

SCHEDULES

SCHEDULE 4

PROVISIONS SUPPLEMENTING SECTIONS 5 TO 13

PART I

SUPPLEMENTARY AND CONSEQUENTIAL PROVISIONS

Provisions of Harbours Act 1964 and Docks and Harbours Act 1966 applying to Associated British Ports

- 1 (1) In the definition of "the Boards" in section 57(1) of the Harbours Act 1964 the words " the British Transport Docks Board " are repealed.
- (2) In consequence of sub-paragraph (1) the following provisions apply to Associated British Ports as they apply to harbour authorities generally—
- (a) sections 26, 27, 30, 31 and 40 of the Harbours Act 1964 (power to make charges, certain charges to be reasonable, revision of charges and power to impose conditions as to use of harbour services and facilities);
 - (b) section 42 of that Act (accounts and reports);
 - (c) sections 37 and 39 of the Docks and Harbours Act 1966 (acquisition of harbour businesses or securities of bodies carrying on such businesses).
- (3) In section 47 of the Docks and Harbours Act 1966 (policing of harbour premises by British Transport Police), in subsection (3) after "section 69 of the Transport Act 1962" there is inserted " and ' the Boards' has the same meaning as in that section "

Provisions of Transport Act 1962 and Transport Act 1968 continuing to apply to Associated British Ports

- 2 (1) Except as provided by the following provisions of this paragraph, the provisions of the Transport Act 1962 and the Transport Act 1968 relating to the Boards established by the said Act of 1962 no longer apply to Associated British Ports.
- (2) The following provisions of the Transport Act 1962 continue to apply to Associated British Ports—
- (a) section 1(1) (establishment of the Boards);
 - (b) section 13(1) (powers of manufacture and production) and section 14(1)(b) (power to enter into working agreements), so far as those provisions confer power on authorities other than Associated British Ports ;
 - (c) section 24(4) (exclusion of certain enactments relating to accounts, statistics and returns);
 - (d) Part II, sections 67(15) and 81 and paragraph 24 of Schedule 7 (provisions relating to the division of the functions of the British Transport Commission and consequential matters);

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- (e) section 43(4) and (5) (exclusion of certain enactments relating to railway undertakers);
 - (f) sections 52(4) and 83(7) (which exclude the Boards from the definition of independent railway undertakings);
 - (g) section 67(16) (power to make bylaws in relation to railways within a harbour);
 - (h) sections 69 to 71 (transport police);
 - (i) sections 74 and 75 and Part IV of Schedule 7 (pensions).
- (3) The following provisions of the Transport Act 1968 continue to apply to Associated British Ports—
- (a) section 51(5) and (6) (joint subsidiaries), so far as those provisions relate to companies which are not subsidiaries of Associated British Ports, except that the Secretary of State's power to give directions under subsection (6) is not exercisable with respect to Associated British Ports ;
 - (b) section 125 (powers of inspectors of railways);
 - (c) section 141(2) (application of Town and Country Planning Acts), so far as that provision relates to companies which are not wholly-owned subsidiaries of Associated British Ports;
 - (d) section 144 (transfer and disposal of historical records and relics);
 - (e) paragraph 7(1) of Schedule 16 (references to the Boards in certain enactments to include wholly-owned subsidiaries of the Boards).

Restriction on cross-eligibility under existing pensions orders

- 3 (1) In this paragraph " pensions order " means an order made under section 74 of the Transport Act 1962 (which confers on the Secretary of State power to make orders about pensions in the nationalised transport industry).
- (2) A person who on or after the appointed day leaves or enters the employment of the group consisting of Associated British Ports and its subsidiaries (in this paragraph referred to as "the Ports group ") is not eligible by virtue of any provision of a pensions order made before that day—
- (a) to participate in a Ports pension scheme by reason of any employment outside the Ports group ; or
 - (b) to participate in a pension scheme other than a Ports pension scheme by reason of his employment within the Ports group.
- (3) For the purposes of this paragraph the following are Ports pension schemes—
- (a) any "pension scheme established by the British Transport Docks Board ;
 - (b) any pension scheme in relation to which the rights, liabilities and functions of the British Transport Commission were transferred to that Board in pursuance of paragraph 14 of Schedule 7 to the Transport Act 1962 ;
 - (c) any pension scheme in relation to which the responsibility for making payments was transferred to that Board by virtue of paragraph 15 of that Schedule.

