



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]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

The National Ports Council

1 Establishment of National Ports Council, and principal duties thereof

- (1) There shall be a Council to be called the National Ports Council (hereafter in this Act referred to as "the Council") which shall be charged with the duty of formulating, and keeping under review, a national plan for the development of harbours in Great Britain and with the following duties, that is to say.—
- (a) formulating comprehensive plans for the improvement of existing, and the provision of new, harbours in Great Britain and of services and facilities provided at such harbours;
 - (b) promoting the execution of such plans (so far as they are approved by the Minister);
 - (c) encouraging harbour authorities in Great Britain to exercise and perform functions of theirs relating to harbours as efficiently as possible and assisting them in the exercise and performance of such functions; and
 - (d) tendering to the Minister advice with respect to the taking of action calculated to secure the improvement, maintenance and management of harbours in

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Great Britain in an efficient and economical manner and the provision of adequate means of access to such harbours by road and rail;
and shall have such other duties, and such powers, as are imposed and conferred on them by the following provisions of this Act.

- (2) In the discharge of the duties imposed on them by the foregoing subsection the Council shall seek consultation with such harbour authorities and other persons as appear to the Council to be directly concerned.
- (3) In subsection (1) of this section "harbour" does not include a fishery harbour within the meaning of section 21 of the Sea Fish Industry Act 1951 or a marine work.

2 Constitution of the Council

- (1) The Council shall consist of a chairman appointed by the Minister, and such number of other members so appointed, not being less than seven nor more than eleven, as the Minister may from time to time determine.
- (2) The members of the Council shall be appointed from amongst persons appearing to the Minister to have wide experience of, and to have shown capacity in, the management of harbours, shipping, inland transport, industrial, commercial, financial or economic matters, applied science or the organisation of workers, to have wide experience as persons employed in doing work falling to be done in the course of the management of harbours or the carrying out of harbour operations and to have shown capacity as persons so employed, or to have, in some other respect (including, in particular, knowledge or experience of matters affecting the fishing industry), special knowledge or experience that would be of value to the Council in the exercise and performance of their functions.
- (3) The Minister shall appoint one of the members of the Council to act as deputy chairman.
- (4) The Council—
 - (a) shall pay to their members such remuneration (whether by way of salary or fees) and such allowances as the Minister may, with the approval of the Treasury, determine; and
 - (b) in the case of such members as the Minister may with the approval of the Treasury determine, shall pay such pensions or make such payments towards the provision of pensions to or in respect of those members as he may, with the like approval, determine in the case of those members respectively.
- (5) The Minister shall, as soon as possible after the passing of this Act, lay before each House of Parliament a statement of the remuneration and allowances that are or will be payable to the members of the Council under this section; and, if a subsequent determination by him under this section involves a departure from the terms of the said statement or if a determination by him under this section relates to the payment of, or to payments towards the provision of, a pension to or in respect of a member of the Council, the Minister shall, as soon as possible after the determination, lay a statement thereof before each House of Parliament.
- (6) The incidental provisions contained in Schedule 1 to this Act shall have effect with respect to the Council.

3 Promotion by the Council of research, and training and education

- (1) The Council may take such steps as appear to them to be practicable and desirable for the promotion of—
- (a) research into matters affecting the management, construction and improvement of harbours and the carrying out of harbour operations ; and
 - (b) the training and education (except to do, or in the doing of, work that usually falls to be done by dock workers) of persons employed or to be employed in doing work falling to be done in the course of the management of harbours or the carrying out of harbour operations;
- either by themselves prosecuting research, training and education or by their promoting it by others, or in both of those ways.
- (2) It shall be the duty of the Council, if directed in writing by the Minister (after consultation with them) so to do, to promote research into any such matters affecting the management, construction or improvement of harbours or the carrying out of harbour operations as may be specified in the direction or, if so directed by him after such consultation so to do, to promote the training, of persons falling within subsection (1)(b) above of such class as may be so specified, to do, and their education in the doing of, work falling to be done in the course of the management of harbours or the carrying out of harbour operations, not being work that usually falls to be done by dock workers; and a duty imposed on the Council by virtue of this subsection may be discharged in manner corresponding to that in which their powers under the foregoing subsection may be exercised.
- (3) In the exercise of their powers under subsection (1) of this section and in the discharge of a duty imposed on them by virtue of subsection (2) of this section, the Council shall act in consultation with—
- (a) such harbour authorities and bodies appearing to the Council to be representative of harbour authorities;
 - (b) such persons engaged in the carrying of goods or passengers in ships by sea and bodies appearing to the Council to be representative of persons so engaged; and
 - (c) such persons and authorities engaged in education and research;
- as the Council think appropriate in the circumstances, and with any other person who appears to them to be concerned.
- (4) Where the Council promote research, or training and education, by others, they may give assistance (including financial assistance) therefor.
- (5) The Council may make, in or towards satisfaction of expenses incurred by them in promoting research into any matter at the instance or with the consent of any person or body, charges of such amounts as may be agreed between them and that person or body.
- (6) The Council may make charges in respect of training and education of persons undertaken by them in exercise of their powers under subsection (1) of this section or in discharge of a duty imposed on them by virtue of subsection (2) of this section; but shall not, in exercise of the power conferred by this subsection, exact a charge from a person in respect of his receiving any such training or education.
- (7) In this section " dock worker " has the meaning assigned to it by section 6 of the Dock Workers (Regulation of Employment) Act 1946.

4 Provision of funds for the Council

- (1) It shall be the duty of the Council to impose on harbour authorities, by means of a scheme or schemes made by the Council and submitted to and confirmed by the Minister in accordance with the following provisions of this section, such charges as will enable them to meet any expenditure incurred, or to be incurred.—
- (a) in the exercise of their powers under subsection (1) of the last foregoing section or in the discharge of a duty imposed on them by virtue of subsection (2) of that section;
 - (b) in the discharge of liabilities in respect of money borrowed by them;
 - (c) in respect of remuneration or allowances to, or pensions to or in respect of, members of the Council; or
 - (d) in respect of the administrative expenses of the Council;
- in so far as it cannot be met by revenue accruing to them in consequence of the exercise of powers conferred by other provisions of this Act.
- (2) A scheme under this section may be made so as to apply to all harbour authorities, to harbour authorities of a particular class or to particular harbour authorities.
- (3) A scheme under this section may—
- (a) if provision is thereby made for imposing charges on all harbour authorities, provide for the levying of charges of different amounts on harbour authorities of different classes, and if provision is thereby made for imposing charges on harbour authorities of a particular class, provide for the levying of charges of different amounts on harbour authorities of different sub-divisions of that class;
 - (b) provide for imposing, as respects any period, a limit (of such amount as may be determined by or under the scheme) on the amount to be raised by the Council by means of charges under the scheme to meet expenditure incurred or to be incurred by them during that period in respect of all or any of the matters included in subsection (1) above ;
 - (c) provide for requiring a harbour authority to whom the scheme relates to furnish to the Council such information as the Council may require for the purposes of the scheme, being information relating to any harbour which that harbour authority are engaged in improving, maintaining or managing, to any activities carried on by them at such a harbour or to any property used by them for the purposes of such a harbour, and for requiring the verification of any information furnished in pursuance of a requirement having effect by virtue of this paragraph;
 - (d) make provision for any incidental or supplementary matters for which it appears to the Council requisite or expedient to make provision for the purposes of the scheme including, but without prejudice to the generality of the foregoing words, provision for imposing penalties in respect of a failure to comply with a requirement having effect by virtue of the last foregoing paragraph to furnish information, so however that no provision imposing such a penalty shall be so framed so as to permit of a person's being punished otherwise than on his summary conviction, or as to permit of the infliction on him of a penalty other than a fine, or of the infliction on him of a fine exceeding £50 or, in the case of a second or subsequent conviction, of a fine exceeding £200.
- (4) Immediately after they submit to the Minister a scheme made under this section for confirmation by him, the Council shall publish, in such manner as the Minister may

approve, a notice stating that they have submitted the scheme to him and specifying a place where copies thereof may be obtained free of charge by harbour authorities affected by the scheme, and further stating that a harbour authority who desire to make to the Minister objection to the scheme should do so in writing before the expiration of such period from the date of the publication of the notice (not being less than forty-two days) as may be specified in the notice, and shall send a copy of the scheme to each harbour authority known to them whom they believe to be affected by the scheme.

- (5) The Minister shall consider any objections duly made to him with respect to a scheme submitted to him under the last foregoing subsection and may, if he thinks fit so to do, by order confirm the scheme either without modification or, after consultation with the Council, with such modifications as he thinks fit (but not including any that in any way increase the charges proposed in the scheme as submitted to him); and where he confirms it, it shall, as confirmed, come into force on such date as may be specified in the order.
- (6) The amount of a charge payable by a harbour authority under a scheme made under this section shall be a debt due by them to the Council.
- (7) A scheme made under this section may be revoked or varied by a subsequent scheme thereunder made, submitted and confirmed in like manner as the original scheme.
- (8) No charges shall be levied under a scheme made under this section on a harbour authority in respect of any period during which no harbour being improved, maintained or managed by them is other than a fishery harbour or marine work.
- (9) In this section "harbour authority" means a person engaged (whether or not in the exercise and performance of statutory powers and duties) in improving, maintaining or managing a harbour.

5 Temporary borrowings by the Council

The Council may borrow temporarily, by way of overdraft or otherwise, such sums as they may require for exercising and performing their functions under this Act; but the aggregate of the amounts outstanding in respect of the principal of sums borrowed under this section shall not exceed such limit as the Minister may for the time being have imposed on the Council for the purposes of this section by a direction given to them in writing.

6 Exchequer assistance to the Council

- (1) The Minister—
 - (a) may, out of moneys provided by Parliament, make to the Council a grant equal to the whole or a proportion of the amount of any expenses incurred by them in consequence of their complying with a direction given to them under section 3(2) of this Act, being expenses which, in his opinion, ought not to fall to be defrayed or, as the case may be, to be wholly defrayed out of charges imposed under section 4 of this Act;
 - (b) subject to the following subsection, with the approval of the Treasury may, out of moneys which, by virtue of the following provisions of this Act, are issued to him for the purpose out of the Consolidated Fund, lend to the Council any sums which they have power to borrow under the last foregoing section.

- (2) The aggregate of the amounts outstanding in respect of the principal of sums lent by virtue of the foregoing subsection shall not exceed £250,000.

7 Council's investment powers

The Council shall have power' to invest, in such manner as they think fit, any moneys of theirs which are not for the time being required for any other purpose.

8 Reports, accounts and returns by the Council

- (1) The Council shall, as soon as possible after the end of each of their accounting periods, make a report to the Minister on the exercise and performance of their functions during that period.
- (2) The Council shall keep proper accounts and proper records in relation to the accounts and prepare in respect of each accounting period a statement of accounts in such form as the Minister, with the approval of the Treasury, may direct; and the accounts of the Council for each such period shall be audited by qualified auditors appointed by the Council with the approval of the Minister.
- (3) For the purposes of the last foregoing subsection, " qualified auditor" means a person who is a member, or a firm all of the partners wherein are members, of one or more of the following bodies, that is to say.—
The Institute of Chartered Accountants in England and Wales;
The Institute of Chartered Accountants of Scotland ;
The Association of Certified and Corporate Accountants;
The Institute of Chartered Accountants in Ireland ;
Any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of section 161(1)(a) of the Companies Act 1948 by the Board of Trade.
- (4) There shall be attached to the said report for each accounting period a copy of the statement of accounts in respect of that period and a copy of any report made on the statement by the auditors.
- (5) It shall be the duty of the Council to furnish to the Minister any information required by him for the purposes of any of his functions under this Act which is in their possession or which it is within their power to obtain.
- (6) The Minister shall lay before each House of Parliament a copy of each report made to him under subsection (1) of this section, of the statement of accounts attached thereto and of any report made on that statement by the auditors.
- (7) The Council shall make available to the public at a reasonable price copies of, and make available for inspection at their offices a copy of, each report made under subsection (1) of this section to the Minister, the statement of accounts attached thereto and any report made on that statement by the auditors.

