



# 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](#)

### 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*

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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**F1** Ss. 1–8, 12 repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt.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**F2** S. 9 repealed by [Ports \(Finance\) Act 1985 \(c. 30, SIF 58\)](#), s. 6(1)(2), **Sch.**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**F3** S. 10 repealed by [Ports \(Finance\) Act 1985 \(c. 30, SIF 58\)](#), s. 6(2), **Sch.**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)**

- C5 [S. 11](#) amended by [Harbours \(Loans\) Act 1972 \(c. 16, SIF 58\)](#), [s. 4\(1\)](#)
- C6 [S. 11\(1\)](#) extended by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), [s. 40\(5\)](#)

12 ..... F6

**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) ..... F7
- (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 Public Works Loan Commissioners for carrying any shipping purpose into effect at a harbour which is not for the time being a fishery harbour or marine work;
  - (b) ..... F9unless those Commissioners have agreed before the passing of this Act to make it.

**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](#)
- F9 [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](#)

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#### 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.
- (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>F10</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.]
- (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 a provision of the order framed to achieve any of the said objects and any [<sup>F11</sup>supplementary, consequential or incidental] provisions appearing to him to be requisite or expedient for the purposes of 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 repealing or amending 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 [<sup>F12</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>M3</sup>Magistrates' Courts Act 1980 or section 289B of the <sup>M4</sup>Criminal Procedure (Scotland) Act 1975;

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- (ii) in the case of an offence triable only summarily, the infliction on him of a fine exceeding [<sup>F13</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>F14</sup>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.
- (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 large-scale map on which the boundaries of that parcel are plainly delineated.
- (6) ..... <sup>F15</sup>
- (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

- F10** S. 14(2A) inserted by Transport Act 1981 (c. 56, SIF 58), Sch. 6 para. 2
- F11** Words substituted by Transport Act 1981 (c. 56, SIF 58), Sch. 6 para. 3
- F12** Words substituted by Transport Act 1981 (c. 56, SIF 58), Sch. 6 para. 14(2)
- F13** 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)
- F14** Words substituted by Transport Act 1981 (c. 56, SIF 58), Sch. 6 para. 14(3)
- F15** 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

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

- C7** S. 14 amended by Docks and Harbours Act 1966 (c. 28, SIF 58), s. 36(4)
- C8** 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
- C9** S. 14(2)(b) excluded by Docks and Harbours Act 1966 (c. 28, SIF 58), s. 36(2)
- C10** 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).

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## 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>F16</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>F17</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

**F16** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)

**F17** [S. 15\(2\)](#) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)

### Modifications etc. (not altering text)

**C11** 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](#)

**C12** [S. 15](#): transfer of certain functions (1.7.1999) by [S.I. 1999/672, art. 2, Sch. 1](#)

## <sup>F18</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

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- (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

**F18** S. 15A inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 5\(1\)](#)

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

**C13** S. 15A: transfer of certain functions (1.7.1999) by [S.I. 1999/672](#), [art. 2](#), [Sch. 1](#)

## 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;



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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.

- (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.
- (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>F19</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; 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>F20</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>F21</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>F22</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



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acquired compulsorily, be annexed to the order a large-scale map on which the boundaries of that parcel are plainly delineated.

(8) ..... F23

**Textual Amendments**

- F19** Words substituted by Transport Act 1981 (c. 56, SIF 58), **Sch. 6 para. 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. 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)**

- C14** 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
- C15** 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)**
- C16** S. 16(5) excluded by Docks and Harbours Act 1966 (c. 28, SIF 58), **s. 36(2)**
- C17** 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).

**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 [F24the 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 [F24the Secretary of State] of his own motion;
- (c) ..... F25
- (g) Part I of that Schedule shall, subject to the modifications specified in Part VII thereof, have effect with respect to the procedure for the making of harbour empowerment orders by [F24the Secretary of State];
- (h) ..... F26

[F27and the said Parts I, II and VII shall have effect with respect to the procedure for the making of orders by the Minister of Agriculture, Fisheries and Food with the substitution, except in paragraph 6(2), of references to him for references to the Secretary of State.]

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- (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.
- (3) No application under the <sup>M7</sup>General Pier and Harbour Act 1861 for a provisional order, being an application made after the end of September 1964, shall be entertained by the Minister or the Minister of Agriculture, Fisheries and Food in a case where he is satisfied that the objects to be achieved by the order could be achieved by a harbour revision or empowerment order or by a harbour revision and a harbour empowerment order combined.
- (4) No application for a harbour revision or empowerment order shall be entertained by the Secretary of State where he is satisfied that the objects to be achieved by the order could be achieved by an application for a provisional order under the General Pier and Harbour Act 1861 to which Part II of the <sup>M8</sup>Harbours, Piers and Ferries (Scotland) Act 1937 applies.

#### Textual Amendments

- F24** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 5 para. 14\(2\)](#)  
**F25** [S. 17\(1\)\(c\)—\(f\)](#) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)  
**F26** [S. 17\(1\)\(h\)\(i\)](#) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)  
**F27** Words inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 5 para. 14\(1\)\(3\)](#)

#### Marginal Citations

- M7** [1861 c. 45 \(58\)](#).  
**M8** [1937 c. 28 \(58\)](#).

### 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>F28</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>F29</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,—

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- (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;
- (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>F30</sup>or otherwise securing] the rights, as respects pensions, gratuities or other like benefits, of persons transferred by the scheme and their spouses 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 and dependents;

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- (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>F31</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 large-scale map on which the boundaries of that parcel are plainly delineated.
- [<sup>F32</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;
- 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>F33</sup>or make] a harbour reorganisation scheme containing such provision as is authorised by subsection (2)(e) above unless it also includes provision for the payment of compensation in respect of the transfer of the interests in question.
- (6) The Minister shall not confirm [<sup>F33</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

- F28** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)
- F29** [S. 18\(1A\)](#) inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 6\(1\)](#)
- F30** Words inserted by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), [s. 43\(1\)](#)
- F31** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 3](#)
- F32** [S. 18\(4\)](#) substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 6\(2\)](#)
- F33** Words inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 6\(3\)](#)

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

- C18** [S. 18](#) amended by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), [s. 36\(4\)](#)
- C19** [S. 18\(2\)\(h\)](#) amended by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), [s. 43\(2\)](#)

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- C20** 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
- C21** 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 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.

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

**C22** S. 19 amended by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), [s. 43\(2\)](#)

*Control of Movement of Ships in Harbours*

20— ..... <sup>F34</sup>  
25.

**Textual Amendments**

**F34** Ss. 20–25 repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)

*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>M9</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



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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;
- (b) a person carrying on an inland waterway undertaking to which provisions of section 43 of the <sup>M10</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>M11</sup>Fishery Harbours Act 1915.

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

**C23** S. 26 extended by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 4 para. 1\(2\)\(a\)](#)

**Marginal Citations**

**M9** 1847 c. 27 (58).

**M10** 1962 c. 46 (126).

**M11** 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>F35</sup>section 28 of the <sup>M12</sup>Salmon and Freshwater Fisheries Act 1975 by virtue of paragraph 1(a) of Schedule 3 to that Act][<sup>F36</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>F37</sup>section 25 of the said Act of 1975] to fish;
- (e) charges in respect of licences under [<sup>F38</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.



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- (3) In this section “harbour authority” has the same meaning as in the last foregoing section.

#### Textual Amendments

- F35** Words substituted by virtue of [Interpretation Act 1978 \(c. 30, SIF 115:1\)](#), **s. 17(2)(a)**
- F36** 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)
- F37** Words substituted by virtue of [Interpretation Act 1978 \(c. 30, SIF:1\)](#), **s. 17(2)(a)**
- F38** 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)

- C24** [S. 27](#) extended by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 4 para. 1(2)(a)**
- C25** [S. 27\(1\)](#) explained by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), **s. 46(1)**

#### Marginal Citations

- M12** [1975 c. 51 \(52:2\)](#).
- M13** [1963 c. 38 \(130\)](#).

### [<sup>F39</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.]

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**Textual Amendments**

**F39** 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>M14</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.

