

Changes to legislation: There are currently no known outstanding effects for the Transport Act 1981, SCHEDULE 6. (See end of Document for details)

SCHEDULES

SCHEDULE 6

Section 18.

AMENDMENTS OF ^{M1}THE HARBOURS ACT 1964

Modifications etc. (not altering text)

- C1** The text of Sch. 5 Pt. I para. 14, Sch. 6, Sch. 10 Pts. I, II is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Marginal Citations

- M1** 1964 c. 40.

Abolition of power to make certain grants for harbour works, etc.

- 1 Section 12 (power to give assistance to harbour authorities by way of grant for harbour works, etc.) is repealed.

Consolidation, etc. of local enactments by harbour revision orders

- (2) In section 14 (harbour revision orders) after subsection (2) there is inserted—
- “(2A) The objects for achieving all or any of which a harbour revision order may be made in relation to a harbour include being repealed superseded, obsolete or otherwise unnecessary statutory provisions of local application of affecting the harbour, or consolidating any statutory provisions of local application affecting the harbour ; and subsection (2)(b) of this section does not apply to an order in so far as it is made for objects mentioned in this subsection.”.

Ancillary provisions in harbour revision and empowerment orders and harbour reorganisation schemes

- 3 In section 14(3), 16(6) and 18(2)(i) (ancillary provisions which may be included in a harbour revision or empowerment order or in a harbour reorganisation scheme) for consequential or incidental there is substituted “ supplementary, consequential or incidental ”.

Harbour revision and empowerment orders not subject to special parliamentary procedure in certain cases

- 4 (1) Sections 14(6) and 16(8) (which make all harbour revision and empowerment orders subject to special parliamentary procedure) are repealed; but Schedule 3 is amended as follows.

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(2) In Part I of that Schedule (procedure for making orders on application to the Secretary of State), after paragraph 4 there is inserted—

“4A (1) The provisions of this paragraph have effect where the Secretary of State makes—

- (a) a harbour revision order relating to a harbour in England or Wales; or
- (b) a harbour empowerment order relating to a harbour or to works to be carried out in England or Wales,

and, in either case, the order is opposed.

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

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

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

(3) The Secretary of State shall give notice of the making of the order and its effect to each person opposing the order and the order shall, subject to sub-paragraph (4) below, become operative on the expiration of 28 days from the date of the notice given (or last given) under this sub-paragraph or on such later date as the Secretary of State may appoint.

(4) If within 28 days after the date of a notice given to him under sub-paragraph (3) above a person gives notice to the Secretary of State that he maintains his opposition to the order, and his opposition is not withdrawn within that period, the order shall be subject to special parliamentary procedure.

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

(3) In paragraph 5 (duties of applicant after making of order), at the end of sub-paragraph (a) (duty to publish notices) there is inserted “ and further stating, in the case of an order to which paragraph 4B above does not apply, whether the order is affected by the provisions of paragraph 4A above and, where it is not so affected, the date on which it came or will come into operation ”.

^{F1}(4)

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^{F1}(7)

- (8) The preceding provisions of this paragraph do not apply to a harbour revision or empowerment order in relation to which the notices required by paragraph 3(a) or 7(a) of Schedule 3 have been published before this paragraph comes into force.

Textual Amendments

F1 Sch. 6, paras. 4(4)-(7) repealed (15.7.1992) by Transport and Works Act 1992 (c. 42), s. 68(1), Sch. 4 Pt.II; S.I. 1992/1347, art. 2, Sch. (subject as mentioned in art. 3).

Power to reduce Ministerial appointments to harbour authorities

- 5 (1) The following section is inserted after section 15—

“15A Ministers’ powers to make orders about port appointments.

(1) —

Each of the Ministers may, subject to subsection (2) of this section, by order vary the constitution of a harbour authority so far as it provides for the appointment by him of any member or members of the authority—

- (a) so as to abolish the power of appointment (except where the power is to appoint the chairman of the authority); or
 - (b) so as to provide for the power of appointment to be exercised by such other person or persons as may be specified in the order.
- (2) No order under this section may be made by the Secretary of State with respect to the constitution of a harbour authority if under the constitution all the members of the authority, apart from the *ex officio* and co-opted members, are appointed by him.
- (3) An order under this section—
- (a) may relate to more than one harbour authority; and
 - (b) may contain such supplementary, incidental and consequential provisions as appear to the Minister making the order to be necessary or expedient;
- and where the constitution of a harbour authority provides for the appointment by the Minister making the order of more than one member, an order under this section may make different provision for each member falling to be so appointed and may make provision for some only of those members.
- (4) A Minister proposing to make an order under this section shall before doing so consult the harbour authority concerned and other such persons affected, or bodies representative of such persons, as he thinks fit.
- (5) In this section “the Ministers” means the Secretary of State and the Minister of Agriculture, Fisheries and Food.”

