
STATUTORY INSTRUMENTS

1968 No. 942

HARBOURS, DOCKS, PIERS AND FERRIES

The Port of Tyne Reorganisation Scheme 1967
Confirmation Order 1968

Made- - - - 2nd April 1968

Coming into Operation 14th June 1968

The Minister of Transport in exercise of the powers conferred on her by section 18 of and Schedule 4 to the Harbours Act 1964(a), and of all other enabling powers, hereby makes the following Order:—

1. The Port of Tyne Reorganisation Scheme 1967 is hereby confirmed with modifications.

2. The said Scheme as confirmed is set out in the Schedule hereto and copies of the Scheme (including the map annexed thereto) are deposited at the Ministry of Transport, St. Christopher House, Southwark Street, London, S.E.1, the Board of Trade, 1, Victoria Street, London, S.W.1 and at the Head Office of the Tyne Improvement Commissioners, Bewick Street, Newcastle-upon-Tyne, 1.

3. This Order may be cited as the Port of Tyne Reorganisation Scheme 1967 Confirmation Order 1968.

Given under the Official Seal of the Minister of Transport the 2nd April 1968.

(L.S.)

Barbara Castle,
Minister of Transport.

SCHEDULE
PORT OF TYNE REORGANISATION SCHEME 1967
ARRANGEMENT OF ARTICLES

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The National Ports Council, in exercise of their powers under section 18 of the Harbours Act 1964(a), hereby make the following Scheme:—

PART I

Part I

PRELIMINARY

1. This Scheme may be cited as the Port of Tyne Reorganisation Scheme 1967 and shall come into operation on the date fixed in accordance with the provisions of the Statutory Orders (Special Procedure) Acts 1945 and 1965(b). Citation and commencement.

2.—(1) In this Scheme, unless the subject or context otherwise requires— Interpretation.

“the Act” means the Harbours Act 1964;

“the appointed day” means the fourteenth day after the commencement of this Scheme;

“the Authority” means the Port of Tyne Authority incorporated under article 4 (Incorporation of Port of Tyne Authority) of this Scheme;

“charges” includes charges, rates, tolls and dues of every description for the time being payable to the Authority under any enactment;

“the Commissioners” means the Tyne Improvement Commissioners;

“the Corporations” means the Gateshead Corporation, the Newcastle Corporation and the Tynemouth Corporation, or any of them;

“dangerous goods” does not include dangerous goods to which byelaws made by the Authority under the Explosives Act 1875(c) or the Petroleum (Consolidation) Act 1928(d) for the time being apply;

“the day of transfer” means the first day of the month next following the month in which the period of fourteen days beginning with the appointed day expires;

“the dock estate” means the docks, piers, wharves, quays, berths, roads, railways, bridges, sheds and other works and conveniences, and the lands, buildings and property of every description and of whatever nature which are for the time being vested in or occupied by the Authority;

“dues” means ship, passenger, and goods dues as defined in section 57(1) of the Act;

“duties of customs or excise” include any tax, levy or surcharge or any other sum to the collection of which the general provisions of the Customs and Excise Act 1952(e) relating to customs and excise have been applied by statute;

“enactment” means any Act, or any order, scheme or other instrument made thereunder, and any provision in any Act or in any such order, scheme or instrument;

“existing tidal work” means so much of any fixed property transferred to and vested in the Authority on the day of transfer by virtue of this Scheme as is on, under or over tidal waters or tidal lands below the level of high water;

(a) 1964 c. 40.

(b) 9 & 10 Geo. 6. c. 18; 1965 c. 43.

(c) 38 & 39 Vict. c. 17.

(d) 18 & 19 Geo. 5. c. 32.

(e) 15 & 16 Geo. 6. & 1 Eliz. 2. c. 44.