Control of harbour Development

9 Control of harbour development

- (1) Subject to the provisions of this section, the Minister, with a view to securing the proper control in the national interest of schemes of harbour development that appear to him to involve expenditure of a capital nature, may by order prohibit, in such cases as may be defined in the order by reference to size, cost, relation to other projects, purpose or any other criterion appearing to him to be appropriate, all persons to whom this section applies, or all such persons of a particular class, or particular such persons, from undertaking, or securing the undertaking of, any of the following projects, that is to say—
 - (a) the execution of works for the construction, reconstruction, improvement or repair of a harbour;
 - (b) the execution of works for the construction, reconstruction, improvement or repair of buildings or structures, being buildings or structures required for use or used wholly or mainly for the purpose of harbour operations;
 - (c) the acquisition or taking on hire of plant or equipment required for use in the execution of any such works as aforesaid or for use as mentioned in the last foregoing paragraph,except under an authorisation in that behalf granted by the Minister.
- (2) This section applies to persons engaged in, or proposing to become engaged in, the improvement, maintenance or management of a harbour, or the carrying out of harbour operations.
- (3) An authorisation under this section shall not be granted except upon written application in that behalf made to the Minister, and the Minister shall take any such application into consideration and may grant the authorisation either free from, or subject to, such conditions as he thinks fit, or he may refuse it.
- (4) The Minister may vary an authorisation granted by him under this section—
 - (a) where the authorisation has effect without conditions, by attaching conditions thereto ;
 - (b) where the authorisation has effect subject to conditions, by revoking or varying any of them or by attaching thereto further conditions;and on varying any such authorisation the Minister shall give written notice thereof to the person to whom the authorisation was granted.
- (5) A person undertaking, or securing the undertaking of, a project under an authorisation for the time being subject to any conditions having effect by virtue of subsection (3) or subsection (4) above shall comply with those conditions.
- (6) The Minister shall not grant, refuse or vary an authorisation under this section except after consultation with the Council; and the Council, in considering any proposed grant, refusal or variation which is the subject of such a consultation, shall themselves consult, in a case where the proposed grant, refusal or variation is of an authorisation relating to a project for whose undertaking the consent of the Iron and Steel Board is required under the Iron and Steel Act 1953, with that Board, and in any case, with such other persons, being persons appearing to the Council to be concerned, as the Council consider appropriate.

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- (7) An order under subsection (1) above shall not so define a case by reference to cost as to prohibit a person from undertaking, or securing the undertaking of, a project without the authorisation of the Minister in a case where the project complies with the following conditions, that is to say, its cost does not exceed the sum of £500,000 and it does not form part of a larger project the cost of which exceeds that sum, or of a series of projects the cost of which, in the aggregate, exceeds that sum; and a person shall not, in a case defined in an order made under subsection (1) above otherwise than by reference to cost, be prohibited, by virtue of the order, from undertaking, or securing the undertaking of, a project without the authorisation of the Minister in a case where the project complies with the conditions aforesaid.
- (8) An order under subsection (1) above shall be so framed as, in the opinion of the Minister, to secure that there is exempted from any prohibition thereby imposed the undertaking, and the securing of the undertaking, of the execution of works of the nature of routine maintenance and works of the nature of routine repair.
- (9) An order under subsection (1) above may, for the purpose of subsection (7) above or any provision contained in the order defining a case by reference to the cost of a project, provide for the ascertainment of the cost of a project by reference to the actual or the estimated expenditure on the project, and that, in computing that cost, there shall be included a sum, ascertained in accordance with the provisions of the order, in respect of such other matters incidental to or consequential on that project as the order may provide, including, without prejudice to the generality of the foregoing provision, the value of any land acquired for, or appropriated to the purpose of, that project.
- (10) Subsection (1) above shall not have effect in relation to a project in so far as the project comprises—
- (a) the execution of works for the construction, reconstruction or repair of a dry dock; or
 - (b) the execution of works for the construction, reconstruction or repair of buildings or structures, being buildings or structures required for use or used wholly or mainly for the purpose of the dry docking of a ship ; or
 - (c) the acquisition or taking on hire of plant or equipment for use in a dry dock.
- (11) Nothing in an order under this section shall be taken to prohibit an internal drainage board (within the meaning of the Land Drainage Act 1930) a river board, a river authority, a river purification authority, a district board, an improvement committee, the Conservators of the River Thames or the Lee Conservancy Catchment Board from undertaking any project in the exercise of river works powers or the performance of river works duties.
- (12) The Minister may by order made under this subsection substitute for the sum of £500,000 mentioned in subsection (7) above such other sum as is specified in the order; but no order shall be made under this subsection unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.
- (13) In this section "harbour" does not include a fishery harbour or marine work and "harbour operations" does not include operations carried out at a fishery harbour or marine work.
- (14) Any power conferred by this section to make an order shall include power to vary or revoke the order.

10 Enforcement of control of harbour development

- (1) No criminal proceedings shall lie in respect of a contravention of a prohibition imposed under section 9 of this Act, or a contravention of, or failure to comply with, a condition to which an authorisation granted under that section is for the time being subject, but, without prejudice to the bringing of civil proceedings by the Attorney General in respect of a contravention, or an apprehended contravention, of, or a failure to comply with, any such prohibition or condition, any such prohibition or condition shall be enforceable by civil proceedings by the Minister for an injunction or for any other appropriate relief.
- (2) Where it appears to the Minister that the exercise of powers under this subsection is necessary for the enforcement by the Minister of any prohibition or condition having effect by virtue of section 9 of this Act, the Minister may authorise in writing such person as may be specified in the authorisation to exercise those powers in relation to any undertaking which is so specified and whose activities comprise the improving, maintaining or managing of a harbour or the carrying out of harbour operations; and thereupon that person shall have the right, on production, if so required, of a duly authenticated document showing his authority, to inspect at any reasonable hour, at the premises where they are kept, books, records and other documents relating to the undertaking, but not including any books, records or documents solely relating to activities other than the improving, maintaining and managing of a harbour or, as the case may be, the carrying out of harbour operations; and it shall be the duty of the person in charge of any premises where such books, records and documents are kept to produce them for inspection and to provide facilities at the premises for the taking of copies thereof and the making of extracts therefrom by the person carrying out the inspection.
- (3) If a person fails to comply with a duty imposed on him under the last foregoing subsection, or in any way obstructs the exercise of rights under that subsection, he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £20.
- (4) In relation to proceedings in Scotland, subsection (1) of this section shall have effect with the substitution, for the words after " subject, but ", of the words " without prejudice to the bringing of any proceedings under section 91 of the Court of Session Act 1868 in respect of a contravention, or an apprehended contravention, of, or a failure to comply with, any such prohibition or condition, any such prohibition or condition shall be enforceable by civil proceedings by the Minister for an interdict or for any other appropriate remedy ".

Exchequer Assistance for Execution of harbour Works, &c

11 Loans for execution of harbour works,

- (1) Subject to the provisions of this section, the Minister, with the approval of the Treasury and after consulting the Council, may, out of moneys which, by virtue of the following provisions of this Act, are issued to him for the purpose out of the Consolidated 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;

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- (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 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.

12 Grants for execution of harbour works,

- (1) Subject to the provisions of this section, the Minister, with the approval of the Treasury and after consulting the Council, may, out of moneys provided by Parliament, give to a harbour authority assistance by way of grant—
 - (a) in respect of expenses incurred by them such as are mentioned in paragraph (a) of section 11(1) of this Act;
 - (b) to enable them to pay the whole or part of a sum due by way of payment of interest on a loan made to them by virtue of that paragraph.
- (2) Subsection (2) of the last foregoing section shall apply to assistance given under this section in respect of such expenses as are mentioned in that subsection.
- (3) No assistance shall be given under subsection (1) of this section for the payment of interest on a loan for any period beginning more than five years from the date on which the loan was made.
- (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 pay interest on a loan unless at that time the harbour is neither a fishery harbour nor a marine work.

13 Maximum amount of loans and grants under sections 11 and 12, and cesser of certain other powers to give financial assistance

- (1) The aggregate amount of loans and of grants together made under the two last foregoing sections by the Minister shall not exceed £50,000,000 or, if so provided by a resolution of the Commons House of Parliament, £100,000,000.
- (2) No advance shall be made after the passing of this Act under section 17(1) of the 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 Harbours and Passing Tolls, &c. Act 1861 or section 9 of the Public Works Loans Act 1875 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) under the said section 9 by those Commissioners for the purposes of a dock or pier elsewhere than at a harbour which is for the time being a fishery harbour or marine work or for the purposes of a harbour which is not for the time being a fishery harbour or marine work;

unless those Commissioners have agreed before the passing of this Act to make it.

Harbour Revision and Empowerment Orders

14 Ministers' powers, on application of harbour authorities, or others, to make orders for securing harbour efficiency,

- (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.
- (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 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 the infliction on him of a fine exceeding £100 ;
 - (b) on his being convicted on indictment, of the infliction on him of imprisonment (whether in addition to, or in substitution for, a fine) for a term exceeding six months.
- (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) A harbour revision order shall be subject to special parliamentary procedure.
- (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.

15 Ministers' powers to make, of their own motion, orders for limited purposes for securing harbour efficiency,

- (1) If, with respect to a harbour, the appropriate Minister is satisfied, on a representation made to him by the Council, 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) In the case of a fishery harbour and of a marine work subsection (1) of this section shall have effect with the omission of the words " on a representation made to him by the Council".
- (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.

16 Ministers' powers, on application of intending undertakers, or others, to make orders conferring powers for improvement, construction, 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;

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 in subsection (1) of this section.

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- (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 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 the infliction on him of a fine exceeding £100;
 - (b) on his being convicted on indictment, of the infliction on him of imprisonment (whether in addition to or in substitution for a fine) for a term exceeding six months.
- (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 acquired compulsorily, be annexed to the order a large-scale map on which the boundaries of that parcel are plainly delineated.
- (8) A harbour empowerment order shall be subject to special parliamentary procedure.

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 the Minister;
 - (b) Part II of that Schedule shall have effect with respect to the procedure for the making of harbour revision orders by the Minister of his own motion;
 - (c) Part I of that Schedule shall, subject to the modifications specified in Part III thereof, have effect with respect to the procedure for making harbour revision orders upon application therefor to the Minister of Agriculture, Fisheries and Food;
 - (d) Part I of that Schedule shall, subject to the modifications specified in Part IV thereof, have effect with respect to the procedure for making harbour revision orders upon application therefor to the Secretary of State;
 - (e) Part II of that Schedule shall, subject to the modifications specified in Part V thereof, have effect with respect to the procedure for the making of harbour revision orders by the Minister of Agriculture, Fisheries and Food of his own motion ;

- (f) Part II of that Schedule shall, subject to the modifications specified in Part VI thereof, have effect with respect to the procedure for the making of harbour revision orders by the Secretary of State of his own motion;
 - (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 the Minister;
 - (h) Part I of that Schedule shall, subject to the modifications specified in Part VIII thereof, have effect with respect to the procedure for the making of harbour empowerment orders by the Minister of Agriculture, Fisheries and Food;
 - (i) Part I of that Schedule shall, subject to the modifications specified in Part IX thereof, have effect with respect to the procedure for the making of harbour empowerment orders by the Secretary of State.
- (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 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 Harbours, Piers and Ferries (Scotland) Act 1937 applies.

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 by the Council or 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").
- (2) The said matters are the following, that is to say.—
- (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;

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- (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) 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;
- (i) making such provision as appears to the Minister necessary or expedient for rendering of full effect any provision of the scheme having effect by virtue of any of the foregoing paragraphs and such other 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.
- (4) Schedule 4 to this Act shall have effect with respect to the submission and confirmation of harbour reorganisation schemes ; and any such scheme, if confirmed, shall, as confirmed, be subject to special parliamentary procedure.
- (5) The Minister shall not confirm a harbour reorganisation scheme obtaining 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 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.

