



Ports Act 1991

1991 CHAPTER 52

PART III

MISCELLANEOUS AND SUPPLEMENTARY

Lighthouses

31 Responsibility for local lighthouses

- (1) Every harbour authority shall have power to carry out harbour operations to which subsection (2) below applies either within the authority's area or on harbour land.
- (2) This subsection applies to harbour operations consisting of the marking or lighting of a harbour or any part of a harbour.
- (3) Every harbour authority shall be regarded (without prejudice to whether or not the authority would fall to be so regarded apart from this section) as a local lighthouse authority within the meaning given in section 634(1) of the Merchant Shipping Act 1894 (persons and bodies having by law or usage authority over local lighthouses, buoys or beacons).
- (4) A general lighthouse authority shall not in the area of a harbour authority—
 - (a) erect or place any lighthouse, works, roads or appurtenances under paragraph (a) of section 638 of that Act (general powers of lighthouse authorities); or
 - (b) erect or place any buoy or beacon under paragraph (c) of that section; except in pursuance of a direction given by the Secretary of State.
- (5) The Secretary of State may give such a direction to a general lighthouse authority if he considers it appropriate to do so in the interests of general navigation.
- (6) In section 653 of that Act (control of local lighthouse authorities by general lighthouse authorities) for subsections (3) and (4) (which provide in certain circumstances for a transfer to the general lighthouse authority of the powers of a local lighthouse authority

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with respect to lighthouses, buoys or beacons) there shall be substituted the following subsection—

“(3) A direction under subsection (1) of this section shall be given in writing; and it shall be the duty of a local lighthouse authority to whom such a direction is given to comply with it.”

- (7) In this section “harbour land” and “harbour operations” have the same meanings as in the Harbours Act 1964 or, as respects Northern Ireland, as in the Harbours Act (Northern Ireland) 1970.

32 General transfer of local lighthouses from general lighthouse authorities to harbour authorities

- (1) Before such date as may be specified in a direction given by the Secretary of State to each of the general lighthouse authorities, each of those authorities shall submit to the Secretary of State proposals in writing for the transfer under this section to the appropriate harbour authorities of such of the lighthouses, buoys and beacons held by the general lighthouse authority concerned as—
- (a) are situated in the area of any harbour authority or on land adjacent to the area, or any part of the area, of such an authority; and
 - (b) appear to the general lighthouse authority concerned to be of benefit solely or mainly to ships within, or entering or leaving, that harbour authority’s area.
- (2) For the purposes of this section, a harbour authority are the appropriate harbour authority in relation to any such lighthouse, buoy or beacon if the lighthouse, buoy or beacon is situated in that authority’s area or on land adjacent to that area or any part of it.
- (3) The proposals submitted by each general lighthouse authority shall—
- (a) specify the lighthouses, buoys and beacons which the authority consider are required by subsection (1) above to be covered by the proposals;
 - (b) specify in relation to each lighthouse, buoy or beacon specified in the proposals the harbour authority who are the appropriate harbour authority in relation to it; and
 - (c) specify in relation to each harbour authority so specified any property of the general lighthouse authority which has been used up to the date of the proposals exclusively in connection with the exercise by that authority of their functions in relation to lighthouses, buoys or beacons so specified which are situated in that harbour authority’s area or on land adjacent to that area or any part of it.
- (4) The proposals may specify in relation to any harbour authority so specified any property of the general lighthouse authority—
- (a) which has been used up to the date of the proposals substantially but not exclusively as mentioned in subsection (3)(c) above; and
 - (b) which the general lighthouse authority consider it would be appropriate to transfer to that harbour authority.
- (5) Before submitting any proposals under this section a general lighthouse authority shall consult each harbour authority specified in the proposals.
- (6) The Secretary of State may make such modifications of any proposals submitted to him in accordance with this section as he thinks fit after consulting the general lighthouse

authority who submitted the proposals; and, if he does so, references in subsection (8) below to any proposals under this section are references to the proposals as modified.

- (7) Before deciding whether to make any such modifications—
- (a) affecting any harbour authority specified in the proposals; or
 - (b) by virtue of which provision would be included in the proposals for the transfer to a harbour authority under this section of any lighthouse, buoy or beacon;

the Secretary of State shall consult the harbour authority concerned.

- (8) On such day as the Secretary of State may by order appoint as the transfer date for the purposes of this section—
- (a) all lighthouses, buoys and beacons specified in any proposals under this section; and
 - (b) any other property of a general lighthouse authority so specified;
- shall be transferred and vest in accordance with the proposals.