**Marginal Citations**

**M14** [1962 c. 46 \(126\)](#).

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

- (1) ..... <sup>F40</sup>any. ....  
<sup>F40</sup> statutory provision made with respect to a local lighthouse authority shall, ..... <sup>F41</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.
- (2) Subject to the following provisions of this Act, a local lighthouse authority who are not a harbour authority may demand, take and recover, in respect of every ship which enters or leaves a port, harbour or estuary wherein is situate a lighthouse, buoy or beacon wherever they have authority and which passes the lighthouse, buoy or beacon and derives benefit therefrom, such charges as they think fit.
- (3) Any reference in sections 655 and 656 of the said Act of 1894 to local light dues shall be construed as referring to charges exigible by virtue of this section.
- (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**

**F40** Words repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), [Sch. Pt. XI](#)

**F41** Words repealed by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), [s. 46\(2\)\(4\)\(a\)](#)

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

**C26** The “said Act of 1894” means [Merchant Shipping Act 1894 \(c. 60, SIF 111\)](#)

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### **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; or
  - <sup>F42</sup>(b) by virtue of section 43 of the <sup>M15</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>F43</sup>, the British Railways Board or the British Waterways Board and the harbour in question is not 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>F44</sup>5p] for each copy.
- (2) A list showing the charges for the time being exigible by virtue of section 29 of this Act by a local lighthouse authority . . . <sup>F45</sup> shall be kept at the authority's 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 there at a price not exceeding [<sup>F44</sup>5p] for each copy.
- (3) No ship, passenger or goods due exigible as mentioned in paragraph (a) or (b) of subsection (1) above shall be levied by, as the case may be the harbour authority or Board concerned if, at the time at which it is exigible, the authority or Board 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; and no charge exigible by virtue of section 29 of this Act by a local lighthouse authority shall be levied by the authority if, at the time at which it is exigible, either the authority are in default in compliance with the requirement of subsection (2) of this section with respect to the keeping of a list of such charges at the authority's office, or the charge is not shown in the list kept there at that time in compliance with that requirement.
- (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>F46</sup> at the office of a harbour which is not a fishery harbour or marine work . . . <sup>F46</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>F47</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>F48</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>F49</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 are references to the amount exigible where no composition agreement applies and no specially agreed rebate is allowed.]

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### Textual Amendments

- F42** S. 30(1)(b) substituted by Transport Act 1968 (c. 73, SIF 126), **Sch. 16 para. 8(1)**
- F43** Words repealed by Transport Act 1981 (c. 56, SIF 58), **Sch. 12 Pt. I**
- F44** Words substituted by virtue of Decimal Currency Act 1969 (c. 19, SIF 10), **s. 10(1)**
- F45** Words repealed by Docks and Harbours Act 1966 (c. 28, SIF 58), **s. 46(3)(4)(b)**
- F46** Words repealed by Transport Act 1968 (c. 73, SIF 126), **Sch. 18 Pt. III**
- F47** Words substituted by Transport Act 1981 (c. 56, SIF 58), 10(1)(3)
- F48** Words inserted by S.I. 1978/272, art. 6, **Sch. 5 para. 11**
- F49** S. 30(5)(6) inserted by Transport Act 1981 (c. 56, SIF 58), **Sch. 6 para. 8(2)**

### Modifications etc. (not altering text)

- C27** S. 30 extended by Transport Act 1981 (c. 56, SIF 58), **Sch. 4 para. 1(2)(a)**
- C28** 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**
- C29** S. 30 applied (with modifications) (25.07.1991) by Highland Regional Council (Harbours) Order Confirmation Act 1991 (c. ii, SIF 200), s. 39(1).  
S. 30 applied (with modifications) (12.6.1993) by S.I. 1993/1592, **arts. 1(1), 6.**

### Marginal Citations

- M15** 1962 c. 46 (126).

## 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>F50</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>F51</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>F52</sup>the Secretary of State] by—
- (a) a person appearing to [<sup>F52</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.

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- (3) [<sup>F52</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>F52</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>F52</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>F52</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>F52</sup>the Secretary of State] shall, unless the objection has been withdrawn before the expiration of that time and no written representations in the matter have been made to [<sup>F52</sup>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 [<sup>F52</sup>he is] satisfied that [<sup>F52</sup>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, [<sup>F52</sup>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 [<sup>F52</sup>the Secretary of State thinks] reasonable has elapsed.
- (6) [<sup>F52</sup>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 [<sup>F52</sup>he approves it] to the period during which the approval is to be of effect, and give to the authority written notice that [<sup>F52</sup>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 [<sup>F53</sup>level 4 on the standard scale].

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- (9) Forthwith after complying on any occasion with subsection (6) above, [<sup>F52</sup>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 [<sup>F52</sup>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 [<sup>F52</sup>the Secretary of State] of an objection to a charge and a further objection to that charge is lodged with [<sup>F52</sup>the Secretary of State] subsections (3) to (6) above shall not have effect by virtue of the lodging of that further objection.
- (12) If it appears to [<sup>F52</sup>the Secretary of State] that [<sup>F54</sup>the Sea Fish Industry Authority] are, or may be, concerned with a charge, [<sup>F52</sup>the Secretary of State] shall not give effect to subsection (6) above in relation to that charge without having consulted [<sup>F54</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>F52</sup>the Secretary of State], of references to the Minister of Agriculture, Fisheries and Food, . . . <sup>F51</sup>

#### Textual Amendments

- F50** Words inserted by Transport Act 1981 (c. 56, SIF 58), Sch. 5 para. 10(3), **Sch. 6 para. 8(3)**
- F51** Words repealed by Transport Act 1981 (c. 56, SIF 58), Sch. 5 para. 10(3), **Sch. 12 Pt. II**
- F52** Words substituted by Transport Act 1981 (c. 56, SIF 58), **Sch. 5 para. 10(2)(a)(3)**
- F53** 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**)
- F54** Words substituted by Fisheries Act 1981 (c. 29, SIF 52:1), **Sch. 3 para. 8(1)(a)(2)(4)**

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

- C30** 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
- C31** 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**

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- C32** S. 31(2)–(11) extended with modifications by [Greater London Council \(General Powers\) Act 1973 \(c. xxx\), s. 8\(5\)\(a\)\(b\)](#)
- C33** S. 31(2)–(12) applied (with modifications) by [Pilotage Act 1987 \(c. 21, SIF 111\), s. 10\(6\)](#)

### 32—34 ..... <sup>F55</sup>

#### Textual Amendments

- F55** Ss. 32–34 repealed by [Transport Act 1981 \(c. 56\), Sch. 12 Pt. II](#) (both as originally enacted and as applied by any enactment)

### 35 Application of sections 31, 32 and 34 to local light dues.

Sections 31, . . . <sup>F56</sup> of this Act shall have effect for the purpose of securing to persons the like right of objection to charges exigible by virtue of section 29 of this Act, attended by the like consequences, as is secured to persons in relation to ship, passenger and goods dues . . . <sup>F56</sup>, subject to the following modifications:—

- (a) section 31(1) shall be omitted;
- (b) in section 31(2), for the words from “a charge” to “maintaining or managing” (both inclusive) there shall be substituted the words “a charge imposed under section 29 of this Act by a local lighthouse authority”, and the words “passengers or goods” (in both places where they occur) shall be omitted;
- (c) in section 31(6)(b), the reference to subsection (2) shall be construed as referring to that subsection as modified by the last foregoing paragraph;
- (d) in section 31(8) for the reference to a harbour authority there shall be substituted a reference to a local lighthouse authority;
- (e) in section 31(9), for the reference to the harbour authority concerned there shall be substituted a reference to the local lighthouse authority concerned;
- (f) in section 31(10), for the words “a charge imposed at a harbour” there shall be substituted the words “a charge imposed by a local lighthouse authority . . . <sup>F57</sup>”;
- (g) section 31(13) shall be omitted;
- (h) ..... <sup>F58</sup>

#### Textual Amendments

- F56** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\), Sch. 12 Pt. II](#)
- F57** Words repealed by [Docks and Harbours Act 1966 \(c. 28, SIF 58\), s. 46\(3\)\(4\)\(c\)](#)
- F58** [S. 35\(h\)–\(o\)](#) repealed by [Transport Act 1981 \(c. 56 SIF 58\), Sch. 12 Pt. II](#)

### 36

Sections 31 . . . <sup>F59</sup> of this Act shall not apply to charges—

- (a) imposed by [<sup>F60</sup> . . . <sup>F61</sup>, the British Railways Board or the British Waterways Board] at a harbour not specified in Schedule 9 to the <sup>M16</sup>Transport Act 1962;



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- (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.