Compensation for Loss of Office, &c

19 Compensation for loss of office, in consequence of orders or 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.

Control of Movement of Ships in Harbours

20 Orders for establishing schemes for control of movement of ships in harbours

- (1) Subject to the provisions of this section, 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 or in relation to two or more adjacent harbours each of which is being so improved, maintained or managed, be established by an order (in this Act referred to as a " control of movement order ") made by the Minister a scheme for securing, so far as is practicable, the safe and uninterrupted movement of ships in the harbour or harbours and the approaches thereto.
- (2) A control of movement order shall not be made in relation to a harbour or harbours or the approaches thereto by the Minister except upon written application in that behalf made to him by the harbour authority or authorities by whom the harbour or harbours in question is or are being improved, maintained or managed.
- (3) A control of movement order may contain provision for all or any of the following matters, that is to say.—
 - (a) constituting or specifying the body or bodies by whom the scheme established by the order is to be administered;
 - (b) designating, or providing for designating, areas, routes or channels within the harbour or harbours to which the said scheme relates and the approaches thereto which (subject to any directions to the contrary given under a provision of the order having effect by virtue of the next following paragraph) ships, or ships of a particular class or description, are to use, or refrain from using, for movement or anchoring at all times, at specified times or in specified circumstances ;
 - (c) empowering such person as may be specified in the order to give directions for securing that ships within the harbour or harbours to which the scheme relates or the approaches thereto move only at specified times or during specified periods and to or from specified places, through specified areas, along specified routes or through specified channels;

- (d) empowering such person as may be specified in the order, in a case in which it appears to him expedient so to do by reason of restriction of visibility by the weather or by the presence of dust or smoke, to prohibit a ship from entering the harbour (or, as the case may be, both or one of the harbours) unless the ship is fitted with such equipment as may be so specified, being—
 - (i) radio navigational aids (as defined by section 36 of the Merchant Shipping (Safety Convention) Act 1949) of a kind conforming to requirements or standards laid down or recommended by or under any international convention to which the United Kingdom is a party or to standards that have been recommended by any international conference and to which Her Majesty's Government in the United Kingdom have signified their approval; or
 - (ii) apparatus of such a kind as aforesaid for transmitting information from the ship or receiving information transmitted thereto;
- (e) specifying (unless the said scheme is expressed by the order to have effect at all times) the times at which, the periods during which and the circumstances in which it is to be put into effect;
- (f) specifying the kind of equipment by means of which the said scheme is to be put into effect, and prohibiting the use of equipment as a means of putting the said scheme into effect unless it is of a type approved by the Minister;
- (g) specifying the place at which the equipment by means of which the said scheme is to be put into effect is to be installed, if it is to be installed on land, or, if it is to be installed in a ship or vehicle, the place at which the ship or vehicle is to be moored or stationed ;
- (h) prohibiting the use of equipment by means of which the said scheme is put into effect except by persons possessing such qualifications as may be specified in the order;
- (i) providing (subject to subsection (4) below) for the punishment—
 - (i) of persons who fail to comply with directions given under a provision of the order having effect by virtue of paragraph (c) above; and
 - (ii) in the event of failures, in the case of ships, to comply with a provision of the order having effect by virtue of paragraph (b) above or of contraventions, in the case of ships, of prohibitions imposed under a provision of the order having effect by virtue of paragraph (d) above, of the masters of the ships;by the infliction, upon their conviction, of such penalties as may be specified in the order;
- (j) authorising—
 - (i) in a case where the said scheme relates to a single harbour, or to two or more harbours both, or all, of which are being improved, maintained or managed by one harbour authority, the authority by whom that harbour is, or those harbours are, being improved, maintained or managed ;
 - (ii) in a case where that scheme relates to two or more harbours both, or all, of which are not being improved, maintained or managed by one harbour authority, such of the harbour authorities who between them are engaged in improving, maintaining or managing the harbours as may be specified in the scheme;

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- to acquire compulsorily any land described in the order which is required as a site for any equipment by means of which that scheme will fall to be put into effect;
- (k) making such provision as appears to the Minister requisite or expedient for rendering of full effect a provision of the scheme having effect by virtue of the last foregoing paragraph and any consequential or incidental provisions appearing to him to be requisite or expedient for the purposes of the scheme.
- (4) The provisions of a control of movement order having effect by virtue of subsection (3)
- (i) above shall not be so framed as to permit—
- (a) on summary conviction of a person of an offence consisting in a failure to comply with any such direction as is mentioned in sub-paragraph (i) thereof or on summary conviction of the master of a ship by reason of such a failure or contravention as is mentioned in sub-paragraph (ii) thereof, of the infliction on him of a penalty other than a fine or of the infliction on him of a fine exceeding £100 ;
- (b) on conviction on indictment of a person of such an offence or of the master of a ship by reason of such a failure or contravention.—
- (i) of the infliction on him of imprisonment, except in a case where the offence was committed recklessly or wilfully or, as the case may be, the failure or contravention was reckless or wilful; or
- (ii) in the said excepted case, of the infliction on him of imprisonment (whether in addition to, or in substitution for, a fine) for a term exceeding six months.
- (5) Where a control of movement 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) Schedule 5 to this Act shall have effect with respect to the procedure for making control of movement orders.
- (7) The power conferred by this section on the Minister to make a control of movement order shall include power by order to vary or revoke such an order upon an application's being made to him so to do by the harbour authority or authorities by whom the harbour or harbours to which the scheme established by the original order relates are being improved, maintained or managed; and Schedule 5 to this Act shall, with requisite modifications, have effect with respect to the procedure for making an order by virtue of this subsection as it has effect with respect to the procedure for making a control of movement order.
- (8) The Minister shall not make an order under this section including provision authorising the compulsory acquisition of land unless it also includes provision for the payment of compensation in respect of the acquisition.
- (9) References in this section to the master of a ship shall—
- (a) except in the case of a seaplane or hover vehicle, be construed as including a reference to any other person (except a pilot) having command or charge of the ship ;
- (b) in the said excepted case, be construed as referring to the person having command or charge of the seaplane or vehicle.

21 Association of pilots with schemes established by control of movement orders

- (1) Where part of the area with respect to which the scheme established by a control of movement order relates coincides with part of a pilotage district (hereafter in this subsection referred to as the "district concerned") but no part of that area coincides with part of another such district, the order shall be so framed as to secure (if it be practicable so to do) that there shall be included amongst the members of the body by whom that scheme is to be administered (or, if it is to be administered by more bodies than one, amongst the members of each of them) a person nominated by the pilotage authority for the district concerned; and where two or more parts of such an area as aforesaid severally coincide with parts of different pilotage districts, the order shall be so framed as to secure (if it be practicable so to do) that there shall be included as aforesaid a person nominated by the pilotage authority for one or other of those districts.
- (2) For the purposes of the foregoing subsection, where a control of movement order relates to two or more harbours, the several areas with respect to which the scheme established by the order relates shall be treated as being a single area.

22 Byelaws for preventing interference with operation of schemes established by control of movement orders

- (1) A harbour authority engaged in improving, maintaining or managing a harbour to which a scheme established by a control of movement order relates may make byelaws (subject to confirmation by the Minister) for securing that the putting into effect of the scheme is not prevented or impeded.
- (2) Byelaws made by virtue of the foregoing subsection may include provision for the punishment of a person who contravenes, or fails to comply with, any of them, by the infliction, upon his being summarily convicted of an offence consisting in the contravention or failure, of a fine not exceeding £20.
- (3) Sections 250(2) to (7) and 252 of the Local Government Act 1933 (which relate to the procedure for making, and evidence of, byelaws) shall apply to any byelaws made under subsection (1) of this section by a harbour authority as if they were a local authority and their secretary or clerk were the clerk to a local authority.
- (4) No power to make byelaws vested, by a statutory provision other than subsection (1) of this section, in a harbour authority engaged as therein mentioned shall be exercisable for the purpose so mentioned.
- (5) In the application of this section to Scotland, for the references to subsections (2) to (7) of section 250 and to section 252 of the Local Government Act 1933 there shall be substituted respectively references to section 301(3), (4), (5), (7) and (11) to (13) and to section 303 (except paragraph (d) thereof) of the Local Government (Scotland) Act 1947.

23 Powers of inspection, in connection with schemes established by control of movement orders

- (1) A person authorised by the Minister for the purposes of this section, on producing if so required some duly authenticated document showing that he is so authorised.—
 - (a) may at all reasonable times enter any premises or vehicle in which, or any ship or aircraft on board of which, equipment by means of which a scheme

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established by a control of movement order is, or will fall to be, put into effect is installed or is in course of installation, and inspect and test that equipment;

- (b) may, in the case of a ship which is in, or is seeking to enter, a harbour in relation to which a control of movement order is in force or of a ship that he believes to have entered or sought to enter a harbour at a time at which such an order was in force in relation to the harbour, go on board of the ship and inspect it for the purpose of determining whether it is fitted with such equipment as is specified in such provision of the order as has effect by virtue of paragraph (d) of subsection (3) of section 20 of this Act or, as the case may be, was fitted with such equipment as, at that time, was so specified, and may inspect and test any equipment with which the ship is fitted, being equipment appearing to him to be of a kind then or at a previous time specified in such provision of such an order as has or, as the case may be, had effect by virtue of that paragraph,

but so that, in exercise of powers conferred by paragraph (b) above in the case of a ship, he does not unnecessarily detain or delay it.

- (2) The Minister may by regulations require that, subject to any exceptions for which provision may be made by the regulations, there shall, in respect of an inspection or test carried out in exercise of powers conferred by the foregoing subsection, be payable to him by such person as may be specified in the regulations a fee of such amount as may be so specified; and fees of different amounts may be so specified in relation to inspections or tests carried out in different circumstances.
- (3) A person who obstructs a person acting in exercise of powers conferred by subsection (1) of this section shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £50.
- (4) Any sums received under this section by the Minister shall be paid into the Exchequer.

24 Defence available to persons charged with offences under control of movement orders

In any proceedings for an offence consisting—

- (a) in a failure to comply with a direction given under a provision of a control of movement order having effect by virtue of paragraph (c) of subsection (3) of section 20 of this Act; or
- (b) in a failure, in the case of a ship, to comply with a provision of such an order having effect by virtue of paragraph (b) of that subsection or a contravention, in the case of a ship, of a prohibition imposed under a provision of such an order having effect by virtue of paragraph (d) of that subsection ;

it shall be a defence for the person charged to prove that he had reasonable ground for supposing that compliance with the direction, provision or prohibition in question, would be likely to imperil the ship or to prove that in the circumstances compliance with the direction, provision or prohibition in question was impracticable.

25 Limitation of liability of bodies administering schemes established by control of movement orders

- (1) Section 2 of the Merchant Shipping (Liability of Shipowners and others) Act 1900 (which limits the liability of the owners of a dock or canal or of a harbour or conservancy authority as defined by the Merchant Shipping Act 1894 where, without

their actual fault or privity, any loss or damage is caused to any vessel or to anything on board a vessel to damages up to an aggregate amount not exceeding one thousand gold francs for each ton of the tonnage of the largest registered British ship which, at the time of the loss or damage occurring, is, or within the period of five years previous thereto has been, within the area over which the dock or canal owner, or harbour or conservancy authority, performs any duty or exercises any power) shall apply for the purpose of limiting the liability of a body by whom a scheme established by a control of movement order is administered as it applies for the purpose of limiting the liability of such owners of a dock or canal or such a harbour or conservancy authority, with the following modifications, that is to say.—

- (a) for any reference (except in subsection (5)) to any such owner or authority, there shall be substituted a reference to the body ; and
 - (b) for any reference to the area over which such owner or authority performs any duty or exercises any power there shall be substituted a reference to the harbour to which the scheme relates, or where the scheme relates to more than one harbour, to any of the harbours to which the scheme relates.
- (2) A body by whom a scheme established by a control of movement order is administered, whether alone or jointly with another body, shall not be entitled to any exclusion or limitation of liability for loss, damage or injury arising out of the putting of the scheme into effect other than such exclusion or limitation as they are entitled to by virtue of the foregoing subsection.