Part I

“the ferry undertaking” means the undertaking in respect of the ferry between North Shields and South Shields, known as the Market Place Ferry, established by the North and South Shields Ferry Company under the Act 10 Geo IV, c. xcviij;

“Gateshead Corporation” means the mayor, aldermen and burgesses of the county borough of Gateshead acting by the council of the said county borough;

“the harbour of Gateshead” means the Hillgate quay at Gateshead as regards which there are vested in the Gateshead Corporation immediately before the day of transfer statutory powers or duties of improvement, maintenance or management;

“the harbour of Newcastle” means the quays at Newcastle-upon-Tyne as regards which there are vested in the Newcastle Corporation immediately before the day of transfer statutory powers or duties of improvement, maintenance or management;

“the harbour of Tynemouth” means the fish quay, extension jetty, fish landing place, union quay, landing steps, foreshore and connected works as regards which there are vested in the Tynemouth Corporation immediately before the day of transfer statutory powers or duties of improvement, maintenance or management;

“the harbour master” means the harbour master, quay master and dock master appointed by the Authority, and includes their authorised deputies and assistants and any person authorised by the Authority to act in any of those capacities;

“the Harbours Clauses Act 1847” means the Harbours, Docks and Piers Clauses Act 1847(a);

“hover vehicle” means a vehicle, however propelled, designed to be supported on a cushion of air; *CRAFT has the same meaning as in the Hovercraft Act 1968.*

“hydrofoil vessel” means a vessel, however propelled, designed to be supported on foils;

“level of high water” means the level of mean high-water springs;

“the Minister” means the Minister of Transport;

“Newcastle Corporation” means the lord mayor, aldermen and citizens of the city and county of Newcastle-upon-Tyne acting by the council of the said city;

“owner” when used with reference to any vessel includes the owner, master, charterer or other person in charge of the vessel, and when used with reference to goods includes the owner, consignor, shipper, consignee or other person in charge of the goods and in either case includes their respective agents in relation thereto;

“the Port” means the areas comprising the transferred harbours and, so far as not included in any of those areas, includes—

(a) the seaward approaches within a radius of one mile from either of the round heads of the North and South Piers at the mouth of the river Tyne, and

See section
12. Part of
Tyne Act
1970.

(b) the dock estate;

“port facilities” means services and facilities for or in connection with the berthing, moving, or dry-docking of vessels, the loading or unloading of goods or the embarking or disembarking of passengers in or from vessels, the lighterage, sorting, weighing, warehousing or handling of goods and the movement of goods and passengers;

“the river” means that part of the river Tyne and of the waterways discharging into it in respect of which there are vested in the Commissioners immediately before the day of transfer statutory powers or duties of improvement, maintenance or management;

“South Shields Corporation” means the mayor, aldermen and burgesses of the county borough of South Shields acting by the council of the said county borough;

“statutory securities” includes any securities in which trustees are for the time being authorised to invest trust moneys;

“the transferred harbours” means the river, the harbour of Gateshead, the harbour of Newcastle and the harbour of Tynemouth, and “transferred harbour” means any one of them;

“the transferring authorities” means the Commissioners and the Corporations, and “transferring authority” means any one of the said authorities;

“the Trinity House” means the Corporation of Trinity House of Deptford Strond;

“Tynemouth Corporation” means the mayor, aldermen and burgesses of the county borough of Tynemouth acting by the council of the said county borough;

“vessel” means every description of vessel, however propelled or moved, and includes any floating manufactured article and anything constructed or used to carry persons or goods by water; and

(a) without prejudice to the generality of the foregoing, includes a hover ~~vehicle~~ on, in or over the water; and

(b) includes a ^{CRAFT} seaplane whether on or in the water;

“year” in article 14 of this Scheme means a period of twelve months beginning on 1st April and otherwise means a period of twelve months beginning on 1st January.

(2) In this Scheme, unless the context otherwise requires, a reference to the undertaking of any of the transferring authorities at any of the transferred harbours is a reference to the powers, duties, interests in property, rights and liabilities of that authority in relation to that harbour which are transferred by this Scheme.