**Textual Amendments**

- F59** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)
- F60** Words substituted by [Transport Act 1968 \(c. 73, SIF 126\)](#), [Sch. 16 para. 8\(1\)](#)
- F61** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. I](#)

**Marginal Citations**

- M16** [1962 c. 46. \(126\).](#)

**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 [<sup>F62</sup>section 60 of the <sup>M17</sup>Civil 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 [<sup>F62</sup>subsection (3) of that section], have effect subject to that provision; and sections 27 and 31 . . . <sup>F63</sup> of this Act shall not apply to any charges so regulated.

**Textual Amendments**

- F62** Words substituted by [Civil Aviation Act 1982 \(c. 16, SIF 9\)](#), [Sch. 15 para. 4](#)
- F63** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)

**Marginal Citations**

- M17** [1982 c. 16 \(9\).](#)

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

- (1) The following provisions shall cease to have effect, namely,—
  - (a) . . . . . <sup>F64</sup>
  - (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) . . . . . <sup>F65</sup> 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.

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(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) ..... F66

**Textual Amendments**

**F64** S. 38(1)(a) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. XI**

**F65** Words repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. XI**

**F66** S. 38(3) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. XI**

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

**C34** 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 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>M18</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 the Ministers making the order think requisite or expedient in view of the change of status of the harbour.

(5) ..... F67

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#### Textual Amendments

**F67** S. 39(5) repealed by Statute Law (Repeals) Act 1974 (c. 22), Sch. Pt. XI

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

**C35** 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

#### Marginal Citations

**M18** 1951 c. 30. (58).

### *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)

**C36** S. 40 extended by Transport Act 1981 (c. 56, SIF 58), Sch. 4 para. 1(2)(a)

### *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>F68</sup>the Secretary of State] for the exercise and performance of [<sup>F68</sup>his functions] under this Act, it shall be lawful for [<sup>F68</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>F68</sup>the Secretary of State] such information or forecasts . . . <sup>F69</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>F68</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>F70</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>F71</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

- F68** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 5 para. 11](#)
- F69** Words repealed by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), [s. 48](#)
- F70** [S. 41\(2\)](#) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)
- F71** 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>F72</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>F73</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

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- (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>F74</sup>Companies Act 1985] as to the form and contents of accounts and reports required to be prepared under [<sup>F75</sup>that Act] shall apply to accounts and reports required to be prepared under this section, as follows—
- (a) the provisions relating to [<sup>F76</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>F77</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>F74</sup>Companies 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;
  - [<sup>F78</sup> “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.]

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### Textual Amendments

- F72** S. 42 substituted by Transport Act 1981 (c. 56, SIF 58), **Sch. 6 para. 10**
- F73** 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**)
- F74** Words substituted by virtue of Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), s. 30, **Sch. 2**
- F75** Words substituted by Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), s. 30, **Sch. 2**
- F76** 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**)
- F77** 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**
- F78** 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)

### Modifications etc. (not altering text)

- C37** S. 42 extended by Transport Act 1981 (c. 56, SIF 58), **Sch. 4 para. 1(2)(3)**
- C38** S. 42 extended by Pilotage Act 1987 (c. 21, SIF 111), s. 14(1)
- C39** 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)**

### Miscellaneous and General

#### 43 Provisions with respect to loans made under this Act by the Minister.

- (1) Any loans which the Minister makes under section . . . <sup>F79</sup> 11 of this Act shall be repaid to him at such times and by such methods, and interest thereon shall be paid to him at such rates and at such times, as he may, with the approval of the Treasury, from time to time direct.
- (2) The Treasury may issue out of the [<sup>F80</sup>National Loan Fund] to the Minister such sums as are necessary to enable him to make loans under section . . . <sup>F79</sup> 11 of this Act.
- (3) . . . . . <sup>F81</sup>
- (4) Any sums received by the Minister under subsection (1) of this section shall be paid into the [<sup>F80</sup>National Loan Fund] . . . <sup>F82</sup>
- (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>F80</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.

### Textual Amendments

- F79** Words repealed by Transport Act 1981 (c. 56, SIF 58), **Sch. 12 Pt. II**
- F80** Words substituted by National Loans Act 1968 (c. 13, SIF 99:3), **Sch. 1**

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**F81** 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

**F82** 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

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

**C40** S. 43(1) amended by [National Loans Act 1968 \(c. 13, SIF 99:3\)](#), [Sch. 1](#)

**[<sup>F83</sup>44 Limitation of right to challenge harbour revision orders, &c., in legal proceedings.**

(1) A person who desires to question any such order as follows, namely, a harbour revision or empowerment order (not being one confirmed by Act of Parliament under section 6 of the <sup>M19</sup>Statutory Orders (Special Procedure) Act 1945, or under section 2(4), as read with section 10, of that Act) [<sup>F84</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>F85</sup> may, within six weeks from the date on which the order becomes operative . . . <sup>F85</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>F85</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.

(2) . . . . . <sup>F86</sup>

(3) Except as provided by this section, a harbour revision or empowerment order [<sup>F87</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>F85</sup>.

(4) The foregoing provisions of this section shall apply to a harbour reorganisation scheme confirmed [<sup>F88</sup>or made] by the Minister as they apply to a harbour revision order, with the substitution [<sup>F88</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>F85</sup> of this section shall have effect as if the words “by interim order” were omitted.]

**Textual Amendments**

**F83** S. 44 substituted by virtue of [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), s. 44, [Sch. 2](#)

**F84** Words inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 5\(2\)\(a\)](#)

**F85** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)

**F86** S. 44(2) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)



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- F87** Words inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 5\(2\)\(b\)](#)  
**F88** Words inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 6\(4\)](#)

#### Marginal Citations

- M19** [1945 c. 18. \(9 & 10 Geo. 6\) \(89\)](#).

## 45 Penalisation of furnishing false information.

A person who—

- (a) . . . . .<sup>F89</sup> in purported compliance with a requirement imposed under section . . . . .<sup>F90</sup>41 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>F91</sup>

- (b) . . . . .<sup>F92</sup>  
 shall be guilty of an offence and shall be liable—

- (i) on summary conviction, to imprisonment for a term not exceeding [<sup>F93</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

- F89** Words repealed by [Ports \(Finance\) Act 1985 \(c. 30, SIF 58\)](#), s. 6(2), [Sch.](#)  
**F90** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)  
**F91** Word repealed by [Ports \(Finance\) Act 1985 \(c. 30, SIF 58\)](#), s. 6(2), [Sch.](#)  
**F92** [S. 45\(b\)](#) repealed by [Ports \(Finance\) Act 1985 \(c. 30, SIF 58\)](#), s. 6(2), [Sch.](#)  
**F93** 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>F94</sup>41 of this Act . . . . .<sup>F95</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>F94</sup> the Minister to discharge . . . . .<sup>F94</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

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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>F96</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**

- F94** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\), Sch. 12 Pt. II](#)
- F95** Words repealed by [Ports \(Finance\) Act 1985 \(c. 30, SIF 58\), s. 6\(2\), Sch.](#)
- F96** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\), Sch. 6 para. 15](#)

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

- C41** [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>F97</sup>Subsections (2) to (5) of section 250 of the <sup>M20</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>F97</sup>section 250], subject to the following modifications, namely,—

- (i) ..... <sup>F98</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>F99</sup>

(b) ..... <sup>F100</sup>

and [<sup>F97</sup>subsections (4) and (5) of the said section 250] shall, with the like modifications as those specified in paragraph (a) ... <sup>F99</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.