Pensions orders made on or after the appointed day

- 4 (1) In this paragraph " pensions order " has the same meaning as in paragraph 3.

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- (2) Subject to the following provisions of this paragraph, the power to make pensions orders is exercisable on and after the appointed day as if the Holding Company were a Board within the meaning of the Transport Act 1962.
- (3) Except on the application of the Holding Company, no pensions order shall be made on or after the appointed day which has the effect of placing in any worse position the Holding Company or any subsidiary of that company.
- (4) or the purposes of sub-paragraph (3), the Holding Company or a subsidiary shall not be regarded as being placed in a worse position because a pensions order provides that any changes in a pension scheme are not to be effected without the consent of the Secretary of State.
- (5) A pensions order such as is mentioned in sub-paragraph (3) which is made without the application of the Holding Company is not invalid because in fact it does not have the effect of securing that the Holding Company and its subsidiaries are not placed in any worse position, but except in so far as the Holding Company approves the effect of the order the Secretary of State shall as soon as may be make the necessary amending order.

Appointment of members of Local Boards

- 5 (1) As from the appointed day the members of the Humber Local Board and the Southampton Local Board shall be appointed by Associated British Ports ; and the Humber and Southampton Orders are accordingly amended as follows.
- (2) In Article 11 of each Order (appointment of members)—
 - (a) for the references to the Secretary of State there are substituted references to Associated British Ports ; and
 - (b) references to consultation with the chairman for the time being of the British Transport Docks Board are omitted.
- (3) In Article 16(1) of the Humber Order and Article 16(2) of the Southampton Order (notice of resignation) for the reference to the Secretary of State there is substituted a reference to Associated British Ports.
- (4) In this paragraph "the Humber Order" means the Humber Harbour Reorganisation Scheme 1966 Confirmation Order 1967 and " the Southampton Order" means the Southampton Harbour Reorganisation Scheme 1967 Confirmation Order 1968.
- (5) Sub-paragraph (3) applies to any notice of resignation given on or after the appointed day, but subject to that this paragraph does not affect appointments made before the appointed day.

Payments for making up of private streets

- 6 In section 219 of the Highways Act 1980 (payments to be made by owners of new buildings in respect of street works), in subsection (4)(0 (exemption for certain public authorities), the words " the British Transport Docks Board " are repealed.

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

Taxation

- 7 (1) Stamp duty is not chargeable under section 47 of the Finance Act 1973 in respect of an increase in the capital of the Holding Company which is certified by the Treasury as having been effected—
- (a) for the purpose of complying with the requirements of section 6 ; or i
 - (b) in consequence of the exercise of conversion rights attached to convertible shares or securities issued in pursuance of that section.
- (2) Section 92(9)(b) of the Finance Act 1972 (restriction or surrender of surplus advance corporation tax) and section 28(2) of the Finance Act 1973 (restriction of group relief) shall not apply to the Holding Company as the parent company of Associated British Ports.
- (3) Payments by Associated British Ports under section 11(1) of this Act shall be treated as dividends for the purposes of the enactments relating to corporation tax.
- (4) The vesting on the appointed day in the Holding Company of powers in relation to Associated British Ports shall not be regarded as constituting a change in the ownership of Associated British Ports for the purposes of section 483 of the Income and Corporation Taxes Act 1970 (restriction on carry forward of loss relief) or section 101 of the Finance Act 1972 (restriction on carry forward of relief for advance corporation tax).

Application of Trustee Investments Act 1961 to securities of the Holding Company

- 8 For the purposes of paragraph 3(b) of Part IV of Schedule 1 to the Trustee Investments Act 1961 (which excludes securities of a company from trustee status unless the company has paid a dividend in each of the preceding five calendar years) the Holding Company shall be deemed to have paid such a dividend as is mentioned in that provision in the calendar year in which the appointed day falls and in each of the preceding four calendar years.

Wholly-owned subsidiaries of Associated British Ports to be treated as statutory undertakers

- 9 So far as the activities of any wholly-owned subsidiary of Associated British Ports consist of the carrying on of any such undertaking as is mentioned in the definition of " statutory undertakers" in section 290(1) of the Town and Country Planning Act 1971 or section 275(1) of the Town and Country Planning (Scotland) Act 1972, that subsidiary shall be deemed for the purposes of any enactment relating to statutory undertakers or statutory undertakings to be such an undertaker carrying on such an undertaking.