- (2) In section 44 (which provides for a statutory application for review of certain orders within a six week time limit)—

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- (a) in subsection (1) after “of that Act)” there is inserted “ or an order under section 15A of this Act, ”; and
 - (b) in subsection (3) after “empowerment order” there is inserted “ , or an order under section 15A of this Act, ”.
- (3) In section 54(2) (which provides for negative resolution procedure for certain orders) after “9(1),” there is inserted “ 15A, ”.

Secretary of State’s power to make harbour reorganisation schemes of his own motion

- 6 (1) In section 18 (harbour reorganisation schemes) the following subsection is inserted after subsection (1) (submission of scheme to Secretary of State by relevant authorities)—
- “(1A) If the Secretary of State is of opinion that, with a view to securing the efficient and economical development of any such group of harbours as is mentioned in subsection (1) of this section, a harbour reorganisation scheme ought to be made providing for all or any of the matters for which provision may be made for such a scheme, he may by order make a harbour reorganisation scheme providing for those matters.”.
- (2) For subsection (4) of section 18 (which introduces Schedule 4 and provides for special parliamentary procedure) there is substituted—
- “(4) The provisions of Schedule 4 to this Act shall have effect as follows with respect to the procedure for confirming and making harbour reorganisation schemes—
- (a) Part I of that Schedule shall have effect with respect to the procedure for confirming schemes submitted to the Secretary of State;
 - (b) Part I of that Schedule shall, subject to the modifications specified in Part II thereof, have effect with respect to the procedure for the making of schemes by the Secretary of State of his own motion;
- and a harbour reorganisation scheme as confirmed or made by the Secretary of State shall be subject to special parliamentary procedure.”.
- (3) In subsections (5) and (6) of section 18 (restrictions on orders containing certain provisions) after “confirm” there is inserted “ or make ”.
- (4) In section 44 (statutory application for review of orders within six week time limit), in subsection (4) which extends the foregoing provisions of the section to harbour reorganisation schemes)—
- (a) after “confirmed”, where first occurring, there is inserted “ or made ”; and
 - (b) after “with the substitution” there is inserted “ , in relation to a harbour reorganisation scheme confirmed by the Secretary of State, ”.
- (5) In section 47(3) (inquiries into schemes relating to Scotland) after “confirmation” there is inserted “ or making ”.
- (6) For the heading before paragraph 1 of Schedule 4 there is substituted—

“PROCEDURE FOR CONFIRMING AND MAKING HARBOUR REORGANISATION SCHEMES

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PART I

PROCEDURE FOR SUBMISSION AND CONFIRMATION OF HARBOUR REORGANISATION SCHEMES”.

(7) After paragraph 4 of Schedule 4 there is inserted—

“PART II

MODIFICATIONS SUBJECT TO WHICH PART I HAS EFFECT WITH RESPECT TO PROCEDURE FOR MAKING HARBOUR REORGANISATION SCHEMES BY THE SECRETARY OF STATE OF HIS OWN MOTION.

- 5 References to confirming a scheme shall be construed as references to making a scheme.
- 6 Paragraph 1 shall be omitted.
- 7 In paragraph 2—
- (a) for the opening words down to “proceed there shall be substituted “Where the Secretary of State proposes to make, of his own motion, a harbour reorganisation scheme;
 - (b) for the words “has been submitted to wherever occurring there shall be substituted the words “is proposed to be made by and in sub-paragraph (d) the words “and are not parties to the submission of the scheme shall be omitted;
 - (c) for any reference in sub-paragraph (a), (b) or (d) to a map deposited with a scheme there shall be substituted a reference to a map to be annexed to the scheme.
- 8 In paragraph 3—
- (a) in sub-paragraph (1) for the words “submitted to there shall be substituted the words “proposed to be made by”;
 - (b) in sub-paragraph (7) for the words “as submitted to him” there shall be substituted the words “as served under paragraph 2(d) above on the authorities there mentioned, and there shall be omitted the words “that submitted the scheme to him” and the words “that submitted the scheme”.
- 9 In paragraph 4 for the words “submitted to” there shall be substituted the words “proposed to be made by”.
- (8) In section 42(2) of the ^{M2}Docks and Harbours Act 1966 (further provision as to harbour reorganisation schemes)—
- (a) for “submission and confirmation there is substituted “ confirmation and making ”; and
 - (b) in paragraph (b), for the words from “a submission to “in relation to there is substituted “ the submission to the Secretary of State of a harbour reorganisation scheme and to a proposal by the Secretary of State to make such a scheme of his own motion as it applies in relation to the making of”.