(2) [<sup>F101</sup>Subsections (3) to (8) of section 210 of the <sup>M21</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>F99</sup> subject to the following modifications, namely—

- (a) ..... <sup>F102</sup>
- (b) [<sup>F101</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>F101</sup>subsections (7) and (8) of the said section 210] shall, with the like modification in the case of [<sup>F101</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

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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.

- (3) In relation to Scotland, any inquiry required by paragraph 4(3) or paragraph 8(3) of Schedule 3 [<sup>F103</sup>or paragraph 3(5) of Schedule 4] to this Act shall, if the Minister or the Secretary of State so directs, be held by Commissioners under the <sup>M22</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>M23</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>F104</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

- F97** Words substituted by virtue of [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [s. 272\(2\)](#)
- F98** [S. 47\(1\)\(a\)\(i\)](#) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)
- F99** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)
- F100** [S. 47\(1\)\(b\)](#) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)
- F101** Words substituted by virtue of [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), [s. 237\(2\)](#)
- F102** [S. 47\(2\)\(a\)](#) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)
- F103** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 11\(2\)](#)
- F104** Words inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 6\(5\)](#)

#### Marginal Citations

- M20** [1972 c. 70 \(81:1\)](#).
- M21** [1973 c. 65 \(81:2\)](#).
- M22** [1936 c. 52 \(89\)](#).
- M23** [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.
- (2) Any such document required or authorised to be given to or served on an authority or body being a corporation shall be duly given or served if it is given to or served on the secretary or clerk of the authority or body.
- (3) For the purposes of this section and of [<sup>F105</sup>section 7 of the <sup>M24</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

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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.

#### Textual Amendments

**F105** Words substituted by virtue of [Interpretation Act 1978 \(c. 30, SIF 115:1\)](#), s. 25(2)

#### Marginal Citations

**M24** [1978 c. 30 \(115:1\)](#).

VALID FROM 15/07/1992

#### [48A <sup>F106</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

**F106** [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)

#### 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 Church Commissioners.

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- (2) Where the fee simple of any ecclesiastical property is in abeyance, 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>F107</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 Church Commissioners, 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 Church Commissioners; 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 Church Commissioners with reference to any land shall, if the land is not consecrated, be applied by them 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 them in such manner as they may determine.
- (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

**F107** Words repealed by [Transport Act 1981 \(c. 56\)](#), [Sch. 12 Pt. II](#)

#### 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”.

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- (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>M25</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)**

**C42** 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**

**M25** 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>F108</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—
  - (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; and



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(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.

(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

**F108** Words substituted by virtue of [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 11](#)

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

**C43** [S. 52](#) amended by [Docks and Harbours Act 1966 \(c. 28, SIF 58\)](#), s. [42\(4\)\(b\)](#)

### [<sup>F109</sup>53 Saving for telegraphic lines.

Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication 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

**F109** [S. 53](#) substituted by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 109, [Sch. 4 para. 43](#), [Sch. 5 para. 45](#)

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

**C44** [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>F110</sup> 9(1), [<sup>F111</sup>15A], 18(7), . . . <sup>F110</sup> or 60 of this Act or regulations under section 19, . . . <sup>F110</sup> or 42 thereof shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F110** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)

**F111** Words inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 5\(3\)](#)



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**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** ..... <sup>F112</sup>

**Textual Amendments**  
**F112** 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:—
  - ..... <sup>F113</sup>
  - “the Boards” means . . . <sup>F114</sup> the British Railways Board and the British Waterways Board [<sup>F115</sup>and includes . . . <sup>F116</sup> the Scottish Transport Group and any subsidiary within the meaning of the <sup>M26</sup>Transport Act 1968 of any of those Boards or of that . . . <sup>F116</sup> Group;]
  - “charges” includes fares, rates, tolls and dues of every description;
  - “the Consolidated Fund” means the Consolidated Fund of the United Kingdom;
  - ..... <sup>F113</sup>
  - “district board” has the same meaning as in the Salmon and Freshwater Fisheries (Protection) <sup>M27</sup>(Scotland) Act 1951;
  - “dock” means a dock used by sea-going ships;
  - [<sup>F117</sup>“environmental assessment” means an assessment in accordance with Council Directive No. [85/337/EEC](#)];
  - “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>M28</sup>Sea Fish Industry Act 1951;
  - “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;

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“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>F118</sup>boatslip being a marine work, and, where used with reference to such an authority, has the meaning assigned to it by section 742 of the <sup>M29</sup>Merchant Shipping Act 1894;

“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;
  - (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>M30</sup>Land Drainage (Scotland) Act 1958;

“land” includes land covered by water;

“large-scale” means, with reference to a map, a scale not less than that of twenty-five inches to the mile;

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“lighthouse” has the meaning assigned to it by section 742 of the <sup>M31</sup>Merchant Shipping Act 1894;

“local lighthouse authority” means any person having by law or usage authority over local lighthouses, buoys or beacons;

“marine work” [<sup>F119</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>M32</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>F120</sup>section 736 of the Companies Act 1985] 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>F119</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>F119</sup>areas] counties and any other place in Scotland;

“the Minister” means [<sup>F121</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, if the land is feudal property, the proprietor of the *dominium utile* or, if the land is not feudal property, 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, recorded in the General Register of Sasines under the <sup>M33</sup>Registration of Leases (Scotland) Act 1857;

“plant or equipment” includes vessels;

“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>M34</sup>Fishery Harbours Act 1915 or by the Secretary of State in pursuance of section 5(5)(ii) of the <sup>M35</sup>Harbours, Piers and Ferries (Scotland) Act 1937;

“river purification authority” has the meaning assigned to it by section 17 of the <sup>M36</sup>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>F122</sup>section 17 of the <sup>M37</sup>Land Drainage Act 1976] or corresponding provisions of a local Act [<sup>F123</sup>or under section 67 or by section 69 of the <sup>M38</sup>Water Resources Act 1963] or

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by an improvement order under section 1 of the <sup>M39</sup>Land Drainage (Scotland) Act 1958 or by section 13 as read with section 41 of the <sup>M40</sup>Salmon Fisheries (Scotland) Act 1868 or by the Rivers (Prevention of Pollution) (Scotland) Act 1951 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 and 1951;

“ship”, where used as a noun, includes every description of vessel used in navigation, seaplanes on the surface of the water and [<sup>F124</sup>hovercraft within the meaning of the <sup>M41</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;

“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.

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### Textual Amendments

- F113** Definitions repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**
- F114** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. I**
- F115** Words added by [Transport Act 1968 \(c. 73, SIF 126\)](#), **Sch. 16 para. 8(1)(d)(i)**
- F116** Words repealed by [Transport Act 1980 \(c. 34, SIF 126\)](#), **Sch. 9 Pt. III**
- F117** Definition inserted (E.W.) by [S.I. 1988/1336](#), **reg. 2**
- F118** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), **Sch. 29**
- F119** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), **Sch. 19 para. 16**
- F120** Words substituted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 144(4), **Sch. 18 para. 5**
- F121** Words substituted by virtue of [S.I. 1981/238](#), **arts. 2(2)**, 3(4)
- F122** Words substituted by virtue of [Interpretation Act 1978 \(c. 30, SIF 115:1\)](#), **s. 17(2)(a)**
- F123** Words repealed (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. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#), **Sch. 27 Pt. I**
- F124** Words substituted by [Hovercraft Act 1968 \(c. 59, SIF 111\)](#), **Sch. para. 5**

### Modifications etc. (not altering text)

- C45** [S. 57](#) extended by [Highland Regional Council \(Harbours\) Order Confirmation Act 1991 \(c. xii, SIF 200\)](#), s. 3(1)
- C46** 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

- M26** [1968 c. 73 \(126\)](#).
- M27** [1951 c. 26 \(52:2\)](#).
- M28** [1951 c. 30 \(58\)](#).
- M29** [1894 c. 60 \(111\)](#).
- M30** [1958 c. 24 \(73:2\)](#).
- M31** [1894 c. 60 \(111\)](#).
- M32** [1937 c. 28 \(58\)](#).
- M33** [1857 c. 26 \(75:2\)](#).
- M34** [1915 c. 48 \(58\)](#).
- M35** [1937 c. 28 \(58\)](#).
- M36** [1951 c. 66 \(46:4\)](#).
- M37** [1976 c. 70 \(73:1\)](#).
- M38** [1963 c. 38 \(130\)](#).
- M39** [1958 c. 24 \(73:2\)](#).
- M40** [1868 c. 123 \(52:2\)](#).
- M41** [1968 c. 59 \(111\)](#).