(3) The Interpretation Act 1889(a), applies for the interpretation of this Scheme as it applies for the interpretation of an Act of Parliament.

(4) Except where the context otherwise requires, references in this Scheme to any other enactment shall be construed as references to that enactment as applied, extended, varied or amended by, or by virtue of, any subsequent enactment, including this Scheme.

(a) 52 & 53 Vict. c. 63.

Part I.
—
Incorporation of enactments.

3.—(1) The provisions of the Harbours Clauses Act 1847 (except sections 6 to 13, 16 to 20, 23, 25, 26, 42, 43, 49, 50, 77, 83 to 90, 97, 98 and 101) so far as they are applicable for the purposes of, and are not inconsistent with, the provisions of this Scheme are hereby incorporated with and form part of this Scheme:

Provided that in construing the provisions so incorporated—

- (i) the expression “the special Act” shall mean this Scheme, the expressions “the promoters of the undertaking” and “the undertakers” shall mean the Authority, and the expression “the harbour, dock or pier” shall mean the Port;
- (ii) the meaning of the word “vessel” as defined in article 2 of this Scheme shall be substituted for the meaning assigned to that word by section 3 of that Act;
- (iii) section 15 shall be read and have effect as if the words from “shall forfeit” to the end of the section were deleted and there were substituted therefor the words “shall be liable on summary conviction to a fine not exceeding £100”;
- (iv) section 28 shall be read and have effect with the amendment set out in section 31(2) of the Post Office Act 1953(a);
- (v) section 63 shall be read and have effect as if the words “and a further sum of twenty shillings for every hour that such vessel shall remain within the limits aforesaid, after a reasonable time for removing the same has expired after such requisition” were omitted therefrom;
- (vi) section 69 shall be read and have effect as if the words “for every hour such combustible thing shall remain in any such place as aforesaid after the expiration of two hours from the service of the said notice” were omitted therefrom.

(2) The provisions of sections 652 to 654 of the Merchant Shipping Act 1894(b) are hereby incorporated with and form part of this Scheme, and in construing those sections as so incorporated the expression “a local lighthouse authority” shall mean the Authority.

Part II.
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PART II

CONSTITUTION OF AUTHORITY

Incorporation of Port of Tyne Authority.

4.—(1) As from the appointed day there shall be constituted an authority to be known as the Port of Tyne Authority, for the purpose of exercising the functions from time to time conferred or imposed on them by virtue of this Scheme or of any other enactment.

(2) The Authority shall be a body corporate with perpetual succession and a common seal.

Constitution of Authority.

~~5.—(1) The Authority shall consist of not less than 15 and not more than 16 members, of whom 15 shall be appointed by the Minister as provided in paragraph (2) of this article and one may be co-opted as provided in paragraph (7) of this article.~~

Repealed by Article 6 of Part of Tyne Authority (Constitution)

(2) The appointments under the foregoing paragraph shall be made as follows:—

- (a) three after consultation with the National Ports Council;
- (b) two on the joint nomination of the North of England Ship-owners' Association and the Chamber of Shipping of the United Kingdom;

(a) 1 & 2 Eliz. 2. c. 36.

(b) 57 & 58 Vict. c. 60.

~~(c) two on the joint nomination of the Tyneside Chamber of Commerce and the British Shippers' Council;~~ Part II.

~~(d) one on the joint nomination of the Tyne, Tees and Blyth Shipbuilders' Association and the North East Coast Shiprepairers' Association;~~

~~(e) one on the nomination of the Newcastle Corporation;~~

~~(f) one on the nomination of the Gateshead Corporation;~~

~~(g) one on the nomination of the Tynemouth Corporation;~~

~~(h) one on the nomination of the South Shields Corporation;~~

~~(i) one on the joint nomination of the Northumberland County Council and the Durham County Council;~~

~~(j) two after consultation with such persons appearing to the Minister to be representative of organised labour as the Minister considers appropriate.~~

(3) The Minister shall not be obliged to appoint a person who is nominated in accordance with any provision of this article, but if she declines to appoint a person so nominated she shall request the body or bodies who made the nomination to nominate another person.