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Marginal Citations

M2 1966 c. 28.

Abolition of power to make control of movement orders

7 Sections 20 to 25 and Schedule 5 (control of movement orders) are repealed.

Ship, passenger and goods dues and other charges

8 (1) After section 27 there is inserted—

“27A Combined charges.

- (1) Where a harbour authority have power, whether by virtue of section 26 of this Act or any other statutory provision—
- (a) to levy ship, passenger and goods dues or equivalent dues; and
 - (b) to make other charges,

the authority may, subject to the next following subsection, make a combined charge, that is to say, a single charge referable in part to matters for which ship, passenger and goods dues or equivalent dues may be levied and in part to matters for which other charges may be made.

- (2) A harbour authority may not make a combined charge in any case where—
- (a) the person who would be liable to pay the charge objects to paying a combined charge; or
 - (b) a number of persons would be jointly and severally liable to pay the charge and any of them objects to paying a combined charge;

but without prejudice to the power of the authority to make separate charges in such a case.

- (3) A person may not object under subsection (2) above to the payment of a combined charge previously incurred or incurred in pursuance of a prior agreement between that person and the harbour authority.

- (4) In this section “equivalent dues” means dues exigible in respect of things other than ships for entering, using or leaving a harbour, including charges for marking or lighting the harbour.”.

(2) In section 30 (duties with respect to keeping of lists of charges, etc.) after subsection (4) there is inserted—

“(5) Subsection (1) of this section does not apply to combined charges within the meaning of section 27A of this Act.

- (6) References in this section to the dues or charges exigible by an authority or Board are references to the amount exigible where no composition agreement applies and no specially agreed rebate is allowed.”.

(3) In section 31 (right of objection to ship, passenger and goods dues), at the end of subsection (1) (charges to which the section applies) there is inserted “ other than combined charges within the meaning of section 27A of this Act ; and references in

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this section to the rate at which any such charge is imposed are to the amount where no composition agreement applies and no specially agreed rebate is allowed”.

Abolition of power to revise certain charges

- 9 (1) Sections 32 to 34 (powers of Ministers to revise ship, passenger and goods dues) are repealed.
- (2) Section 35 (local light dues) is repealed so far as it applies sections 32 and 34.

Accounts and reports relating to harbour activities and associated activities

- 10 For section 42 (accounts relating to harbour undertakings) there is substituted—

“42 Accounts and reports relating to harbour activities and associated activities.

- (1) It shall be the duty of every statutory harbour undertaker to prepare an annual statement of accounts relating to the harbour activities and to any associated activities carried on by him.
- (2) Where a statutory harbour undertaker is a holding company with subsidiaries which carry on harbour activities or any associated activities, then, without prejudice to the company’s duty under subsection (1) above, it shall be the duty of the company to prepare an annual statement of accounts relating to the harbour activities and associated activities carried on by it and its subsidiaries.
- (3) The requirements of subsection (1) or subsection (2) above are not satisfied by the preparation of a statement of accounts which relates to other matters in addition to harbour activities and associated activities.
- (4) Where provision is made for the auditing of accounts prepared by any person otherwise than under this section which relate to harbour activities carried on by him (whether or not they relate to other matters) that provision shall apply also to any statement prepared by him under this section.
- (5) It shall be the duty of any person by whom a statement of accounts is prepared in accordance with this section —
- (a) to send to the Secretary of State a copy of the statement together with a copy of the auditor’s report on it; and
 - (b) to prepare and send to the Secretary of State a report on the state of affairs disclosed by the statement.
- (6) Subject to any regulations made under the next following subsection, the provisions of the Companies Acts 1948 to 1980 as to the form and contents of accounts and reports required to be prepared under those Acts shall apply to accounts and reports required to be prepared under this section, as follows—
- (a) the provisions relating to company accounts shall apply to statements prepared in accordance with subsection (1) above;
 - (b) the provisions relating to group accounts shall apply to statements prepared in accordance with subsection (2) above; and