## 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 drainage board (within the meaning of the [<sup>F125</sup>M42]Land Drainage Act 1976)[<sup>F126</sup>[<sup>F127</sup>the National Rivers Authority, a water undertaker], a river purification authority a district board nor an improvement 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

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relating to a harbour shall be construed as not including a reference to such powers or duties.

#### Textual Amendments

- F125** Words substituted by virtue of [Interpretation Act 1978 \(c. 30, SIF 115:1\)](#), **s. 17(2)(a)**
- F126** Words substituted by [Water Act 1973 \(c. 37, SIF 130\)](#), **Sch. 8 para. 87**
- F127** Words substituted (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(2), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

#### Marginal Citations

- M42** [1976 c. 70 \(73:1\)](#).

59 ..... <sup>F128</sup>

#### Textual Amendments

- F128** [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>M43</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)**

**C47** 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](#)

**C48** [S. 60](#): transfer of certain functions (1.7.1999) by [S.I. 1999/672](#), [art. 2](#), [Sch. 1](#)

**Marginal Citations**

**M43** [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.

**62 Saving for private Bills and certain provisional orders.**

- (1) For the purposes of the promotion of a Bill containing provision for achieving any object that might be achieved by a harbour revision or empowerment order, a harbour reorganisation scheme, . . . <sup>F129</sup> it shall be deemed, notwithstanding the passing of this Act, that that object cannot be attained without new authority from Parliament.
- (2) For the purposes of obtaining the issue of a provisional order under the <sup>M44</sup>Private Legislation Procedure (Scotland) Act 1936 containing any such provision as aforesaid, it shall be deemed, notwithstanding the passing of this Act, that the objects of that provision cannot be attained without an order confirmed by Parliament under the said Act of 1936.

**Textual Amendments**

**F129** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)

**Marginal Citations**

**M44** [1936 c. 52 \(89\)](#).

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

- (1) This Act may be cited as the Harbours Act 1964.
- (2) This Act . . . <sup>F130</sup> shall not extend to Northern Ireland.
- (3) . . . . . <sup>F131</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.



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### Textual Amendments

- F130** 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**
- F131** [S. 63\(3\)](#) repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), **Sch. Pt. XI**
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### Modifications etc. (not altering text)

- C49** Unreliable marginal note
- C50** 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

### F132F132 SCHEDULE 1

#### Textual Amendments

**F132** Sch. 1 repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)

F132

### SCHEDULE 2

Section 14.

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

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

**C51** 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 out by others in connection with the harbour of harbour operations or the carrying on by others of activities on harbour land.
- 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.
- 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,

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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.

VALID FROM 15/07/1992

[<sup>F133</sup>7A Extinguishing or diverting public rights of way over footpaths or bridleways for the purposes of works described in the order or works ancillary to such works.]

**Textual Amendments**

**F133** 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)

VALID FROM 15/07/1992

<sup>F134</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**

**F134** 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.

VALID FROM 15/07/1992

[<sup>F135</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

**F135** 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.

VALID FROM 15/07/1992

[<sup>F136</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

**F136** 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)

VALID FROM 15/07/1992

<sup>F137</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

**F137** 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.

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- 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.
- 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.

VALID FROM 15/07/1992

[<sup>F138</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

**F138** 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.

### SCHEDULE 3

Sections 17 and 47.

#### PROCEDURE FOR MAKING HARBOUR REVISION AND EMPOWERMENT ORDERS

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

- C52** Sch. 3 amended by Post Office Act 1969 (c. 48, SIF 96), s. 76, **Sch. 4 para. 93(1)(xxii)(2)(K)**, S.I. 1970/1681, Sch. 3 para. 11(3) and 1974/691, art. 2; extended by Civil Aviation Act 1982 (c. 16, SIF 9), **Sch. 2 para. 4**
- C53** Functions of Minister of Agriculture, Fisheries and Food under Sch. 3 now exercisable (W.) by Secretary of State or by Minister of Agriculture, Fisheries and Food and Secretary of State for Wales jointly: (except para. 6) S.I. 1978/272, art. 2, Sch. 1; (para. 6) S.I. 1969/388, art. 3, **Sch. 2 para. 5(x)** and 1978/272, art. 2, Sch. 1
- C54** Sch. 3 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xiv), **Sch. 8 para. 33** and by Electricity Act 1989 (c. 29, SIF 44:1), ss. 112(1)(3), Sch. 16 para. 1(1)(xiv), **Sch. 17 para. 33**

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- C55** Sch. 3 modified by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(10)(b)**, Sch. 8 para. 33, and by Electricity Act 1989 (c. 29, SIF 44:1), ss. 112(1)(3), Sch. 16 para. 3(2)(c), **Sch. 17 para. 33**
- C56** Sch. 3 extended (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. 1(2)** (xi), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58  
Sch. 3 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xii)**; S.I. 1996/218, **art. 2**  
Sch. 3 modified (1.3.1996) by 1995 c. 45 s. 16(1), Sch. 4 para. 2(11)(b); S.I. 1996/218, **art. 2**
- C57** Sch. 3 modified (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. 1(10)(ii), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**  
Sch. 3: transfer of certain functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

## PART I

PROCEDURE FOR MAKING HARBOUR REVISION ORDERS ON APPLICATION TO <sup>F139</sup>THE SECRETARY OF STATE](AS SET OUT, . . . <sup>F140</sup>, AND FOR THE MAKING OF HARBOUR EMPOWERMENT ORDERS BY <sup>F139</sup>THE SECRETARY OF STATE] (SUBJECT TO PART VII), . . . <sup>F140</sup>.

### Textual Amendments

**F139** Words substituted by Transport Act 1981 (c. 56, SIF 58), **Sch. 5 para. 14(2)**

**F140** Words repealed by Transport Act 1981 (c. 56, SIF 58), **Sch. 12 Pt. II**

VALID FROM 21/08/1996

<sup>F141</sup>A1 In this Part of this Schedule “the Directive” means Council Directive No. 85/337/EEC on the assessment of the effects of certain public and private projects on the environment; and “project” has the meaning given by article 1 of the Directive.]

### Textual Amendments

**F141** Paras. A1 and A2 inserted (21.8.1996) by S.I. 1996/1946, **reg. 2(1)(2)**

VALID FROM 21/08/1996

<sup>F142</sup>A2 (1) A person may not make an application for a harbour revision order which, directly or indirectly, authorises any project unless—

- (a) he has given the Secretary of State prior notice of his intention to make the application, and
- (b) the Secretary of State has responded under sub-paragraph (3) or, as the case may be, (4) below.

(2) Sub-paragraph (3) below applies where it appears to the Secretary of State that a proposed application of which he is notified under sub-paragraph (1)(a) above relates to—

- (a) a project which falls within Annex I to the Directive, or

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- (b) a project which falls within Annex II to the Directive the characteristics of which require that it should be made subject to an environmental assessment.
- (3) The Secretary of State shall direct the proposed applicant to supply him in such form as he may specify with the information referred to in Annex III to the Directive to the extent—
- (a) that it is relevant to any stage of the procedure set out in this Part and to the specific characteristics of the project to which the proposed application relates and of the environmental features likely to be affected by it; and
- (b) that (having regard in particular to current knowledge and methods of assessment) the proposed applicant may reasonably be required to gather that information, and including at least—
- (i) a description of the project comprising information on the site, design and size of the project;
- (ii) a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
- (iii) the data required to identify and assess the main effects which the project is likely to have on the environment; and
- (iv) a non-technical summary of the information mentioned in paragraphs (i) to (iii) above.
- (4) Where sub-paragraph (3) above does not apply in relation to a proposed application of which the Secretary of State is notified under sub-paragraph (1)(a) above, he shall forthwith notify the proposed applicant accordingly.