33 Individual transfers of local lighthouses

- (1) A general lighthouse authority may at any time, with the consent of the Secretary of State, transfer to a harbour authority any lighthouse, buoy or beacon held by the general lighthouse authority which—
- (a) is situated in the area of that harbour authority or on land adjacent to that area or any part of it; and
 - (b) appears to the general lighthouse authority to be of benefit solely or mainly to ships within, or entering or leaving, that harbour authority's area.

- (2) The reference in subsection (1) above to a lighthouse, buoy or beacon includes its appurtenances.

- (3) The Secretary of State shall not give his consent for the purposes of subsection (1) of section 654 of the Merchant Shipping Act 1894 (surrender to general lighthouse authorities of local lighthouses) in any case where the local lighthouse authority concerned are a harbour authority unless he considers that the maintenance of the lighthouse, buoy or beacon in question is in the interests of general navigation.

- (4) For subsections (2) and (3) of that section there shall be substituted the following subsection—

“(2) The reference in subsection (1) of this section to a lighthouse, buoy or beacon includes its appurtenances.”.

34 Provisions supplementary to sections 31 to 33

- (1) Any expenses incurred by a general lighthouse authority in connection with the discharge of their functions under section 32 or 33 above shall be paid out of the General Lighthouse Fund.

- (2) In sections 31 to 33 above and this section the following expressions have the same meanings as in the Merchant Shipping Act 1894—

“buoys and beacons”;
“general lighthouse authority”;
“lighthouse”; and

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“ship”.

- (3) In relation to any harbour authority, any reference in those sections to the authority’s area is a reference to the area or areas inside the limits within which the authority’s statutory powers and duties as a harbour authority are exercisable.

Supplementary

35 Corporation tax and taxation of company distributions

- (1) Where property, rights, liabilities and functions of a relevant port authority are transferred under section 2 above to a company formed in pursuance of section 1 above to be the authority’s successor company for the purposes of Part I above, the company shall be treated for all purposes of corporation tax as if it were the same person as the authority.
- (2) Where following the transfer to a company under section 2 above of property, rights, liabilities and functions of a relevant port authority securities of the company are issued or allotted to the authority in pursuance of section 3 above, the authority shall be treated for the purposes of corporation tax on chargeable gains as if the securities had been issued or allotted to the authority in consideration of the transfer.
- (3) Where apart from this subsection an allowable loss (within the meaning of the Capital Gains Tax Act 1979) would accrue to a former relevant port authority on a disposal on which levy under section 13(1) above is chargeable, the authority shall be treated for the purposes of corporation tax on chargeable gains as if the disposal had been made for a consideration of such amount as would secure that neither a gain nor a loss would accrue to the authority.
- (4) Any share issued by a company in pursuance of section 3 above shall be treated for the purposes of the tax provisions relating to company distributions as if it had been issued wholly in consideration of a subscription paid to that company of an amount equal to the nominal value of the share.
- (5) Any debenture issued by a company in pursuance of section 3 above shall be treated for the purposes of the tax provisions relating to company distributions as if it had been issued—
- (a) wholly in consideration of a loan made to that company of an amount equal to the principal sum payable under the debenture; and
 - (b) wholly and exclusively for the purposes of the trade carried on by that company.
- (6) Where a company is formed by the Port of London Authority in pursuance of section 21 above, section 278 of the Income and Corporation Taxes Act 1970 (deemed disposal of assets for capital gains purposes where member leaves group) shall not have effect as respects any relevant assets of the company on its ceasing for the purposes of sections 273 to 281 of that Act to be a member of the group of companies of which that Authority are the principal company.
- (7) For the purposes of subsection (6) above, assets of the company are relevant assets if they were acquired from that Authority by virtue of the scheme under section 22 above.

- (8) In this section “the tax provisions relating to company distributions” means the provisions of the Corporation Tax Acts, excluding any of those provisions relating to corporation tax on chargeable gains.

36 Stamp duty

- (1) No transfer effected by this Act shall give rise to any liability to stamp duty.
- (2) Stamp duty shall not be chargeable—
- (a) on the scheme under section 22 above;
 - (b) on any instrument which is certified to the Commissioners of Inland Revenue by the Port of London Authority as having been made or executed in pursuance of Schedule 2 to this Act; or
 - (c) on any proposals under section 32 above.
- (3) An instrument such as is mentioned in subsection (2)(b) above shall not be treated as duly stamped unless it is stamped with the duty to which it would be liable but for subsection (2) above, or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it is duly stamped.