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- (c) the provisions relating to the directors' report required to be attached to a company's balance sheet shall apply to reports prepared in accordance with subsection (5)(b) above.
- (7) The Secretary of State may make provision by regulations with respect to the form and contents of accounts and reports prepared under this section—
 - (a) prescribing cases in which the provisions of the Companies Acts 1948 to 1980 referred to in subsection (6) above are not to apply;
 - (b) modifying those provisions;
 - (c) prescribing requirements additional to those imposed by those provisions.
- (8) Where a statutory harbour undertaker is obliged by a statutory provision of local application to prepare accounts, then, so far as those accounts relate to harbour activities or associated activities, any requirements of the statutory provision of local application as to the form and contents of the accounts shall be treated as satisfied by the preparation of accounts in the same manner that is required for a statement under this section.
- (9) In this section—
 - “associated activities”, in relation to any harbour activities means such activities as may be prescribed in relation to those activities by regulations made by the Secretary of State;
 - “harbour activities” means activities involved in carrying on a statutory harbour undertaking or in carrying out harbour operations;
 - “holding company” and “subsidiary” have the meaning given by section 154 of the Companies Act 1948;
 - “statutory harbour undertaking” means an undertaking or part of an undertaking, whose activities consist wholly or mainly of the improvement, maintenance or management of a harbour in the exercise and performance of statutory powers and duties, and “statutory harbour undertaker shall be construed accordingly.
- (10) Regulations under subsection (7) or (9) above may be made so as to apply to all undertakers, to a class of undertakers or to a particular undertaker.
- (11) This section does not apply to—
 - (a) the Boards;
 - (b) a statutory harbour undertaker the activities of whose undertaking consist wholly or mainly in the improvement, maintenance or management of a fishery harbour or marine work;
 - (c) a statutory harbour undertaker of a class exempted from this section by regulations made by the Secretary of State.”.

Inquiries

- 11 (1) In section 47(1) (which as amended by section 272(2) of the ^{M3}Local Government Act 1972 applies certain provisions of section 250 of that Act to inquiries and hearings under the ^{M4}Harbour Act 1964), paragraph (a)(i) and the words “(i) and (which are ineffective as a result of that amendment) are repealed.

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- (2) In section 47(3) (power to direct that inquiries in Scotland be held by Commissioners under the ^{M5}Private Legislation Procedure (Scotland) Act 1936) for “or paragraph 3(3) of Schedule 4 there is substituted “ or paragraph 3(5) of Schedule 4 ”.

Marginal Citations

- M3** 1972 c. 70
M4 1964 c. 40.
M5 1936 c. 52.

Abolition of preliminary consideration of application for harbour revision or empowerment order

- 12 Paragraph 2 of Schedule 3 (Secretary of State’s preliminary consideration of applications for harbour revision or empowerment orders) is repealed; and accordingly in paragraph 3 of that Schedule—
- (a) for the words from the beginning to “allowed to proceed there is substituted “ Where an application for a harbour revision order has been duly made to the Secretary of State ”;
- (b) for “further steps there is substituted “ any steps (otherwise than under this paragraph) ”; and
- (c) in paragraph (d) for “be contemporaneously there is substituted “ and within such time as may be so specified, be ”.

Penalties for offences

- 13 (1) ^{F2}
- (2) In section 31(8) (failure by authority to comply with direction) for “£100 there is substituted “ £500 ”.
- (3) In section 41(3) (failure to comply with notice to furnish information or forecasts) for the words from “£50 to the end there is substituted “ £500 ”.
- (4) The amendments made by this paragraph do not apply in relation to offences committed before this paragraph comes into force.

Textual Amendments

- F2** Sch. 6 para. 13(1) repealed by Ports (Finance) Act 1985 (c. 30, SIF 43:1), s. 6(2), Sch.

- 14 (1) Section 14(3) and 16(6) (penalties which may be provided for by harbour revision or empowerment orders or harbour reorganisation schemes) are amended as follows—
- (2) In paragraph (a) (penalties on summary conviction), for “the infliction on him of a fine exceeding £100 there is substituted—

“—

- (i) in the case of an offence triable either summarily or on indictment, the infliction on him of a fine exceeding the prescribed sum with the meaning of section 32 of

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the Magistrates' Courts Act 1980 or section 289B of the Criminal Procedure (Scotland) Act 1975;

(ii) in the case of an offence triable only summarily, the infliction on him of a fine exceeding £500 or, in the case of a continuing offence, a daily fine exceeding £50 for each day on which the offence continues after conviction;”.

- (3) In paragraph (b) (penalties on conviction on indictment) for the words from “imprisonment to the end there is substituted “ a penalty other than a fine ”.
- 15 (1) In sections 45(i) and 46(2)(a) (penalties on summary conviction for, respectively, furnishing false information and improperly disclosing information or forecasts) for “three months there is substituted “ six months ”.
- (2) The amendments made by this paragraph do not apply in relation to offences committed before this paragraph comes into force.

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