(4) If it appears to the Minister that a body or bodies required to make a nomination pursuant to paragraph (2) of this article has or have refused or failed to nominate a person, or to nominate a person other than one whom the Minister has declined to appoint, after being requested by the Minister to do so, the appointment concerned shall be made by the Minister after consultation with the National Ports Council.

(5)(a) If the North of England Shipowners' Association or the Chamber of Shipping of the United Kingdom shall cease to exist the appointments referred to in sub-paragraph (b) of paragraph (2) of this article shall be made by the Minister after consultation with such persons appearing to her to be representative of shipowners using the Port as the Minister considers appropriate, but including either of the two first-mentioned bodies which continues to exist.

(b) If the Tyneside Chamber of Commerce or the British Shippers' Council shall cease to exist the appointments referred to in sub-paragraph (c) of paragraph (2) of this article shall be made by the Minister after consultation with such persons appearing to her to be representative of dues payers (other than shipowners) at the Port as the Minister considers appropriate, but including either of the two first-mentioned bodies which continues to exist.

(c) If the Tyne, Tees and Blyth Shipbuilders' Association or the North East Coast Shiprepairers' Association shall cease to exist the appointment referred to in sub-paragraph (d) of paragraph (2) of this article shall be made by the Minister after consultation with such persons appearing to her to be representative of shipbuilders and shiprepairers at the Port as the Minister considers appropriate, but including either of the two first-mentioned bodies which continues to exist.

(6)(a) Each of the persons nominated under sub-paragraphs (e) to (i) of paragraph (2) of this article shall be a person who is a member of the council or one of the councils by whom he is so nominated, and a member appointed pursuant to such nomination who ceases to be a member of that council shall thereupon cease to be a member of the Authority:

Part II.

~~Provided that a member of the Authority shall not be deemed to have ceased to be such a member if on or before the day on which he goes out of office in the council by which he was so nominated he has been re-elected a member of that council.~~

~~(b) Any cessation of membership of the Authority occurring by virtue of the provisions of this paragraph shall be deemed to create a casual vacancy.~~

~~(7) The appointed members of the Authority may co-opt the general manager for the time being of the Authority to serve as a member of the Authority during such period as may be specified by the appointed members at the time of co-option:~~

~~Provided that, notwithstanding the terms of his co-option, the general manager shall cease to be a co-opted member if he ceases to be the general manager of the Authority.~~

Appoint-
ment and
terms of
office of
appointed
members of
Authority.

~~6.—(1) The Minister shall appoint the first members to be appointed by her under article 5 of this Scheme in accordance with the provisions of that article before the appointed day and the members so appointed shall come into office on that day and, subject to the provisions of this Scheme, shall continue in office until the end of December 1970.~~

~~(2) Every vacancy other than a casual vacancy among the members of the Authority appointed by the Minister under article 5 of this Scheme shall be filled by a person appointed by the Minister on or before the date on which the vacancy will occur (or, where a casual vacancy has occurred two months or less before the end of the vacating member's normal term of office and has been left unfilled, on or before the date on which the vacancy would normally have occurred) and in accordance with the provisions of the said article 5, and every member so appointed shall come into office on that date and, subject to the provisions of this Scheme, shall continue in office until the end of December in the third year thereafter:~~

Repealed by
Article 6 of
Part of Tyne
Authority
(Constitution)
Rev. Order
1974.