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 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

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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 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 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 Fishery Harbours Act 1915.

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 under Part IV of the Salmon and Freshwater Fisheries Act 1923 by virtue of section 38(1)(d) of that Act, fall to be assessed on several fisheries or the owners or occupiers thereof;
 - (d) duties on licences granted under section 61 of the said Act of 1923 to fish;
 - (e) charges in respect of licences under the Water Resources Act 1963 to abstract water or in respect of water authorised by such licences to be abstracted.
- (3) In this section " harbour authority " has the same meaning as in the last foregoing section.

28 Repeal of provisions limiting discretion of nationalised transport bodies as to ship, passenger and merchandise dues at certain harbours owned or managed by them

Schedule 9 to the 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.

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

- (1) Section 655(1) of the Merchant Shipping Act 1894 (which empowers Her Majesty in Council to fix the dues to be paid to a local lighthouse authority by whom a lighthouse, buoy or beacon is erected or placed, or is reconstructed, repaired or replaced, in respect of every ship which enters the port or harbour under the control of that authority or the estuary in which the light, buoy or beacon is situate, and which passes the lighthouse, buoy or beacon and derives benefit therefrom) shall cease to have effect, and any other statutory provision made with respect to a local lighthouse authority shall, if the authority are not a harbour authority, 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 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.

30 Duty of harbour and local lighthouse authorities to make available for inspection, and 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
 - (b) by virtue of section 43 of the Transport Act 1962 by any of the Boards at a harbour 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 one shilling 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 who are not a harbour authority 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 one shilling 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 (other than any of the Boards) at the office of a harbour which is not a fishery harbour or marine work or by any of the Boards at a harbour specified in Schedule 9 to the Transport Act 1962, 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 the Council 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 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.

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.
- (2) Subject to subsections (10) to (12) below and to the provisions of the three next following sections, 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 the Council by—
- (a) a person appearing to them 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.

- (3) The Council 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 the Council 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 them 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 the Council 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), the Council shall, unless the objection has been withdrawn before the expiration of that time and no written representations in the matter have been made to them 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 they are satisfied that they 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, the Council 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 the Council think reasonable has elapsed.
- (6) The Council, 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 they approve it) to the period during which the approval is to be of effect, and give to the authority written notice that they have 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 £100.
- (9) Forthwith after complying on any occasion with subsection (6) above, the Council 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 them 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 the Council of an objection to a charge and a further objection to that charge is lodged with the Council, subsections (3) to (6) above shall not have effect by virtue of the lodging of that further objection.
- (12) If it appears to the Council that the White Fish Authority or the Herring Industry Board are, or may be, concerned with a charge, the Council shall not give effect to subsection (6) above in relation to that charge without having consulted the Authority or, as the case may be, the Board.
- (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 the Council, of references to the Minister of Agriculture, Fisheries and Food, and in relation to charges to which this section applies imposed by a harbour authority at a marine work 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 the Council, of references to the Secretary of State.

32 Power of Minister to revise ship, passenger and goods dues at harbours other than fishery harbours or marine works

- (1) Where, in the case of a harbour which, in the exercise and performance of statutory powers and duties, a harbour authority are engaged in improving, maintaining or managing (not being a fishery harbour or marine work), the Council are satisfied that, as regards the charges imposed at the harbour by that authority that constitute ship, passenger and goods dues, all or any of them ought to be revised, and are further satisfied that it is not possible to secure the revision thereof by agreement between them and the authority, they may submit to the Minister a scheme for revising those that they are satisfied ought to be revised (specifying precisely and in detail the manner in which the revision is to be accomplished), accompanied by a statement of the reasons why they are satisfied that those charges ought to be revised.
- (2) Where the Council submit under the foregoing subsection a scheme to the Minister, they shall forthwith send to the authority engaged in improving, maintaining or managing the harbour to which the scheme relates two copies of the scheme and two copies of the statement submitted to the Minister therewith, and of them one copy of each shall be kept at the harbour office until the expiration of the period specified in the notice published in pursuance of the next following subsection with reference to the

scheme and, during that period, shall be open during reasonable hours for inspection by any person without charge.

- (3) As soon as may be after submitting under subsection (1) of this section a scheme to the Minister, the Council shall publish in such newspapers as the Minister may require a notice—
- (a) stating that the scheme has been submitted to the Minister and specifying the harbour to which it relates;
 - (b) stating that a copy of the scheme and of the statement submitted therewith to the Minister may be seen at the harbour office at all reasonable hours; and
 - (c) stating that any such person or body as the following who desires to make to the Minister 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 before the expiration of the period specified in the notice (which shall not be less than forty-two days from the date of the publication or first publication thereof).
- (4) Where the proper notice has been duly published with reference to a scheme submitted to him under subsection (1) of this section, then, so soon as practicable after the expiration of the period specified in the notice (but subject to the next following subsection), the Minister shall proceed to consideration of the scheme, any representations made by the harbour authority concerned and any representations made by others and, unless he is satisfied that 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, in the case of a scheme submitted under subsection (1) of this section to the Minister, written representations are duly made to the Minister by any such person or body as is mentioned in subsection (3)(c) above, the Minister shall send copies thereof to the Council and to the harbour authority concerned, and shall not proceed to consideration of the scheme until such period for consideration of, and comment upon, the representations by the Council and the authority as he thinks reasonable has elapsed.
- (6) The Minister, after effect has been given, in the case of a scheme submitted to him under this section, to subsection (4) above, shall either by order confirm the scheme, with or without modifications, or reject it.
- (7) An order under the last foregoing subsection shall set out in a schedule thereto the scheme thereby confirmed in the form in which it is confirmed and shall specify a date for the coming into operation of the scheme and the period from that date (which shall not exceed twelve months) which, for the purposes of the following provisions of this section, is to be the close period in relation to the scheme.
- (8) Charges fixed by a scheme under this section in the case of a harbour shall—
- (a) except in a case where the harbour is one specified in Schedule 9 to the Transport Act 1962, be deemed to have been imposed under section 26 of this Act;
 - (b) in the said excepted case, be deemed to have been imposed under section 43 of the said Act of 1962;
- and during the close period in relation to the scheme—
- (i) the harbour authority engaged in improving, maintaining or managing the harbour shall not demand or take thereat in respect of a matter or thing in

Status: This is the original version (as it was originally enacted).

respect of which a charge is fixed by the scheme, a charge other than that so fixed ;

- (ii) subsections (3) to (6) of the last foregoing section shall not, in the case of a charge so fixed, have effect by virtue of the lodging of an objection thereto.
- (9) If a harbour authority fail to comply with an obligation to which they are subject by virtue of subsection (8)(i) above, they shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding £100.
- (10) A harbour authority shall not be treated as having failed to comply with an obligation to which they are subject by virtue of subsection (7) of the last foregoing section if compliance therewith would have prevented compliance with an obligation to which they were subject by virtue of subsection (8)(i) above.
- (11) Forthwith after complying on any occasion with subsection (6) above, the Minister shall publish, in the newspapers in which was published notice of the submission to him of the scheme the submission whereof gave rise to the proceedings that resulted in the compliance on that occasion, notice stating what he has done under that subsection about the scheme.

33 Power of Minister of Agriculture, Fisheries and Food to revise ship, passenger and goods dues at fishery harbours and of Secretary of State to revise them at marine works

- (1) Where, in the case of a fishery harbour or marine work which, in the exercise and performance of statutory powers and duties, a harbour authority are engaged in improving, maintaining or managing, the appropriate Minister is satisfied that, as regards the charges imposed at the harbour by that authority that constitute ship, passenger and goods dues, all or any of them ought to be revised, and is further satisfied that it is not possible to secure the revision thereof by agreement between him and the authority, the appropriate Minister may make proposals for revising those that he is satisfied ought to be revised and shall send to the authority two copies of the proposals together with two copies of a statement setting out the reasons why he is satisfied as aforesaid and, precisely and in detail, the manner in which the revision is to be accomplished, and of them one copy of each shall be kept at the harbour office until the expiration of the period specified in the notice published in pursuance of the next following subsection with reference to the proposals and during that period shall be open during reasonable hours for inspection by any person without charge.
- (2) As soon as may be after sending under the foregoing subsection copies of proposals to a harbour authority, the appropriate Minister shall publish in such newspapers as he thinks proper a notice—
 - (a) stating that he has made the proposals and specifying the harbour to which they relate;
 - (b) stating that a copy of the proposals and of the statement sent therewith to the authority may be seen at the harbour office at all reasonable hours; and
 - (c) stating that any such person or body as the following who desires to make to the appropriate Minister 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 before the expiration of the period specified in the notice (which shall not be less than forty-two days from the date of the publication or first publication thereof).

- (3) Where, in the case of proposals made under this section, written representations are duly made by any such person or body as is mentioned in subsection (2)(c) above, the appropriate Minister shall send a copy thereof to the harbour authority concerned.
- (4) If, in the case of proposals made under this section, no representation is duly made by any such person or body as is mentioned in subsection (2)(c) above or is made by the harbour authority concerned, or if all representations so made are withdrawn, the appropriate Minister, after the expiration of the period specified in the notice published under that subsection with reference to the proposals, may by order give effect to the revision that is the subject of the proposals.
- (5) If, in the case of proposals made under this section, representations are made as aforesaid and not withdrawn within such period as he thinks reasonable, the appropriate Minister shall proceed to consider them and any comments made by the harbour authority concerned upon such (if any) of them as are made by others and, unless he is satisfied that 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.
- (6) Where, in the case of proposals made under this section, effect has been given to the last foregoing subsection, the appropriate Minister may, unless he decides to proceed no further in the matter, by order give effect, with or without modifications, to the revision that is the subject of the proposals.
- (7) An order under subsection (4) or (6) above shall specify a date for its coming into operation and the period from that date (but not exceeding twelve months) which for the purposes of the following provisions of this section is to be the close period in relation to the order.
- (8) Charges fixed by an order under this section in the case of a harbour shall be deemed to have been imposed under section 26 of this Act, and during the close period in relation to the order—
 - (a) the harbour authority engaged in improving, maintaining or managing the harbour shall not demand or take thereat in respect of a matter or thing in respect of which a charge is fixed by the order, a charge other than that so fixed ;
 - (b) subsections (3) to (6) of section 31 of this Act shall not, in the case of a charge so fixed, have effect by virtue of the lodging of an objection thereto.
- (9) If a harbour authority fail to comply with an obligation to which they are subject by virtue of subsection (8)(a) above they shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding £100.
- (10) A harbour authority shall not be treated as having failed to comply with an obligation to which they are subject by virtue of section 31(7) of this Act if compliance therewith would have prevented compliance with an obligation to which they were subject by virtue of subsection (8)(a) above.
- (11) Forthwith after the making of an order under subsection (4) or (6) above with reference to any proposals made under this section, or deciding to proceed no further in the matter of any proposals so made, the appropriate Minister shall publish, in the newspapers in which notice of the making of the proposals was published, notice stating, as the case may be, that he has made the order or that he has decided as aforesaid.

- (12) In this section " the appropriate Minister " means, in relation to a fishery harbour, the Minister of Agriculture, Fisheries and Food and, in relation to a marine work, the Secretary of State.

