S. 42 extended by [Pilotage Act 1987 \(c. 21, SIF 111\)](#), **s. 14(1)**
- C3** 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)**

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