~~Provided that if for any reason a member is not appointed on or before the date on which the vacancy will occur (or, where a casual vacancy has occurred two months or less before the end of the vacating member's normal term of office and has been left unfilled, on or before the date on which the vacancy would normally have occurred) he shall be appointed as soon as practicable thereafter and shall come into office upon his appointment and subject as aforesaid shall continue in office for the remainder of the said term.~~

~~(3) Any casual vacancy among the members of the Authority appointed by the Minister under article 5 of this Scheme shall be filled as soon as practicable by the appointment by the Minister in accordance with the provisions of the said article 5 of a new member and the member so appointed shall come into office upon his appointment, or, where the appointment is made in advance to fill a casual vacancy which is known to be about to occur, upon that vacancy occurring, and, subject to the provisions of this Scheme, shall hold office during the remainder of the term of the member in whose place he is appointed:~~

~~Provided that a casual vacancy occurring less than two months before the end of the vacating member's normal term of office may, at the Minister's discretion, be left unfilled.~~

Incidental
provisions
relating to
Authority.

~~7. The provisions of Schedule 1 to this Scheme (which relates to the procedure of, and other incidental matters concerning, the Authority) shall have effect with respect to the Authority.~~

PART III

Part III.

TRANSFER OF HARBOUR UNDERTAKINGS

8. Subject to the provisions of this Scheme, on the day of transfer the powers and duties conferred or imposed on any of the transferring authorities by any statutory provision of local application (other than a provision repealed by this Scheme) for the purpose of, or in connection with, the improvement, maintenance or management of a transferred harbour, and the continuation and maintenance of the ferry undertaking, shall be transferred to the Authority, and accordingly as from that day any such provision shall, in so far as it relates to any of the said harbours or to that undertaking, and with any necessary modifications, apply in relation to the Authority as if for references in each case to one of the transferring authorities there were substituted (except where the context prevents such a construction) references to the Authority and shall, unless inconsistent with the nature of such provision, have effect throughout the Port.

Transfer of powers and duties.

9. Subject to the provisions of this Scheme, on the day of transfer the interests of the Commissioners in all fixed and movable property used by them for the purposes of the river and of the ferry undertaking (other than their interests in property transferred under Part VIII (Police) of this Scheme), and all rights and liabilities enjoyed or incurred by them for any of those purposes, shall be transferred to and vest in the Authority.

Transfer of property, rights and liabilities of Commissioners.

10. Subject to the provisions of this Scheme, on the day of transfer the interests of each of the Corporations in all fixed and movable property comprising, or used by them for the purposes of, any of the transferred harbours, and all rights and liabilities enjoyed or incurred by them for any of those purposes, shall be transferred to and vest in the Authority, except—

Transfer of property, rights and liabilities of the Corporations.

- (i) any funds, money or securities for money representing any sinking fund, or any moneys held on revenue account;
- (ii) any liabilities or obligations in respect of borrowed money;
- (iii) the interest of any of the Corporations in any property which is used by them for the general administration of all or most of their functions;
- (iv) any liability in respect of payments for the reimbursement of which provision is made by article 22(7) of this Scheme.

11. The interests in fixed property transferred under the last two foregoing articles and under article 73 of this Scheme shall comprise the respective interests of the transferring authorities in the land (including buildings thereon) shown delineated and edged variously in red, green, blue or yellow on maps numbers 1 to 50 annexed to this Scheme and shall not, unless otherwise agreed between them and the Authority, include interests in any other land or buildings.

Scope of property transferred.

12. The benefits of, and liabilities under, contracts for the employment of officers and servants shall not be transferred by this Scheme.

Service contracts not to be transferred.

13. As from the day of transfer any authorisation under section 9 of the Act granted by the Minister to a transferring authority in relation to a transferred harbour shall have effect as if it had been granted to the Authority.

Authorisations under section 9 of Act.

Part III.
Repayment
of loan
charges to
Corpora-
tions.