34 Provisions supplementary to sections 31 to 33

- (1) Where, at the time when a scheme for revising charges imposed at a harbour by a harbour authority is submitted to the Minister under section 32 of this Act. effect to subsections (3) to (5) of section 31 of this Act is in course of being given in consequence of the lodging with the Council of an objection to a charge imposed at that harbour by that harbour authority, the Council shall, when they submit the scheme to the Minister, send therewith a copy of the objection and of any representations with respect thereto received by them and of any comments thereon so received, and a report of any inquiry completed with respect thereto, and, subject to the provisions of subsection (3) below, the operation in relation to the objection of subsections (3) to (6) of the said section 31 shall be suspended.
- (2) Where, after a scheme for revising charges imposed at a harbour by a harbour authority has been submitted to the Minister under section 32 of this Act but before the Minister has proceeded to a decision in the matter, there is lodged with the Council an objection to a charge imposed at that harbour by that harbour authority, being an objection which, apart from this subsection, would cause subsections (3) to (6) of section 31 of this Act to have effect, the Council shall forthwith send a copy of the objection to the Minister and the operation in relation to the said objection of the said subsections (3) to (6) shall be suspended.
- (3) Where, at the time when an objection is sent to the Minister under subsection (1) above, an inquiry with respect to the objection is in course of being held, the inquiry shall, notwithstanding the suspension of the operation of subsections (3) to (6) of section 31 of this Act, be continued, and after its completion the Council shall send to the Minister a report thereof.
- (4) Where, in relation to an objection, the operation of subsections (3) to (6) of section 31 of this Act is suspended in a case falling within subsection (1) of this section or, in a case falling within subsection (2) of this section where the Minister has not proceeded by the time he receives the objection to a decision on the scheme, the Minister—
- (a) may, if he is satisfied that the objection does not relate to a charge subject to revision by the scheme and that the scheme ought not to be modified as respects the charge to which the objection relates, direct that the suspension shall cease to have effect as from such date as may be specified in the direction ; and
 - (b) if he does not give a direction under the foregoing paragraph, shall, before he proceeds to a decision on the scheme, consider the objection and, in the case of an objection falling within subsection (1) above, any representations and comments thereon that were sent with the scheme, and a report of any inquiry that was so sent, and—
 - (i) subject to the next following subsection, if he is satisfied that the objection relates to a charge subject to revision by the scheme or that the scheme ought to be modified as respects the charge to which the objection relates, make in the scheme, if he decides to confirm it, such provision in relation to that charge as he thinks fit, or

- (ii) if he is not so satisfied or if he rejects the scheme, direct that the suspension shall cease to have effect as from such date as may be specified in the direction.
- (5) The Minister shall not, under subsection (4)(b)(i) above, make in a scheme provision in relation to the charge to which an objection relates without causing an inquiry to be held with respect to the objection, unless—
 - (a) in the case of an objection sent to him under sub section (1) above.—
 - (i) he has received a report of any inquiry held under section 31 of this Act in relation to the objection; or
 - (ii) he is satisfied for any other reason that he can properly proceed to a decision in the matter without causing an inquiry to be held;
 - (b) in the case of an objection sent to him under subsection (2) above.—
 - (i) the objection was received by him after the expiration of the period specified in relation to the scheme under section 32(3)(c) of this Act; or
 - (ii) he is satisfied that he can properly proceed to a decision in the matter without causing an inquiry to be held.
- (6) Where the operation of subsections (3) to (6) of section 31 of this Act is suspended in a case falling within subsection (2) above and, by the time the Minister receives the objection, he has proceeded to a decision on the scheme, then—
 - (a) if the Minister confirms the scheme, and the scheme fixes the charge to which the objection relates the said subsections (3) to (6) shall have no further effect in relation to the objection ; and
 - (b) if the Minister rejects the scheme, or if he confirms it but it does not fix the said charge, the suspension shall cease to have effect as from such date as the Minister may direct.
- (7) Where the Minister makes provision in a scheme in pursuance of subsection (4)(b)(i) above, he shall give written notice to the objector that he has done so and shall include a statement of that fact in the notice published in pursuance of section 32(11) of this Act, and subsections (3) to (6) of section 31 of this Act shall have no further effect in relation to the objection in question.
- (8) Where, after the appropriate Minister (within the meaning of section 33 of this Act) has sent, under subsection (1) of that section, to a harbour authority copies of proposals for revising charges imposed at a harbour by that harbour authority but before he has proceeded to a decision in the matter there is lodged with him an objection to a charge imposed at that harbour by that harbour authority, being an objection which, apart from this subsection, would cause subsections (3) to (6) of section 31 of this Act to have effect, the operation in relation to the said objection of the said subsections (3) to (6) shall be suspended, and subsections (4) to (7) above shall have effect as they have effect where the operation of the said subsections (3) to (6) is suspended in a case falling within subsection (2) above, but with the following modifications:—
 - (a) for any reference in any of the said subsections (4) to (7) to the Minister there shall be substituted a reference to the said appropriate Minister ;
 - (b) in subsection (4) above, for the words " the scheme ", in each place, except the last, where they occur, there shall be substituted the words " the proposals "; for the words " if he decides to confirm it " there shall be substituted the words " if he decides to give effect to the revision that is the subject of the

- proposals "; for the words " if he rejects the scheme " there shall be substituted the words " if he decides to proceed no further in the matter ";
- (c) in subsection (5) above, for the words "a scheme", there shall be substituted the word " proposals "; for the words " the scheme " there shall be substituted the words " the proposals "; and for the words " section 32(3)(c) of this Act" there shall be substituted the words " section 33(2)(c) of this Act ";
 - (d) in subsection (6) above, for the words " the scheme ", in the first place where they occur, there shall be substituted the words " the proposals ", for the words " confirms the scheme, and the scheme fixes the charge" there shall be substituted the words " gives effect to the revision that is the subject of the proposals, and the order by which such effect is given fixes the charge "; and for the words " rejects the scheme, or if he confirms it but it does not fix the said charge," there shall be substituted the words " decides to proceed no further in the matter, or gives effect to the revision that is the subject of the proposals, but the order by which such effect is given does not fix the charge ";
 - (e) in subsection (7) above, for the words " a scheme " there shall be substituted the word " proposals ";
- and for the words "section 32(11) of this Act" there shall be substituted the words " section 33(11) of this Act ".
- (9) Where, in relation to an objection, the operation of subsections (3) to (6) of section 31 of this Act comes into effect following a suspension having effect by virtue of the foregoing provisions of this section, then, in ascertaining the expiration of any period specified in the notice given under section 31(3)(b) of this Act in relation to the objection, there shall be disregarded any time falling within the period of the suspension.

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

Sections 31, 32 and 34 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 and of securing that charges so exigible shall be subject to revision in like manner as such dues are subject to revision (and with the like consequences), 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 who are not a harbour authority ";
- (g) section 31(13) shall be omitted ;

- (h) in section 32(1), for the words from the beginning to " all or any of them " (inclusive), there shall be substituted the words " Where the Council are satisfied that all or any of the charges imposed under section 29 of this Act by a local lighthouse authority ";
- (i) in section 32(2), for the references to the authority engaged in improving, maintaining or managing the the harbour to which the scheme relates and to the harbour office there shall be substituted references respectively to the local lighthouse authority concerned and their office;
- (j) in section 32(3), for references to the harbour to which the scheme relates and to the harbour office, there shall be substituted references respectively to the local lighthouse authority to which the scheme relates and their office;
- (k) in section 32(4) and (5), for the references to the harbour authority concerned there shall be substituted references to the local lighthouse authority concerned ;
- (l) for section 32(8) there shall be substituted the following subsection:—
 - “(8) Charges fixed by a scheme under this section in the case of a local lighthouse authority who are not a harbour authority shall be deemed to have been imposed under section 29 of this Act, and during the close period in relation to the scheme—
 - (a) that authority shall not demand or take, in respect of a matter or thing in respect of which a charge is fixed by the scheme, a charge other than that so fixed;
 - (b) subsections (3) to (6) of the last foregoing section shall not, in the case of a charge so fixed, have effect by virtue of the lodging of an objection thereto”;
- (m) in section 32(9) and (10), for the references to a harbour authority and to subsection (8)(i) there shall be substituted respectively references to a local lighthouse authority who are not a harbour authority and to subsection (8)(a).
- (n) in section 34(1) and (2), for the words " charges imposed at a harbour by a harbour authority " there shall be substituted the words " charges imposed under section 29 of this Act by a local lighthouse authority ", and for the words " a charge imposed at that harbour by that harbour authority " there shall be substituted the words " a charge so imposed by that authority "; and
- (o) section 34(8) shall be omitted.

36 Sections 31 and 32 not to apply to charges at certain harbours

Sections 31 and 32 of this Act shall not apply to charges—

- (a) imposed by any of the Boards at a harbour not specified in Schedule 9 to the Transport Act 1962;
- (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.

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 section 8(2) of the Civil Aviation Act 1949 as has effect by virtue of paragraph (o) (regulation of charges for use of licensed aerodromes and for services provided thereat) of that subsection, have effect subject to that provision; and sections 27 and 31 to 33 of this Act shall not apply to any charges so regulated.

38 Repeal of certain enactments relating to harbour charges

- (1) The following provisions shall cease to have effect, namely.—
 - (a) sections 30 (power to vary rates) and 47 (list of rates to be set up) of the Harbours, Docks and Piers Clauses Act 1847 (both as originally enacted and as incorporated in any Act or order);
 - (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) section 17 (rates to be equally levied) of the General Pier and Harbour Act 1861 Amendment Act and 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.
- (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) The Shipping Dues Exemption Act 1867 (which precludes the according of certain exemptions from shipping dues and empowers the Minister to abolish dues from which an exemption exists) is hereby repealed.

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 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 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) In section 23 of the Harbours, Piers and Ferries (Scotland) Act 1937 the words " Part III of " shall be omitted.

*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.

Furnishing of Information

41 Power of Council to obtain information and forecasts

- (1) For the purpose of obtaining information and forecasts reasonably required by the Council for the exercise and performance of their functions under this Act, it shall be lawful for the Council, —
- (a) by notice in writing served on a person engaged in improving, maintaining or managing a harbour, to require him to furnish to the Council such information or forecasts relating to harbour operations carried out, or provision for the carrying out of which is made, by him at the harbour 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 the Council such information or forecasts relating to harbour operations of that description carried out by him at that harbour as may be so specified;
- and any such notice may require any such information or forecasts to be furnished in such manner and within such time as may be specified in the notice, and either periodically or on one occasion or more.

Status: This is the original version (as it was originally enacted).

- (2) The Council shall comply with any written directions given to them by the Minister with respect to the exercise of the powers conferred on them by this section.
- (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 £50, or in the case of a second or subsequent conviction to a fine not exceeding £200.
- (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.

42 Accounts, relating to harbour undertakings

- (1) An annual statement of accounts which—
 - (a) relates to a statutory harbour undertaking (whether or not it relates also to another undertaking); and
 - (b) is, by virtue of a statutory provision made with respect to him, required to be prepared by the person by whom the undertaking is carried on;shall, so far as it relates to the undertaking, be in such form, contain such particulars and be compiled in such manner as may be prescribed in relation to the undertaking by regulations made by the Minister.
- (2) The person by whom a statutory harbour undertaking is carried on shall be under an obligation to comply with such of the following requirements as he is not, by virtue of other statutory provision made with respect to him, under obligation to comply with, namely.—
 - (a) to prepare an annual statement of accounts relating to the undertaking;
 - (b) to send to the Minister a copy of each such annual statement;
 - (c) to send to the Minister a copy of the auditors' report upon each such annual statement.
- (3) The person by whom a statutory harbour undertaking is carried on shall be under an obligation to send to the Council a copy of each annual statement of accounts relating to the undertaking and a copy of the auditors' report thereon.
- (4) This section shall not apply to the Boards.
- (5) Subsection (1) of this section shall not be taken to impose an obligation as to the form, contents or manner of compilation of accounts relating to an undertaking the activities whereof consist wholly or mainly in the improvement, maintenance or management of a fishery harbour or marine work and subsection (2) of this section shall not be taken to impose an obligation on a person by whom such an undertaking is carried on so far as regards that undertaking.
- (6) For the purposes of subsection (2) above a person shall not be taken not to be under an obligation, by virtue of other statutory provision made with respect to him, to

prepare an annual statement of accounts or to send to the Minister a copy of, or of the auditors' report on, each such annual statement by reason only of the fact that that provision requires him to prepare an annual statement of accounts relating as well to other undertakings as to the undertaking in question or, as the case may be, to send to the Minister a copy of, or of the auditors' report on, each such annual statement; and the obligation imposed by that subsection—

- (a) so far as regards the requirement specified in paragraph (a), shall not be taken not to be satisfied by reason that an annual statement relates as well to other undertakings as to the undertaking in question,
 - (b) so far as regards the requirements specified in paragraphs (b) and (c) respectively, shall not be taken not to be satisfied by reason of the sending to the Minister of a copy of such an annual statement as is mentioned in paragraph (a) above or, as the case may be, of the auditors' report upon such an annual statement.
- (7) No regulation under subsection (1) of this section shall be taken to require the doing of anything in contravention of any requirement imposed by the Companies Act 1948 with respect to the form, contents or manner of compilation of accounts.
 - (8) Regulations under this section may be made so as to apply to all undertakings, to a class of undertakings or to a particular undertaking.
 - (9) The Minister shall consult the Council before making regulations under this section.
 - (10) In this section "statutory harbour undertaking" means an undertaking or part of an undertaking the activities whereof consist wholly or mainly in the improvement, maintenance or management of a harbour in the exercise of powers 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 in the person by whom the undertaking is carried on (other than river works powers), in the performance of duties so vested in him (other than river works duties) or in the exercise and performance of powers so vested in him (other than river works powers) and duties so vested in him (other than river works duties).

