

## SCHEDULES

### SCHEDULE 3

Section 63.

#### AMENDMENT OF HARBOURS ACT 1964

- 1 (1) Section 14 (harbour revision orders) shall be amended as follows.
  - (2) In subsection (2)(b) at the end there shall be added the words “or in the interests of the recreational use of sea-going ships”.
  - (3) After subsection (2A) there shall be inserted—
    - “(2B) Nothing in subsection (2)(b) of this section shall prevent the making of an order for facilitating—
      - (a) the closing of part of the harbour,
      - (b) a reduction in the facilities available in the harbour, or
      - (c) the disposal of property not required for the purposes of the harbour,if the appropriate Minister is satisfied that the making of the order is desirable on grounds other than those specified in that subsection.”
  - (4) In subsection (3)—
    - (a) for the words from “a provision” to “said objects” there shall be substituted the words “any other provision of the order”;
    - (b) after the words “for the purposes of” there shall be inserted the words “, or in connection with,”;
    - (c) for the words “repealing and amending” there shall be substituted the words “excluding or modifying any provision of any Act or of any instrument made under any Act (including this Act) and for repealing”.
  - (5) After subsection (4) there shall be inserted—
    - “(4A) Where two or more harbours are being improved, maintained or managed by the same harbour authority or by harbour authorities which are members of the same group, a harbour revision order may relate to more than one of the harbours; and for this purpose two authorities are members of the same group if one is a subsidiary (within the meaning of the Companies Act 1985) of the other or both are subsidiaries of another company (within the meaning of that Act).”
  - (6) In subsection (5), for the words “large-scale map” there shall be substituted the words “map of a scale not less than 1:2500”.
  - (7) After subsection (5) there shall be inserted—
    - “(5A) Where a harbour revision order includes provision for extinguishing or diverting a public right of way over a footpath or bridleway, there must be annexed to the order a map of a scale not less than 1:2500 on which the path or way concerned, and in the case of a diversion the new path or way, are plainly delineated.”

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- 2 (1) Section 16 (harbour empowerment orders) shall be amended as follows.
- (2) At the end of subsection (5) there shall be added the words “or in the interests of the recreational use of sea-going ships”.
- (3) In subsection (6), after the words “any other enactment” there shall be inserted the words “and provisions for excluding or modifying any provision of any Act or of any instrument made under any Act (including this Act)”.
- (4) In subsection (7), for the words “large-scale map” there shall be substituted the words “map of a scale not less than 1:2500”.
- (5) After subsection (7) there shall be inserted—
- “(7A) Where a harbour empowerment order includes provision for extinguishing or diverting a public right of way over a footpath or bridleway, there must be annexed to the order a map of a scale not less than 1:2500 on which the path or way concerned, and in the case of a diversion the new path or way, are plainly delineated.”
- 3 In section 17 (procedure for making harbour revision and empowerment orders) after subsection (2) there shall be inserted—
- “(2A) Neither the Secretary of State nor the Minister of Agriculture, Fisheries and Food shall make a harbour revision or empowerment order which provides for extinguishing a public right of way over a footpath or bridleway unless he is satisfied—
- (a) that an alternative right of way has been or will be provided, or
- (b) that the provision of an alternative right of way is not required.
- (2B) Neither the Secretary of State nor the Minister of Agriculture, Fisheries and Food shall make a harbour revision or empowerment order which provides for diverting a public right of way over a footpath or bridleway unless he is satisfied that the path or way will not be substantially less convenient to the public in consequence of the diversion.”
- 4 In section 18 (harbour reorganisation schemes) in subsection (3), for the words “large-scale map” there shall be substituted the words “map of a scale not less than 1:2500”.
- 5 (1) Section 47 (provisions as to inquiries and hearings) shall be amended as follows.
- (2) After subsection (1) there shall be inserted—
- “(1A) The power to make an order as to costs under section 250(5) of the Local Government Act 1972 as applied by subsection (1) above shall be exercisable not only where the inquiry or hearing takes place but also where arrangements are made for it but it does not take place.”
- (3) After subsection (2) there shall be inserted—
- “(2A) The power to make an award as to expenses under section 210(8) of the Local Government (Scotland) Act 1973 as applied by subsection (2) above shall be exercisable not only where the inquiry or hearing takes place but also where arrangements are made for it but it does not take place.”