#### Textual Amendments

**F142** Paras. A1 and A2 inserted (21.8.1996) by S.I. 1996/1946, reg. 2(1)(2)

1 An application for a harbour revision order must be accompanied by not less than six copies of a draft of the proposed order and not less than six copies of any map or maps which, if the order is made in the form of the draft, will be required to be annexed to it.

<sup>F143</sup>1A(1) Where an application for a harbour revision order relating to a harbour in England or Wales is made after the coming into force of this paragraph, the Secretary of State shall determine whether or not it is made in relation to a project which falls within Annex I or Annex II to Council Directive No. 85/337/EEC on the assessment of the effects of certain public and private projects on the environment.

(2) If he determines that it is made in relation to a project which falls within Annex I, or a project which falls within Annex II and whose characteristics require that it should be made subject to an environmental assessment, he shall direct the applicant to supply him in such form as he may specify with the information referred to in Annex III to the Directive to the extent that he considers—

- (a) that it is relevant to any stage of the procedure set out in this Part and to the specific characteristics of the project to which the application relates and of the environmental features likely to be affected by it; and



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- (b) that (having regard in particular to current knowledge and methods of assessment) the applicant may reasonably be required to gather that information,

and including at least—

- (i) a description of the project comprising information on the site, design and size of the project;
- (ii) a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
- (iii) the data required to identify and assess the main effects which the project is likely to have on the environment;
- (iv) a non-technical summary of the information mentioned in paragraphs (i) to (iii) above.]

**Textual Amendments**

F143 Sch. 3 para. 1A inserted (E.W.) by S.I. 1988/1336, reg. 4

VALID FROM 15/07/1992

[<sup>F144</sup>]B Such fees as may be determined by the Secretary of State shall be payable on the making of an application for a harbour revision order.]

**Textual Amendments**

F144 Sch. 3 para. 1B inserted (15.7.1992) by Transport and Works Act 1992 (c. 42), s. 63(1), Sch. 3 para. 10(2); S.I. 1992/1347, art. 2, Sch. (subject as mentioned in art. 3)

F145

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**Textual Amendments**

F145 Sch. 3 Pt. I paras. 2, 4(2) repealed by Transport Act 1981 (c. 56, SIF 58), Sch. 12 Pt. II

3 [<sup>F146</sup>Where an application for a harbour revision order has been duly made to the Secretary of State], compliance [<sup>F147</sup>with the requirements of paragraph 1A above if they are applicable,] with the requirement of sub-paragraph (a) below and with such of the requirements of sub-paragraphs (b) to (d) below as are applicable in the circumstances shall be a condition precedent to the taking by [<sup>F148</sup>the Secretary of State] of [<sup>F149</sup>any steps (otherwise than under this paragraph)] in the matter of the application, that is to say:—

- (a) there must be published by the applicant by Gazette and local advertisement and (if so required by [<sup>F148</sup>the Secretary of State]) by such other means as

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- [<sup>F148</sup>the Secretary of State] may specify, a notice stating that application has been made to him for the making of the order [<sup>F150</sup>and whether information has been supplied under paragraph 1A above and], containing a concise summary of the proposed order and (if provision is proposed to be included therein authorising the execution of works or the compulsory acquisition of land) a general description of the nature of the works and the land on which their execution is proposed to be authorised or, as the case may be, of the land whose compulsory acquisition is proposed to be authorised, naming a place where a copy of the draft of the proposed order [<sup>F151</sup>, a copy of any information supplied under paragraph 1A above] and (if the application for the order was accompanied by copies of a map or maps) 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 [<sup>F148</sup>the Secretary of State] objection to the application 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;
- (b) if provision is proposed to be included in the order authorising the compulsory acquisition of land, there must, in the case of each parcel of land whose compulsory acquisition is proposed to be authorised, be served by the applicant on every owner, lessee and occupier (except a tenant for a month or any period less than a month) of that parcel a notice stating that application has been made to [<sup>F148</sup>the Secretary of State] for the making of the order with the inclusion therein of provision authorising the compulsory acquisition of that parcel (describing it), naming a place where a copy of the draft of the proposed order and a copy (on the like scale) of the map that accompanied the application therefor 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 [<sup>F148</sup>the Secretary of State] objection to the application so far as regards the inclusion in the order of provision authorising the compulsory acquisition of 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;
- (c) if the applicant is not the harbour authority, there must be served by the applicant on that authority a copy of the draft order together (if the application for the order was accompanied by copies of a map or maps) with a copy of that map, or copies of those maps, and, in any event, with a notice stating that application has been made to [<sup>F148</sup>the Secretary of State] for the making of the order and that, if the authority desire to make to [<sup>F148</sup>the Secretary of State] objection to the application, 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;
- (d) if [<sup>F148</sup>the Secretary of State] so requires, there must, on any person specified by him, [<sup>F152</sup>and within such time as may be so specified, be] served by the applicant the like documents as are required to be served in compliance with sub-paragraph (c) above where it applies.

#### Textual Amendments

**F146** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 12\(a\)](#)

**F147** Words inserted (E.W.) by [S.I. 1988/1336, reg. 5\(a\)](#)

**F148** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 5 para. 14\(2\)](#)

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**F149** Words substituted by Transport Act 1981 (c. 56, SIF 58), Sch. 6 para. 12(b)

**F150** Words inserted (E.W.) by S.I. 1988/1336, reg. 5(b)(i)

**F151** Words inserted (E.W.) by S.I. 1988/1336, reg. 5(b)(ii)

**F152** Words substituted by Transport Act 1981 (c. 56, SIF 58), Sch. 6 para. 12(c)

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

**C58** Sch. 3 para. 3 excluded by Pilotage Act 1987 (c. 21, SIF 111), s. 32(3), Sch. 1 para. 3(b)

[<sup>F153</sup>3A It shall be the duty of the Secretary of State to furnish such bodies appearing to him to have environmental responsibilities as he thinks fit with any information supplied under paragraph 1A above and to consult such bodies.]

**Textual Amendments**

**F153** Sch. 3 para. 3A inserted (E.W.) by S.I. 1988/1336, reg. 6

4 (1) Where the proper notices concerning an application for the making of a harbour revision order have been published under paragraph 3 above, and all persons required thereunder to be served in the case of the application with notices and other documents have been properly served therewith, and the time for the due making to [<sup>F154</sup>the Secretary of State] of objection to the application has elapsed, the following provisions of this paragraph shall have effect.

(2) ..... <sup>F155</sup>

(3) If objections to the application were duly made to [<sup>F154</sup>the Secretary of State] and have not been withdrawn, [<sup>F154</sup>the Secretary of State], unless he decides that the application shall not proceed further,—

(a) in the case of an objection so far as regards the inclusion in the draft order of a provision authorising the compulsory acquisition of a parcel of land, shall either cause an inquiry to be held with respect to the objection or afford to the objector an opportunity of appearing before and being heard by a person appointed by [<sup>F154</sup>the Secretary of State] for the purpose;

(b) in the case of any other objection, shall cause an inquiry to be held with respect thereto, unless he is of opinion that it is frivolous or too trivial to warrant the holding of an inquiry with respect to it,

..... <sup>F156</sup>

(4) Where an objector to the application avails himself of an opportunity of being heard afforded to him in pursuance of sub-paragraph (3)(a) above, [<sup>F154</sup>the Secretary of State] shall afford to the applicant, and to any other persons to whom it appears to [<sup>F154</sup>the Secretary of State] expedient to afford it, an opportunity of being heard on the same occasion.

(5) [<sup>F157</sup>After considering the objections (if any) made and not withdrawn [<sup>F158</sup>any information supplied under paragraph 1A above], 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] unless he decides not to make the order, may make the order applied for in the form of the draft submitted to him or (subject to the restrictions

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imposed by sub-paragraph (6) of this paragraph and by paragraph 6 below) in that form but subject to such modifications as he thinks fit.