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 6 or 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 Consolidated Fund to the Minister such sums as are necessary to enable him to make loans under section 6 or 11 of this Act.
- (3) For the purpose of providing sums to be issued under the last foregoing subsection, or of providing for the replacement of sums so issued, the Treasury may at any time, if they think fit, raise money in any manner in which they are authorised to raise money under the National Loans Act 1939, and any securities created and issued to raise money under this subsection shall be deemed for all purposes to have been created and issued under that Act.

- (4) Any sums received by the Minister under subsection (1) of this section shall be paid into the Exchequer and shall be issued out of the Consolidated Fund at such times as the Treasury may direct, and shall be applied by the Treasury as follows, that is to say.—
- (a) so much thereof as represents principal shall be applied in redeeming or paying off debt of such description as the Treasury think fit, and
 - (b) so much thereof as represents interest shall be applied towards meeting such part of the annual charges for the National Debt as represents interest.
- (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 Exchequer 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.

44 Limitation of right to challenge harbour revision orders, 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 Statutory Orders (Special Procedure) Act 1945, or under section 2(4), as read with section 10, of that Act) or an order under section 20 of this Act, on the ground that a requirement of this Act was not complied with in relation to the order so far as regards the inclusion therein of a provision authorising the compulsory acquisition of a parcel of land may, within six weeks from the date on which the order becomes operative under the said Act of 1945 (or, in the case of an order under the said section 20, six weeks from the date on which it is made), make an application for the purpose to the High Court or the Court of Session, as the case may be.
- (2) On an application under the foregoing subsection, the court—
- (a) may, by interim order, suspend the operation of the provision in question, 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 the interests of the applicant have been substantially prejudiced by 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.
- (3) Except as provided by this section, a harbour revision or empowerment order or an order under section 20 of this Act shall not, either before or after it is made, be questioned in any legal proceedings whatever so far as regards the inclusion therein of a provision authorising the compulsory acquisition of a parcel of land.
- (4) The foregoing provisions of this section shall apply to a harbour re-organisation scheme confirmed by the Minister as they apply to a harbour revision order, with the substitution, for references to the making of the order, to its being made and to a provision authorising the compulsory acquisition of a parcel of land, of references respectively to the confirmation of the scheme, to its being confirmed and to a provision transferring an interest in a parcel of land.
- (5) In relation to proceedings in Scotland, subsection (2)(a) of this section shall have effect as if the words " by interim order " were omitted.

45 Penalties for furnishing false information

A person who—

- (a) for the purpose of obtaining the grant or variation of an authorisation under section 9 of this Act, or in purported compliance with a requirement imposed under section 4 or 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; or
- (b) with intent to deceive, produces for the purposes of section 10 of this Act a book, record or other document which is false in a material particular;

shall be guilty of an offence and shall be liable—

- (i) on summary conviction, to imprisonment for a term not exceeding three 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.

46 Restriction of disclosure of information

(1) No person shall disclose any information furnished to him in pursuance of a requirement imposed under section 4 or 41 of this Act or obtained by him in the exercise of rights under section 10 of this Act 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 the Council or the Minister to discharge their or 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 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 three 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.

47 Provisions as to inquiries and hearings

(1) Subsections (2) to (5) of section 290 of the Local Government Act 1933 (which provides for the holding of inquiries for the purposes of that Act)—

Status: This is the original version (as it was originally enacted).

- (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 section 290, subject to the following modifications, namely.—
 - (i) for references to a department, there shall be substituted references to the Minister or, as the case may be, to the Minister of Agriculture, Fisheries and Food;
 - (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; and
- (b) shall apply to an inquiry caused by the Council to be held in England or Wales under section 31 of this Act as they apply to an inquiry held under the said section 290, subject to the following modifications, namely.—
 - (i) for references to a department, there shall be substituted references to the Council;
 - (ii) subsection (4) shall have effect as if references to the payment of costs 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 subsections (4) and (5) of the said section 290 shall, with the like modifications as those specified in paragraph (a)(i) and (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) Subsections (3) to (9) of section 355 of the Local Government (Scotland) Act 1947 (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, and shall so apply to an inquiry caused by the Council to be held in Scotland under section 31 of this Act subject to the following modifications, namely—

- (a) for references to the Minister or to a government department there shall be substituted references to the Council;
- (b) subsection (8) 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 subsections (8) and (9) of the said section 355 shall, with the like modification in the case of subsection (8) 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 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 or paragraph 3(3) of Schedule 4 to this Act shall, if the Minister or the Secretary of State so directs, be held by Commissioners under the 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 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 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.

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 section 26 of the Interpretation Act 1889 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 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.

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.
- (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 and an order under section 20 of this Act, 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.

Status: This is the original version (as it was originally enacted).

- (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.

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 the 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”.
- (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 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.

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 section 199 of the Town and Country Planning Act 1962; and the provisions of subsection (6) 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
 - (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.

53 Saving for telegraphic lines

The reference in section 6 of the Telegraph Act 1878 (which empowers the Postmaster General to establish telegraphic lines on certain undertakings) to an Act of Parliament passed after 1st January 1878 shall be construed as including references to a harbour revision order and to a harbour empowerment order, and the reference in section 7 of that Act (which makes provision as to work done in the execution of certain undertakings which involves alteration in telegraphic lines) to an Act of Parliament shall be similarly construed.

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 4, 9(1), 18(7), 20 or 60 of this Act or regulations under section 19, 23 or 42 thereof shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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 Modification of Statutory Orders (Special Procedure) Act 1945 in its application to harbour revision orders,

The Statutory Orders (Special Procedure) Act 1945 shall, in its application to an order or scheme to which it applies by virtue of section 14, 16 or 18 of this Act (not being an order or scheme relating to a harbour in Scotland) have effect as if, in section 4 of that Act (which relates to the proceedings upon an order or other instrument to which the Act applies after the reports of the Lord Chairman of Committees and the Chairman of Ways and Means relating to the instrument have, in pursuance of section 3 of the Act, been laid before Parliament), the proviso to subsection (1) were omitted and, for the proviso to subsection (2), there were substituted the following proviso:—

“Provided that where any petition so certified has been certified as a petition of general objection, that petition shall not stand so referred, if during the resolution period, either House has resolved that the petition be not so referred”.

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:—
- "accounting period" means the period beginning with the passing of this Act and ending with such day falling not more than fifteen months later as the Council may determine, or any subsequent period of not more than fifteen months, beginning with the end of a previous accounting period, which the Council may determine;
 - "the Boards" means the British Transport Docks Board, the British Railways Board and the British Waterways Board;
 - "charges" includes fares, rates, tolls and dues of every description;
 - "the Consolidated Fund" means the Consolidated Fund of the United Kingdom;
 - "control of movement order" has the meaning assigned to it by section 20(1) of this Act;

- " the Council " means the National Ports Council;
- " district board " has the same meaning as in the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951;
- " dock " means a dock used by sea-going ships ;
- " 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 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;
- " 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 seagoing ships, and includes a dock, a wharf, and in Scotland a ferry or 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 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 fighting 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;

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- (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 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;
- " lighthouse " has the meaning assigned to it by section 742 of the Merchant Shipping Act 1894 ;
- " local lighthouse authority " means any person having by law or usage authority over local lighthouses, buoys or beacons;
- " marine work " means a harbour, ferry or boatslip in Scotland (other than a harbour, ferry or boatslip vested in any of the Boards or specified in Schedule 3 to the Harbours, Piers and Ferries (Scotland) Act 1937)—
- (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 counties, namely, Argyll, Caithness, Inverness, Orkney, Ross and Cromarty, Sutherland and Zetland, 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 counties and any other place in Scotland;
- " the Minister " means the Minister of 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

and " long lease " means a lease which has been, or is capable of being, recorded in the General Register of Sasines under the 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 Fishery Harbours Act 1915 or by the Secretary of State in pursuance of section 5(5)(ii) of the Harbours, Piers and Ferries (Scotland) Act 1937;

" river purification authority " has the meaning assigned to it by section 17 of the 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 section 34 of the Land Drainage Act 1930 or corresponding provisions of a local Act or under section 67 or by section 69 of the Water Resources Act 1963 or by an improvement order under section 1 of the Land Drainage (Scotland) Act 1958 or by section 13 as read with section 41 of the 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 hover vehicles, that is to say, vehicles designed to be supported on a cushion of air;

" 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;

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" 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.

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 Land Drainage Act 1930), a river board, a river authority, a river purification authority, a district board, an improvement committee, the Conservators of the River Thames nor the Lee Conservancy Catchment Board 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 relating to a harbour shall be construed as not including a reference to such powers or duties.

59 Enlargement of powers of Parliament of Northern Ireland

Notwithstanding anything in the Government of Ireland Act 1920 the Parliament of Northern Ireland shall have power to make laws for purposes similar to the purposes of any provision of this Act.

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 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.

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. 63- Short title, extent, repeal and commencement

- (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 or an order under section 20 of this Act, 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 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.

63 Short title, extent, repeal and commencement.

- (1) This Act may be cited as the Harbours Act 1964.
- (2) This Act (except section 59 and paragraph 7 of Schedule 1) shall not extend to Northern Ireland.
- (3) The enactments specified in columns 1 and 2 of Schedule 6 to this Act are hereby repealed to the extent specified in column 3 of that Schedule.
- (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.

SCHEDULES

SCHEDULE 1

Section 2.

INCIDENTAL PROVISIONS WITH RESPECT TO THE NATIONAL PORTS COUNCIL

- 1 The Council shall be a body corporate with perpetual succession and a common seal.
- 2 (1) Each member of the Council shall hold and vacate office in accordance with the terms of his appointment, but notwithstanding anything in those terms he may at any time resign his office by notice in writing.
- (2) A person who has held office as a member of the Council shall be eligible for re-appointment.
- 3 The Council may act notwithstanding a vacancy amongst the members of the Council, and no act of the Council shall be deemed to be invalid by reason only of a defect in the appointment of any of the members.
- 4 In the case of an equality of votes at a meeting of the Council the chairman of the meeting shall have a second or casting vote.
- 5 The Council may appoint such committees consisting of members of the Council as the Council think fit and may delegate to a committee appointed under this paragraph any of their powers or duties.
- 6 Subject to the foregoing provisions of this Schedule, the Council may determine their own quorum and procedure and the quorum and procedure of committees appointed by them under the last foregoing paragraph.
- 7 Part II of Schedule 1 to the House of Commons (Disqualification) Act 1957 (which specifies certain commissions, tribunals and other bodies all members of which are disqualified under that Act) shall, in its application to the House of Commons of the United Kingdom, be amended by inserting, after the entry relating to the National Insurance Advisory Committee, the words " The National Ports Council " .
- 8 (1) The Council shall appoint a secretary and may appoint such other officers, and such servants, as the Council may determine.
- (2) The Council shall—
- (a) pay to their officers and servants such remuneration as they may determine, and
- (b) as regards any officers or servants in whose case it may be determined by the Council with the approval of the Minister so to do, pay to or in respect of them such pensions, or provide and maintain for them such pension schemes (whether contributory or not) as may be so determined.
- 9 The application of the seal of the Council shall be authenticated by the signatures of the chairman of the Council or some other member thereof authorised by the Council to authenticate the application of the seal thereof and of the secretary or some person authorised by the Council to act in his stead in that behalf.