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- (4) In subsection (3), for the words from “required by paragraph 4(3)” to “Schedule 4” there shall be substituted the words “into an order subject to the provisions of paragraph 4B of Schedule 3”.

6 After section 48 (service of documents) there shall be inserted—

**“48A 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.”

7 (1) Section 57 (interpretation) shall be amended as follows.

(2) After the definition of “the Boards” there shall be inserted—

“ “bridleway”, in relation to England and Wales, has the same meaning as in the Highways Act 1980 and, in relation to Scotland, has the same meaning as in Part III of the Countryside (Scotland) Act 1967;”.

(3) After the definition of “fishery harbour” there shall be inserted—

““footpath”, in relation to England and Wales, has the same meaning as in the Highways Act 1980 and, in relation to Scotland, has the same meaning as in the Roads (Scotland) Act 1984;”.

8 Section 62 (saving for private Bills etc) shall be omitted.

9 (1) Schedule 2 (objects for whose achievement harbour revision orders may be made) shall be amended as follows.

(2) In paragraph 3(c) for the words from “out” to “others of” there shall be substituted the words “on by others of activities relating to the harbour or of”.

(3) After paragraph 7 there shall be inserted—

“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.

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.”

(4) After paragraph 8 there shall be inserted—

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“8A Enabling the authority to close part of the harbour or to reduce the facilities available in the harbour.”

(5) After paragraph 9 there shall be inserted—

“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.

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.”

(6) After paragraph 16 there shall be inserted—

“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.”

10 (1) Schedule 3 (procedure for making harbour orders) shall be amended as follows.

(2) After paragraph 1A there shall be inserted—

“1B 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.”

(3) In paragraph 3, after sub-paragraph (b) there shall be inserted—

“(ba) if provision is proposed to be included in the order extinguishing or diverting a public right of way over a footpath or bridleway, the applicant shall—

- (i) serve on every local authority for the area in which the path or way is situated a notice stating the effect of the provision, naming a place where a copy of the draft of the proposed order (and of any relevant map accompanying the application for the order) may be seen at all reasonable hours and stating that, if the local authority desire to make to the Secretary of State objection to the inclusion of the provision in the order, 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;
- (ii) cause a copy of the notice to be displayed in a prominent position at the ends of so much of any path or way as would by virtue of the order cease to be subject to a public right of way;

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and for the purposes of this sub-paragraph, “local authority” means, in England and Wales, a county council, a district council, a London borough council, the Common Council of the City of London, the Council of the Isles of Scilly, a parish or community council and a parish meeting of a parish not having a separate parish council and, in Scotland, a regional, islands or district council.”.

- (4) In paragraph 4A, in sub-paragraph (1) for the words “is opposed” there shall be substituted the words “authorises the compulsory purchase of land”, and for sub-paragraphs (2) to (4) there shall be substituted—

“(2) Where this paragraph has effect in relation to an order, it shall be subject to special parliamentary procedure to the same extent as it would be, by virtue of section 18 or 19 of the Acquisition of Land Act 1981 (or by virtue of paragraph 5 or 6 of Schedule 3 to that Act) (National Trust land, commons etc), if the purchase were authorised by an order under section 2(1) of that Act.”

- (5) For paragraph 4B there shall be substituted—

“4B – (1) The provisions of this paragraph apply to—  
(a) a harbour revision order relating to a harbour in Scotland, or  
(b) a harbour empowerment order relating to a harbour or to works to be carried out in Scotland,

where the order authorises the compulsory purchase of land.

(2) Where this paragraph applies to an order, the order shall be subject to special parliamentary procedure to the same extent as it would be, by virtue of section 1(2)(b) of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (land forming part of a common or open space or held inalienably by the National Trust for Scotland), if the purchase were authorised by an order under section 1(1) of that Act.”

- (6) In paragraph 5(a), for the words from “to which” to “so affected” there shall be substituted the words “which is not subject to special parliamentary procedure,”.
- (7) Paragraphs 8A and 8B shall be omitted.
- (8) In paragraph 14(3), for the words “(b) and (c)” there shall be substituted the words “(b) to (c)”.