37 Orders and regulations

- (1) Any power to make an order or regulations under this Act shall be exercisable by statutory instrument.
- (2) No order shall be made under section 13(5), 17 or 18(1) above unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, the House of Commons.
- (3) No order to which this subsection applies shall be made unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Subsection (3) above applies to an order which is made—
- (a) under subsection (7) of section 9 above as that subsection applies in relation to a scheme submitted under section 10 above;
 - (b) under section 12(8) above;
 - (c) under subsection (9) of section 22 above confirming a scheme submitted under subsection (1) of that section in pursuance of a direction under section 27(3) above; or
 - (d) under section 22(10) above.
- (5) A statutory instrument containing regulations under section 29 above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) If, apart from the provisions of this subsection, the draft of an order to which subsection (3) above applies would be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument it shall proceed in that House as if it were not such an instrument.

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38 Directions

- (1) It shall be the duty of any person to whom any directions are given in pursuance of any provision of this Act to give effect to those directions.
- (2) Any directions so given by a Minister of the Crown shall be in writing.

39 Expenses

Any expenses incurred by a Minister of the Crown in consequence of the provisions of this Act shall be paid out of money provided by Parliament.

40 General interpretation

- (1) In this Act—

“body” means a body corporate;

“equity share capital” has the meaning given by section 744 of the Companies Act 1985;

“functions” includes powers and duties;

“harbour” and “harbour authority” (subject to section 41(2) below) have the same meanings as in the Harbours Act 1964;

“liability” includes an obligation;

“local statutory provision” means—

- (a) a provision contained in, or in a document made or issued under, any local Act (including an Act confirming a provisional order); or
- (b) a provision of any other instrument which is in the nature of a local enactment;

“relevant port authority” has the meaning given by section 1(3);

“securities”, in relation to a company, includes shares, debentures, bonds and other securities of the company, whether or not constituting a charge on the assets of the company;

“shares” includes stock;

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

“subsidiary” and “wholly-owned subsidiary” have the meanings given by section 736 of the Companies Act 1985.

- (2) In this Act—

- (a) references, in relation to any company, to maximising participation by employees of the company in ownership of its equity share capital are references to securing the disposal of the whole or a substantial part of its equity share capital (“the relevant equity”) to—
 - (i) managers or other persons employed by the company; or
 - (ii) another company (“the acquiring company”) the whole or a substantial part of whose equity share capital is owned by managers or other persons so employed;

where the persons so employed participating in acquiring the relevant equity or (as the case may be) in ownership of the acquiring company’s equity share capital comprise the greatest possible number of persons so employed; and

- (b) references to a former relevant port authority are references to any body which immediately before a transfer under section 2 above was a relevant port authority.
- (3) For the purposes of any provision of this Act to which this subsection applies a person employed by a company which is a wholly-owned subsidiary of any company or other body mentioned in that provision shall be regarded as employed by the company or other body so mentioned.
- (4) Subsection (3) above applies to the following provisions of this Act—
 - section 2(3)(c);
 - section 5(3);
 - section 13(3)(b);
 - section 19(3)(b) and (6);
 - section 26(5);
 - section 28(2)(b) and (5); and
 - subsection (2)(a) above;(all of which are concerned with participation by employees of a company in ownership of its equity share capital or related matters).

41 Northern Ireland

- (1) Sections 31 to 35, 36(2)(c), 37 and 38 above, this section and section 42 below extend to Northern Ireland.
- (2) In sections 31 to 34 above as they apply to Northern Ireland, “harbour” and “harbour authority” have the same meanings as in the Harbours Act (Northern Ireland) 1970.
- (3) Notwithstanding anything in the Northern Ireland Act 1974, an Order in Council under paragraph 1(1)(b) of Schedule 1 to that Act may include provisions for purposes corresponding to those of sections 13 to 18 above.

42 Short title, commencement and extent

- (1) This Act may be cited as the Ports Act 1991.
- (2) The following provisions of this Act, that is to say—
 - (a) sections 31 and 33; and
 - (b) section 34 so far as relates to either of those sections;shall come into force on the day appointed under section 32(8) as the transfer date for the purposes of section 32.
- (3) Subject to section 41(1) above, this Act does not extend to Northern Ireland.