SCHEDULE 2

Section 14.

OBJECTS FOR WHOSE ACHIEVEMENT HARBOUR REVISION ORDERS MAY BE MADE

- 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, 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.
- 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.
- 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.
- 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.

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- 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.
- 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.
- 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

PART I

PROCEDURE FOR MAKING HARBOUR REVISION ORDERS ON APPLICATION TO THE MINISTER (AS SET OUT), TO THE MINISTER OF AGRICULTURE, FISHERIES AND FOOD (SUBJECT TO PART III) OR TO THE SECRETARY OF STATE (SUBJECT TO PART IV), AND FOR THE MAKING OF HARBOUR EMPOWERMENT ORDERS BY THE MINISTER (SUBJECT TO PART VII), BY THE MINISTER OF AGRICULTURE, FISHERIES AND FOOD (SUBJECT TO PART VIII) OR BY THE SECRETARY OF STATE (SUBJECT TO PART IX)

- 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.
- 2 Where an application for a harbour revision order is duly made to the Minister, he shall take it into consideration and shall give notice to the applicant of his decision either that he refuses the application or that it is (without prejudice, however, to subsequent refusal thereof) to be allowed to proceed.
- 3 Where an applicant for a harbour revision order is given notice under paragraph 2 above that his application is to be allowed to proceed, compliance 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 the Minister of further steps 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 the Minister) by such other means as the Minister may specify, a notice stating that application has been made to him for the making of the order, 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 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 the Minister 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 the Minister 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 the Minister 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 the Minister for the making of the order and that, if the authority desire to make to the Minister 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 the Minister so requires, there must, on any person specified by him, be contemporaneously served by the applicant the like documents as are required to be served in compliance with sub-paragraph (c) above where it applies.
- 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

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the Minister of objection to the application has elapsed, the following provisions of this paragraph shall have effect.

- (2) If no objections to the application were duly made to the Minister or if all objections to the application that were duly made to him have been withdrawn, the Minister, unless he decides that the application shall not proceed further, shall refer the draft order to the Council for consideration and report.
- (3) If objections to the application were duly made to the Minister and have not been withdrawn, the Minister, 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 the Minister 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,

and, after effect has been given to the foregoing provisions of this sub-paragraph, shall, unless he decides that the application shall not proceed further, refer to the Council for consideration and report the draft order, the objections so 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.
- (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, the Minister shall afford to the applicant, and to any other persons to whom it appears to the Minister expedient to afford it, an opportunity of being heard on the same occasion.
- (5) Where, in pursuance of the reference to them under sub-paragraph (2) or (3) above, the Council have reported to the Minister, he shall consider their report and the documents reported on, and, 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 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 the Minister 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) The Minister 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.

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- 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;
 - (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;
 - (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 the Minister was served.
- 6 (1) Where application is made to the Minister 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.
- (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

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- (c) an undertaking for the supply of electricity, gas, hydraulic power or water ;
 " the appropriate Minister "—
- (a) in relation to a railway, light railway, tramway, or road transport undertaking or 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 any (except it be a fishery harbour or marine work) of the following, namely, a harbour (whether natural or artificial), port, haven or estuary, a dock (whether used by sea-going ships or not) and a wharf, quay, pier, jetty or other place at which ships (whether seagoing or not) can ship or unship goods or embark or disembark passengers; or
 - (iv) the provision and maintenance of a lighthouse; means the Minister;
- (b) in relation to an undertaking for the supply of electricity, gas or hydraulic power (other than the undertakings of the boards established by the Electricity (Scotland) Acts 1943 to 1962), means the Minister of Power and, in relation to the undertakings of the said boards, means the Secretary of State ;
- (c) in relation to an undertaking for the supply of water in England or Wales, means the Minister of Housing and Local Government and, in relation to any such undertaking in Scotland, means the Secretary of State;
- (d) in relation to an undertaking the activities whereof consist in the improvement, maintenance or management of a fishery harbour, means the Minister of Agriculture, Fisheries and Food;
- (e) in relation to an undertaking the activities whereof consist in the improvement, maintenance or management of a marine work, means the Secretary of State.

PART II

PROCEDURE FOR THE MAKING OF HARBOUR REVISION ORDERS BY THE MINISTER OF HIS OWN MOTION (AS SET OUT), BY THE MINISTER OF AGRICULTURE, FISHERIES AND FOOD OF HIS OWN MOTION (SUBJECT TO PART V) OR BY THE SECRETARY OF STATE OF HIS OWN MOTION (SUBJECT TO PART VI)

7 Where the Minister 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 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;

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- (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 the Minister 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.
- 8 (1) Where effect has been given to paragraph 7 above in the case of a proposal of the Minister to make, of his own motion, a harbour revision order, and the time for the due making to the Minister of objection to the proposal has elapsed, the following provisions of this paragraph shall have effect.
- (2) If no objections to the proposal were duly made to the Minister, or if all objections to the proposal that were duly made to him have been withdrawn, the Minister, unless he decides to proceed no further in the matter, shall refer the draft of the order to the Council for consideration and report.
- (3) If objections to the proposal that were duly made to the Minister 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 and, after effect has been given to the foregoing provisions of this sub-paragraph, he shall, unless he decides to proceed no further in the matter, refer to the Council for consideration and report, the draft of the order, the objections so made and not withdrawn and the report of any person who held an inquiry.
- (4) Where, in pursuance of the reference to them under sub-paragraph (2) or (3) above, the Council have reported to the Minister, he shall consider their report and the documents reported on, and, 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 the Minister 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) The Minister may disregard for the purposes of this paragraph an objection to the proposal unless it states the grounds on which it is made.
- 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, 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.

Status: This is the original version (as it was originally enacted).

PART III

MODIFICATIONS SUBJECT TO WHICH PART I IS TO HAVE EFFECT WITH RESPECT
 TO PROCEDURE FOR MAKING HARBOUR REVISION ORDERS UPON APPLICATION
 THEREFOR TO THE MINISTER OF AGRICULTURE, FISHERIES AND FOOD

- 10 (1) The modifications subject to which Part I of this Schedule is, by virtue of section 17(1)(c) of this Act, to have effect with respect to the procedure for making harbour revision orders on application therefor to the Minister of Agriculture, Fisheries and Food are those set out in the following provisions of this paragraph.
- (2) For references to the Minister (except in paragraph 6(2)), there shall be substituted references to the Minister of Agriculture, Fisheries and Food.
- (3) In paragraph 4(2), for the words from " unless he decides " (inclusive) onwards, there shall be substituted the words " 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 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 ".
- (4) In paragraph 4(3), for the words from " shall, unless he decides " (inclusive) onwards, there shall be substituted the words " shall consider the objections so 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 and, having done so, 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 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 ".
- (5) Paragraph 4(5) shall be omitted.

PART IV

MODIFICATIONS SUBJECT TO WHICH PART I IS TO HAVE EFFECT
 WITH RESPECT TO PROCEDURE FOR MAKING HARBOUR REVISION
 ORDERS UPON APPLICATION THEREFOR TO THE SECRETARY OF STATE

- 11 (1) The modifications subject to which Part I of this Schedule is, by virtue of section 17(1)(d) of this Act, to have effect with respect to the procedure for making harbour revision orders on application therefor to the Secretary of State are those set out in the following provisions of this paragraph.
- (2) For references to the Minister (except in paragraph 6(2)), there shall be substituted references to the Secretary of State.
- (3) In paragraph 4(2), for the words from " unless he decides " (inclusive) onwards, there shall be substituted the words " 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 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 ".
- (4) In paragraph 4(3), for the words from " shall, unless he decides " (inclusive) onwards, there shall be substituted the words " shall consider the objections so 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 and, having done so, 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 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 ".

- (5) Paragraph 4(5) shall be omitted.

PART V

MODIFICATIONS SUBJECT TO WHICH PART II IS TO HAVE EFFECT WITH RESPECT TO PROCEDURE FOR THE MAKING OF HARBOUR REVISION ORDERS BY THE MINISTER OF AGRICULTURE, FISHERIES AND FOOD OF HIS OWN MOTION

- 12 (1) The modifications subject to which Part II of this Schedule is, by virtue of section 17(1)(e) of this Act, to have effect with respect to the procedure for the making of harbour revision orders by the Minister of Agriculture, Fisheries and Food of his own motion are those set out in the following provisions of this paragraph.
- (2) For references to the Minister there shall be substituted references to the Minister of Agriculture, Fisheries and Food.
- (3) In paragraph 8(2), for the words from " unless he decides " (inclusive) onwards, there shall be substituted the words " unless he decides not to make the order, may make it in the form of the draft or (subject to the restrictions imposed by sub-paragraph (5) below) in that form but subject to such modifications as he thinks fit ".
- (4) In paragraph 8(3), for the words from " and, after effect has been given" (inclusive) onwards, there shall be substituted the words " and, if after considering the report of the person (or the reports of each of them if more than one) who held an inquiry, he then decides to make the order, may make it in the form of the draft or (subject to the restrictions imposed by sub-paragraph (5) below) in that form but subject to such modifications as he thinks fit ".
- (5) Paragraph 8(4) shall be omitted.

PART VI

MODIFICATIONS SUBJECT TO WHICH PART II IS TO HAVE EFFECT WITH RESPECT TO PROCEDURE FOR THE MAKING OF HARBOUR REVISION ORDERS BY THE SECRETARY OF STATE OF HIS OWN MOTION

- 13 (1) The modifications subject to which Part II of this Schedule is, by virtue of section 17(1)(f) of this Act, to have effect with respect to the procedure for the making of harbour revision orders by the Secretary of State of his own motion are those set out in the following provisions of this paragraph.
- (2) For references to the Minister there shall be substituted references to the Secretary of State.
- (3) In paragraph 8(2), for the words from " unless he decides " (inclusive) onwards there shall be substituted the words " unless he decides not to make the order, may make it in the form of the draft or (subject to the restrictions imposed by sub-paragraph (5) below) in that form but subject to such modifications as he thinks fit ".

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- (4) In paragraph 8(3), for the words from " and, after effect has been given" (inclusive) onwards, there shall be substituted the words " and, if after considering the report of the person (or the reports of each of them if more than one) who held an inquiry, he then decides to make the order, may make it in the form of the draft or (subject to the restrictions imposed by sub-paragraph (5) below) in that form but subject to such modifications as he thinks fit ".
- (5) Paragraph 8(4) shall be omitted.

PART VII

MODIFICATIONS SUBJECT TO WHICH PART I IS TO HAVE EFFECT WITH RESPECT TO PROCEDURE FOR THE MAKING OF HARBOUR EMPOWERMENT ORDERS BY THE MINISTER

- 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 making of harbour empowerment orders by the Minister 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 the Minister 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 the Minister for the making of the order and that, if the person served desires to make to the Minister 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).

PART VIII

MODIFICATIONS SUBJECT TO WHICH PART I IS TO HAVE EFFECT WITH RESPECT TO PROCEDURE FOR THE MAKING OF HARBOUR EMPOWERMENT ORDERS BY THE MINISTER OF AGRICULTURE, FISHERIES AND FOOD

- 15 (1) The modifications subject to which Part I of this Schedule is, by virtue of section 17(1)(h) of this Act, to have effect with respect to the procedure for the making of harbour empowerment orders by the Minister of Agriculture, Fisheries and Food are those set out in the following provisions of this paragraph.

Status: This is the original version (as it was originally enacted).