- (6) Where [<sup>F154</sup>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 as applied for, he 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 shall not make the order until such period for consideration of, and comment upon, the proposed modifications by the applicant and those other persons as he thinks reasonable has elapsed; nor shall he, unless all persons interested consent, so make the order as to authorise the compulsory acquisition of any land that was not described in the draft submitted to him as being land subject to be acquired compulsorily.
- (7) [<sup>F154</sup>the Secretary of State] may disregard for the purposes of this paragraph an objection to the application 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 draft order of a provision authorising the compulsory acquisition of land if he 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.

#### Textual Amendments

- F154** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 5 para. 14(2)**  
**F155** [Sch. 3 Pt. I paras. 2, 4\(2\)](#) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**  
**F156** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**  
**F157** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 5 para. 14(4)**  
**F158** Words inserted (E.W.) by [S.I. 1988/1336](#), **reg. 7**

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

- C59** [Sch. 3 para. 4](#) excluded by [Pilotage Act 1987 \(c. 21, SIF 111\)](#), s. 32(3), **Sch. 1 para. 3(b)**

[<sup>F159</sup>4ZA In any case where the Secretary of State has determined as mentioned in paragraph 1A(2) above, he shall publish in such manner as he thinks fit his decision whether or not to make an order.]

#### Textual Amendments

- F159** [Sch. 3 para. 4ZA](#) inserted (E.W.) after paragraph 4 by [S.I. 1988/1336](#), **reg. 8**

[<sup>F160</sup>4A(1) The provisions of this paragraph have effect where the Secretary of State makes—

- (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,

and, in either case, the order is opposed.

(2) For the purposes of this paragraph an order is opposed if—

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- (a) an objection to the application for the order has been duly made and not withdrawn, not being an objection which the Secretary of State is entitled to disregard for the purposes of paragraph 4 above or which in his opinion is frivolous or trivial; or
- (b) a comment in writing on proposed modifications to the order applied for has been duly made to the Secretary of State and not withdrawn, which in his opinion would if duly raised in connection with a provision of the original draft order have amounted to such an objection as is mentioned in paragraph (a) above;

and references in this paragraph to a person opposing the order shall be construed accordingly.

- (3) The Secretary of State shall give notice of the making of the order and its effect to each person opposing the order and the order shall, subject to sub-paragraph (4) below, become operative on the expiration of 28 days from the date of the notice given (or last given) under this sub-paragraph or on such later date as the Secretary of State may appoint.
- (4) If within 28 days after the date of a notice given to him under sub-paragraph (3) above a person gives notice to the Secretary of State that he maintains his opposition to the order, and his opposition is not withdrawn within that period, the order shall be subject to special parliamentary procedure.]

#### Textual Amendments

**F160** Paras. 4A, 4B inserted by Transport Act 1981 (c. 56, SIF 58), Sch. 6 para. 4(2)(8) 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)

**C60** Sch. 3 para. 4A(2) modified by Pilotage Act 1987 (c. 21, SIF 111), s. 32(3), Sch. 1 para. 3(b)

4B A harbour revision order relating to a harbour in Scotland and a harbour empowerment order relating to a harbour or to works to be carried out in Scotland shall in every case be subject to special parliamentary procedure.

5 So soon as may be after a harbour revision order has been made, the applicant for it—

- (a) shall publish by Gazette and local advertisement a notice stating that the order has been made and naming a place where a copy thereof (and, if a map or maps is or are annexed to the order, a copy of that map or, as the case may be, copies of those maps) may be inspected at all reasonable hours [F161 and further stating, in the case of an order to which paragraph 4B above does not apply, whether the order is affected by the provisions of paragraph 4A above and, where it is not so affected, the date on which it came or will come into operation;]
- (b) shall, if not the harbour authority, serve on that authority a copy of the order, together (if a map or maps is or are annexed to it) with a copy of that map or, as the case may be, copies of those maps;

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- (c) shall serve a copy of the order, together (if a map or maps is or are annexed to it) with a copy of that map or, as the case may be, copies of those maps, on each person on whom, in compliance with a requirement imposed by virtue of paragraph 3(d) above, a copy of the draft of the order as submitted to <sup>F162</sup>the Secretary of State] was served.

#### Textual Amendments

**F161** Words inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 4\(3\)\(8\)](#) 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

**F162** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 5 para. 14\(2\)](#)

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

**C61** [Sch. 3 para. 5\(c\)](#) excluded by [Pilotage Act 1987 \(c. 21, SIF 111\)](#), s. 32(3), [Sch. 1 para. 3\(b\)](#)

- <sup>F163</sup>5A —Where an order is affected by the provisions of paragraph 4A above but is not, in the event, subject to special parliamentary procedure, the Secretary of State shall as soon as may be after the expiration of the period (or latest period) of 28 days referred to in sub-paragraph (3) of that paragraph publish by Gazette and local advertisement a notice stating that the order is not so subject and indicating the date on which it came or will come into operation.]

#### Textual Amendments

**F163** [Para. 5A](#) inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 4\(4\)\(8\)](#) 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

- 6 (1) Where application is made to <sup>F164</sup>the Secretary of State] for a harbour revision order which includes provision authorising the compulsory acquisition of land which includes land which has been acquired by statutory undertakers for the purposes of their undertaking, then if on a representation made to the appropriate Minister before the expiration of the period of forty-two days from the date of the first local advertisement of notice that the application has been so made that Minister is satisfied—
- (a) that any of the said land is used for the purposes of the carrying on of their 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 land as to which that Minister is satisfied as aforesaid except land as to which he is satisfied that its nature and situation are such—
- (i) that, without serious detriment to the carrying on of the undertaking, it can be acquired and not replaced, or
  - (ii) that, if acquired, it can, without such detriment as aforesaid, be replaced by other land belonging to, or available for acquisition by, the undertakers,
- and certifies accordingly.



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(2) In this paragraph the following expressions have the meanings hereby assigned to them respectively, that is to say:—

“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 such undertaking as follows, that is to say,—

- (a) a railway, light railway, tramway or road transport undertaking;
- (b) an undertaking the activities whereof 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 . . . <sup>F165</sup>, . . . <sup>F166</sup>, [<sup>F167</sup>hydraulic power or water][<sup>F167</sup>or hydraulic power];

<sup>F168</sup>

.....

#### Textual Amendments

**F164** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 5 para. 14\(2\)](#)

**F165** Word repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(4), [Sch. 18](#)

**F166** Word repealed by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(4), [Sch. 9 Pt. I](#)

**F167** Words “or hydraulic power” substituted (E.W.) for “hydraulic power or water” 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\(3\)](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\)](#), [58](#)

**F168** Definition of “the appropriate Minister” repealed by [S.I. 1970/1681](#), [art 5\(3\)](#), [Sch. 4](#)

## PART II

PROCEDURE FOR THE MAKING OF HARBOUR REVISION ORDERS  
BY [<sup>F169</sup>THE SECRETARY OF STATE] OF HIS OWN MOTION . . . <sup>F170</sup>

#### Textual Amendments

**F169** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 5 para. 14\(2\)](#)

**F170** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)

7 Where [<sup>F171</sup>the Secretary of State] proposes to make, of his own motion, a harbour revision order, he shall, before doing so—

- (a) publish by Gazette and local advertisement and by such (if any) other means as he thinks fit a notice stating that he proposes to make the order, containing a concise summary of the provisions to be embodied in it, naming a place where a copy of the draft of the proposed order may be seen



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at all reasonable hours and stating that any person who desires to make to him objection to the proposal 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;

- (b) serve on the harbour authority and on such (if any) other persons as he thinks ought to have notice of the proposal a copy of the draft of the proposed order together with a notice stating that he proposes to make the order and that if the person served desires to make to [F171the Secretary of State] objection to the proposal 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.

**Textual Amendments**  
**F171** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 5 para. 14\(2\)](#)

- 8 (1) Where effect has been given to paragraph 7 above in the case of a proposal of [F172the Secretary of State] to make, of his own motion, a harbour revision order, and the time for the due making to [F172the Secretary of State] of objection to the proposal has elapsed, the following provisions of this paragraph shall have effect.