- (2) For references to a harbour revision order there shall be substituted references to a harbour empowerment order and for references (except in paragraph 6(2)) to the Minister there shall be substituted references to the Minister of Agriculture, Fisheries and Food.
- (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 the Minister of Agriculture, Fisheries and Food 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 that Minister for the making of the order and that, if the person served desires to make to that Minister 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) In paragraph 4(2) for the words from " unless he decides " (inclusive) onwards, there shall be substituted the words " 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 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 ".
- (5) In paragraph 4(3) for the words from " shall, unless he decides " (inclusive) onwards, there shall be substituted the words " shall consider the objections so 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 and, having done so, 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 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) Paragraph 4(5) shall be omitted.
- (7) 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).

PART IX

MODIFICATIONS SUBJECT TO WHICH PART I IS TO HAVE EFFECT WITH RESPECT TO PROCEDURE FOR THE MAKING OF HARBOUR EMPOWERMENT ORDERS BY THE SECRETARY OF STATE

- 16 (1) The modifications subject to which Part I of this Schedule is, by virtue of section 17(1)(i) of this Act, to have effect with respect to the procedure for the making of harbour empowerment orders by the Secretary of State are those set out in the following provisions of this paragraph.

Status: This is the original version (as it was originally enacted).

- (2) For references to a harbour revision order there shall be substituted references to a harbour empowerment order and for references (except in paragraph 6(2)) to the Minister there shall be substituted references to the Secretary of State.
- (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 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 the Secretary of State for the making of the order and that, if the person served desires to make to 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) In paragraph 4(2) for the words from " unless he decides " (inclusive) onwards, there shall be substituted the words " 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 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 ".
- (5) In paragraph 4(3) for the words from " shall, unless he decides " (inclusive) onwards, there shall be substituted the words " shall consider the objections so 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 and, having done so, 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 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) Paragraph 4(5) shall be omitted.
- (7) 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).

SCHEDULE 4

Sections 18 and 47.

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.—

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- (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) if the scheme is submitted by the Council, he shall serve on each of the harbour authorities who between them are engaged in improving, maintaining or managing the several harbours comprised in the group, and, if a local lighthouse authority who are not a harbour authority are affected by the scheme, on that authority, a 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 Minister and that, if the authority served desire to make to the Minister objection to the 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 ; but
 - (d) if the scheme is submitted otherwise than by the Council, 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 such a local lighthouse authority as aforesaid are affected by the scheme, on them, contemporaneously serve the like documents as would be required to be served in compliance with sub-paragraph (c) above had the scheme been submitted by the Council.
- 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) If the scheme was submitted by the Council and no objections to the scheme were duly made to the Minister or all objections to the scheme that were duly made to him have been withdrawn, he may, if he then decides to confirm the scheme, by

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order confirm it without modifications or (subject to the restrictions imposed by sub-paragraph (7) below) with such modifications as he thinks fit.

- (3) If the scheme was submitted by the Council and 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 and, if after considering the report of the person (or the reports of each of them, if more than one) who held an inquiry, he then decides to confirm the scheme, may by order confirm it without modification or (subject to the restrictions imposed by sub-paragraph (7) below) subject to such modifications as he thinks fit.
- (4) If the scheme was submitted otherwise than by the Council and no objections to the scheme were duly made to the Minister or all objections to the scheme that were duly made to him have been withdrawn, he shall, unless he decides that the scheme shall not proceed further, refer the scheme to the Council for consideration and report.
- (5) If the scheme was submitted otherwise than by the Council and 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 and, after effect has been given to the foregoing provisions of this paragraph, shall, unless he decides that the scheme shall not proceed further, refer to the Council for consideration and report the scheme, the objections so made and not withdrawn and the report of any person who held an inquiry.
- (6) Where in pursuance of the reference to them under sub-paragraph (4) or (5) above, the Council have reported to the Minister, he shall consider their report and the documents reported on and 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 then 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.

- 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(c) or (d) above (according as to which applied in the circumstances in which the scheme was submitted).

SCHEDULE 5

Section 20.

PROCEDURE FOR MAKING CONTROL OF MOVEMENT ORDERS

- 1 An application for a control of movement 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.
- 2 Where an application for a control of movement order is duly made to the Minister, he shall take it into consideration and shall give notice to the applicant of his decision either that he refuses the application or that it is (without prejudice, however, to subsequent refusal thereof) to be allowed to proceed.
- 3 Where an applicant for a control of movement order is given notice under paragraph 2 above that his application is to be allowed to proceed, compliance with the requirement of sub-paragraph (a) below and with such of the requirements of sub-paragraphs (b) and (c) below as are applicable in the circumstances shall be a condition precedent to the taking by the Minister of further steps 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 the Minister) by such other means as the Minister may specify, a notice stating that application has been made to him for the making of the order, containing a concise summary of the order and (if provision is proposed to be included therein authorising the compulsory acquisition of land) a general description of the land whose compulsory acquisition is proposed to be authorised, naming a place where a copy of the draft of the proposed order 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 the Minister 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 the Minister for the making of the order with

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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 for the order 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 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 Minister 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 the Minister for the making of the order and that, if he desires to make to the Minister 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 (1) Where the proper notices concerning an application for the making of a control of movement 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 the Minister of objection to the application has elapsed, the following provisions of this paragraph shall have effect.

(2) If no objections to the application were duly made to the Minister or if all objections to the application that were duly made to him have been withdrawn, the Minister, 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 imposed by sub-paragraph (5) of this paragraph and by paragraph 6 below) in that form but subject to such modifications as he thinks fit.

(3) If objections to the application were duly made to the Minister and have not been withdrawn, the Minister, 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 the Minister 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 the application can properly be proceeded with without the holding of an inquiry with respect to the objection ;

and, after effect has been given to the foregoing provisions of this sub-paragraph, shall consider the objections so 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 and, having done so, 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 imposed by sub-paragraph (5) of this paragraph and by paragraph 6 below) in that form but subject to such modifications as he thinks fit.

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- (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, the Minister shall afford to the applicant, and to any other persons to whom it appears to the Minister expedient to afford it, an opportunity of being heard on the same occasion.
- (5) Where the Minister proposes to make the order 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.
- (6) The Minister 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.
- 5 So soon as may be after a control of movement order has been made, the applicant for it 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 of any map or maps annexed thereto may be inspected at all reasonable hours and shall serve a copy of the order (and, if a map or maps is or are annexed to it, a copy of that map or, as the case may be, copies of those maps) on each person on whom a copy of the draft of the proposed order was served in compliance with a requirement imposed by virtue of paragraph 3(c) above.
- 6 (1) Where application is made to the Minister for a control of movement 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.
- (2) In this paragraph " statutory undertakers " and " the appropriate Minister " have the same meanings respectively as in paragraph 6 of Schedule 3 to this Act.

Status: This is the original version (as it was originally enacted).

SCHEDULE 6

Section 63.

ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
24 & 25 Vict. c. 47.	The Harbours and Passing Tolls, &c, Act 1861.	In section 2, the definition of " differential dues ". Sections 10, 14, 15 and 16.
25 & 26 Vict. c. 19.	The General Pier and Harbour Act 1861 Amendment Act.	Section 17.
30 & 31 Vict. c. 15.	The Shipping Dues Exemption Act 1867.	The whole Act.
57 & 58 Vict. c. 60.	The Merchant Shipping Act 1894.	Section 655(1) and (3). In section 655(2), the words " dues fixed under this section (in this Act referred to as ". Section 657.
1 Edw. 8. & 1 Geo. 6. c. 28.	The Harbours, Piers and Ferries (Scotland) Act 1937.	Section 12. In section 23, the words " Part III of ". Section 25.
2 & 3 Eliz. 2. c. 64.	The Transport Charges &c. (Miscellaneous Provisions) Act 1954.	In section 6(1), paragraphs (a) and (e), and in paragraph (c) the words "Part III of". Section 7(1), (2) and (3). In section 13, in subsection (1), the definitions of "harbour", "harbour undertaking", " excepted undertaking " and " ship ".
6 & 7 Eliz. 2. c. 23.	The Milford Haven Conservancy Act 1958.	In section 1(6), the words from " and a harbour undertaking " to " 1954". In section 11, in subsection (1), the words " not exceeding the appropriate rate specified in the Third Schedule to this Act", in subsection (2), the words from " but shall not give preference "onwards, and subsection (4).

Status: This is the original version (as it was originally enacted).

Chapter	Short Title	Extent of Repeal
10 & 11 Eliz. 2. c. 31.	The Sea Fish Industry Act 1962.	Schedule 3. Section 27 and Schedule 1.
10 & 11 Eliz. 2. c. 46.	The Transport Act 1962.	In section 50, in subsection (1), the word "port", and subsection (3). Section 51. In Schedule 9, in paragraph 1, the words from the beginning to "Docks Board at" and the words from "shall not exceed" onwards; in paragraph 2, in sub-paragraph (1), the words from the beginning to "at", and sub-paragraphs (2) and (3); in paragraph 3, in sub-paragraph (1), the words from the beginning to "at" (where first occurring), the words "and by the Railways Board at", the words from "which is managed" to "1899" and the word "at" (where last occurring), and sub-paragraphs (2) and (3); and paragraphs 4 and 6(1).

TABLE OF STATUES REFERRED TO IN THIS ACT

Short Title	Session and Chapter
Harbours, Docks and Piers Clauses Act 1847	10 & 11 Vict. c. 27.
Registration of Leases (Scotland) Act 1857	20 & 21 Vict. c. 26.
General Pier and Harbour Act 1861	24 & 25 Vict. c. 45.
Harbours and Passing Tolls, &c. Act 1861	24 & 25 Vict. c. 47.
General Pier and Harbour Act 1861 Amendment Act	25 & 26 Vict. c. 19.
Shipping Dues Exemption Act 1867	30 & 31 Vict. c. 15.
Public Works Loans Act 1875	38 & 39 Vict. c. 89.
Telegraph Act 1878	41 & 42 Vict. c. 76.
Interpretation Act 1889	52 & 53 Vict. c. 63.
Merchant Shipping Act 1894	57 & 58 Vict. c. 60.

Status: This is the original version (as it was originally enacted).

Short Title	Session and Chapter
Merchant Shipping (Liability of Ship Owners and others) Act 1900	63 & 64 Vict. c. 32.
Fishery Harbours Act 1915	5 & 6 Geo. 5. c. 48.
Ministry of Transport Act 1919	9 & 10 Geo. 5. c. 50.
Government of Ireland Act 1920	10 & 11 Geo. 5. c. 67.
Salmon and Freshwater Fisheries Act 1923	13 & 14 Geo. 5. c. 16.
Land Drainage Act 1930	20 & 21 Geo. 5. c. 44.
Local Government Act 1933	23 & 24 Geo. 5. c. 51.
Private Legislation Procedure (Scotland) Act 1936	26 Geo. 5 & 1 Edw. 8. c. 52.
Harbours, Piers and Ferries (Scotland) Act 1937	1 Edw. 8 & 1 Geo. 6. c. 28.
National Loans Act 1939	2 & 3 Geo. 6. c. 117.
Statutory Orders (Special Procedure) Act 1945	9 & 10 Geo. 6. c. 18.
Dock Workers (Regulation of Employment) Act 1946	9 & 10 Geo. 6. c. 22.
Local Government (Scotland) Act 1947	10 & 11 Geo. 6. c. 43.
Companies Act 1948	11 & 12 Geo. 6. c. 38.
Civil Aviation Act 1949	12, 13 & 14 Geo. 6. c. 67.
Sea Fish Industry Act 1951	14 & 15 Geo. 6. c. 30.
Iron and Steel Act 1953	1 & 2 Eliz. 2. c. 15.
Transport Charges &c. (Miscellaneous Provisions) Act 1954	2 & 3 Eliz. 2. c. 64.
House of Commons Disqualification Act 1957	5 & 6 Eliz. 2. c. 20.
Milford Haven Conservancy Act 1958	6 & 7 Eliz. 2. c. 23.
Town and Country Planning Act 1962	10 & 11 Eliz. 2. c. 38.
Transport Act 1962	10 & 11 Eliz. 2. c. 46.
Water Resources Act 1963	1963. c. 38.