(2) ..... F173

- (3) If objections to the proposal that were duly made to [F172the Secretary of State] have not been withdrawn, he shall, unless he decides to proceed no further in the matter, cause an inquiry to be held with respect to each objection so made and not withdrawn unless in his opinion it is frivolous or too trivial to warrant the holding of an inquiry with respect thereto . . . F174 .

- (4) [F175After 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], unless he decides not to make the order, may make it in the form of the draft or (subject to the restriction imposed by sub-paragraph (5) below) in that form but subject to such modifications as he thinks fit.

- (5) Where [F172the Secretary of State] proposes to make the order subject to modifications which appear to him substantially to affect the character of the order as originally proposed to be made, he shall take such steps as appear to him to be reasonably practicable for informing persons likely to be concerned, and shall not make the order until such period for consideration of, and comment upon, the proposed modifications by those persons as he thinks reasonable has elapsed.

- (6) [F172the Secretary of State] may disregard for the purposes of this paragraph an objection to the proposal unless it states the grounds on which it is made.

**Textual Amendments**  
**F172** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 5 para. 14\(2\)](#)  
**F173** [Sch. 3 Pt. II para. 8\(2\)](#) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)  
**F174** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)

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**F175** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 5 para. 14\(4\)](#)

- [<sup>F176</sup>8A(1) The provisions of this paragraph have effect where the Secretary of State makes—
- (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,
- and, in either case, the order is opposed.
- (2) For the purposes of this paragraph an order is opposed if—
- (a) an objection to the application for the order has been duly made and not withdrawn, not being an objection which the Secretary of State is entitled to disregard for the purposes of paragraph 8 above or which in his opinion is frivolous or trivial; or
  - (b) a comment in writing on proposed modifications to the order applied for has been duly made to the Secretary of State and not withdrawn, which in his opinion would if duly raised in connection with a provision of the original draft order have amounted to such an objection as is mentioned in paragraph (a) above;
- and references in this paragraph to a person opposing the order shall be construed accordingly.
- (3) The Secretary of State shall give notice of the making of the order and its effect to each person opposing the order and the order shall, subject to sub-paragraph (4) below, become operative on the expiration of 28 days from the date of the notice given (or last given) under this sub-paragraph or on such later date as the Secretary of State may appoint.
- (4) If within 28 days after the date of a notice given to him under sub-paragraph (3) above a person gives notice to the Secretary of State that he maintains his opposition to the order, and his opposition is not withdrawn within that period, the order shall be subject to special parliamentary procedure.]

#### Textual Amendments

**F176** [Paras. 8A, 8B](#) inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 4 \(5\)\(8\)](#) 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

- 8B A harbour revision order relating to a harbour in Scotland and a harbour empowerment order relating to a harbour or to works to be carried out in Scotland shall in every case be subject to special parliamentary procedure.
- 9 So soon as may be after a harbour revision order has been made by the Minister of his own motion he shall publish by Gazette and local advertisement a notice stating that the order has been made and naming a place where a copy thereof may be inspected at all reasonable hours [<sup>F177</sup>and further stating, in the case of an order to which paragraph 8B above does not apply, whether the order is affected by the provisions of paragraph 8A above and, where it is not so affected, the date on which it came or will come

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into operation], and shall serve a copy of the order on every person on whom notice of the proposal to make the order was served in compliance with the requirement imposed by paragraph 7(b) above.

**Textual Amendments**

**F177** Words inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 6 para. 4(6)(8)** 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

[<sup>F178</sup>9A Where an order is affected by the provisions of paragraph 8A above but is not, in the event, subject to special parliamentary procedure, the Secretary of State shall as soon as may be after the expiration of the period (or latest period) of 28 days referred to in sub-paragraph (3) of that paragraph publish by Gazette and local advertisement a notice stating that the order is not so subject and indicating the date on which it came or will come into operation.]

**Textual Amendments**

**F178** [Para. 9A](#) inserted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 6 para. 4(7)(8)** 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

**PARTS III—VI**

<sup>F179</sup> .....

10—13

**Textual Amendments**

**F179** [Sch. 3 Pts. III—VI paras. 10—13](#) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**

**PART VII**

MODIFICATIONS SUBJECT TO WHICH PART I IS TO HAVE EFFECT WITH RESPECT TO PROCEDURE FOR THE MAKING OF HARBOUR EMPOWERMENT ORDERS BY [<sup>F180</sup>THE SECRETARY OF STATE]

**Textual Amendments**

**F180** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 5 para. 14(2)**

14 (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

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making of harbour empowerment orders by <sup>F181</sup>the Secretary of State] are those set out in the following provisions of this paragraph.

- (2) For references to a harbour revision order there shall be substituted references to a harbour empowerment order.
- (3) For the reference, in paragraph 3, to the requirements of sub-paragraphs (b) to (d), there shall be substituted a reference to the requirements of sub-paragraphs (b) and (c), and for sub-paragraphs (c) and (d) of that paragraph, there shall be substituted the following sub-paragraph:—
  - “(c) if <sup>F181</sup>the Secretary of State] so requires, there must, on any person specified by him, be served by the applicant a copy of the draft order together (if the application for the order was accompanied by a copy of a map or copies of maps) with a copy of that map, or copies of those maps, and, in any event, with a notice stating that application has been made to <sup>F181</sup>the Secretary of State] for the making of the order and that, if the person served desires to make to <sup>F181</sup>the Secretary of State] objection to the application, 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”.
- (4) Sub-paragraph (b) of paragraph 5 shall be omitted, and for the reference, in sub-paragraph (c) of that paragraph, to paragraph 3(d), there shall be substituted a reference to paragraph 3(c).

**Textual Amendments**

**F181** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 5 para. 14\(2\)](#)

**PARTS VIII, IX**

<sup>F182</sup>

15, 16

**Textual Amendments**

**F182** [Sch. 3 Pts. VIII, IX](#) paras. 15, 16 repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 12 Pt. II](#)

**SCHEDULE 4**

Sections 18 and 47.

**<sup>F183</sup>PROCEDURE FOR CONFIRMING AND MAKING HARBOUR REORGANISATION SCHEMES]**

**Textual Amendments**

**F183** Heading substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), [Sch. 6 para. 6\(6\)](#)

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

C62 Sch. 4 amended by Docks and Harbours Act 1966 (c. 28, SIF 58), s. 42(2)

**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 not less than six copies of the scheme together with not less than six copies of any map or maps which, if the scheme is confirmed in the form submitted, will be required to be annexed to it.

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 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) ..... F184

(d) ..... F185, 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 [F186a local lighthouse authority who are not a harbour authority] are affected by the scheme, on them, contemporaneously serve [F186a 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

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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**

**F184** Para. 2(c) repealed by Transport Act 1981 (c. 56, SIF 58), Sch. 12 Pt. II

**F185** Words repealed by Transport Act 1981 (c. 56, SIF 58), Sch. 12 Pt. II

**F186** Words substituted by Transport Act 1981 (c. 56, SIF 58), Sch. 5 para. 14(5)

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

**C63** 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.
- (2) ..... <sup>F187</sup>
- (5) If . . . <sup>F188</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, cause an inquiry to be held with respect to each objection so made and not withdrawn unless, in his opinion, it is frivolous or too trivial to warrant the holding of an inquiry with respect thereto . . . <sup>F188</sup>.
- (6) [<sup>F189</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.



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#### Textual Amendments

**F187** Sch. 4 para. 3(2)–(4) repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**

**F188** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**

**F189** Words substituted by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 5 para. 14(4)**

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

**C64** [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>F190</sup>(d) above . . . <sup>F190</sup>.

#### Textual Amendments

**F190** Words repealed by [Transport Act 1981 \(c. 56, SIF 58\)](#), **Sch. 12 Pt. II**

## [<sup>F191</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

**F191** [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 omitted.
- 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 omitted;
  - (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.



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- 8 In paragraph 3—
  - (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. ....  
F192

**Textual Amendments**

F192 Sch. 5 repealed by Transport Act 1981 (c. 56, SIF 58), Sch. 12 Pt. II

SCHEDULE

6. ....  
F193

**Textual Amendments**

F193 Sch. 6 repealed by Statute Law (Repeals) Act 1974 (c. 22), Sch. Pt. XI

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