14.—(1) Subject to the provisions of this article, the Authority shall pay to each of the Corporations in the year current on the day of transfer and in each year thereafter any amounts which in pursuance of arrangements in force immediately before the day of transfer for the redemption of loan and the payment of interest thereon (including debt management expenses) would, but for this Scheme, have fallen on or after that day to be debited in the accounts of that Corporation's undertaking at a transferred harbour for that year in respect of money borrowed for the purposes of that undertaking:

Provided that—

- (a) the Authority shall not be liable to pay so much of any amount as aforesaid as is attributable to any period before the day of transfer and any such amount shall be calculated as if the amount due in respect of redemption of loan and payment of interest thereon accrued from day to day;
- (b) in calculating the amount which would have fallen to be debited in respect of any loan regard shall be had to the income earned by any sinking fund established for the redemption of that loan.

(2) In this article references to redemption of loan shall include a reference to repayment of advances.

(3) For the purposes of this article any payment debited to the capital fund of the Newcastle Corporation which falls to be cleared by a debit in the accounts of the Corporation's undertaking at the harbour of Newcastle shall be deemed to be money borrowed for the purposes of that undertaking.

Payments by
Authority to
Corpora-
tions.

15. The Authority shall pay to each of the Corporations as soon as reasonably practicable after the day of transfer—

- (a) an amount equal to the value immediately before the day of transfer of all stores and equipment which have been purchased on revenue account by that Corporation and which are transferred to the Authority by virtue of this Scheme; and
- (b) the amount of any capital expenditure incurred by the Corporation for the purposes of their undertaking at a transferred harbour which was not defrayed from moneys raised by the exercise of a statutory borrowing power and in respect of which the Corporation intended to exercise a statutory borrowing power which was available to them immediately before the day of transfer or in respect of which they intended, and but for this Scheme could reasonably have been expected, to obtain such power.

Recovery
and ap-
portionment
of debts.

16.—(1) Each of the Corporations in respect of its undertaking at a transferred harbour shall be entitled to and may recover all rates, rents, charges, profits and sums of money, and shall discharge and pay all debts and liabilities which have become payable before the day of transfer and the Authority shall be entitled to and may recover all such revenues and, subject to the provisions of this scheme, shall discharge and pay all such outgoings, which may become payable on or after that day:

Provided that (except so far as may be otherwise agreed between the Authority and a Corporation) so much of any amount recovered or paid by a Corporation by virtue of this article as is attributable to any period beginning on or after the day of transfer shall (as the case may require) be

paid by them to, or be repaid to them by, the Authority and so much of any amount recovered or paid by the Authority by virtue of this article as is attributable to any period before that day shall (as the case may require) be paid by them to, or repaid to them by, the Corporation as the case may be.

Part III.
—

(2) Where necessary for the purposes of this article any revenue and outgoings shall be apportioned between the Authority and any of the Corporations.

17. Any question which may arise under the foregoing provisions of this Part between the Authority and any of the Corporations shall be determined by an arbitrator to be appointed either by agreement between the parties, or, in default of agreement, by the President of the Institute of Municipal Treasurers and Accountants.

Arbitration.

18. The Authority may at all reasonable times inspect, and shall at their expense be entitled to copies of, all registers, books of account, maps, plans, specifications, engineering reports and other documents which relate to the undertaking of a transferring authority at a transferred harbour and are under the control of a transferring authority.

Inspection
of books
etc.

19.—(1) The accounts of the Commissioners shall be made up to the day of transfer and shall be audited by auditors appointed for the purpose by the Authority, being persons qualified for appointment under article 66(1) of this Scheme.

Terminal
audit of
accounts of
the
Commis-
sioners.

(2) The Authority shall pay the auditors' reasonable fee for such audit.

(3) Any sum certified by such auditors to be due from any person at the audit referred to in this article shall be paid to the Authority.

20. As from the day of transfer the Commissioners shall be dissolved.

Dissolu-
tion of
Com-
missioners.

PART IV

Part IV.
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TRANSFER OF OFFICERS AND SERVANTS

21. As from the day of transfer the Authority shall take over and employ any officer or servant (other than a member of the Tyne force as defined in article 69 of this Scheme) who immediately before the day of transfer is employed on a full-time basis by any of the transferring authorities wholly or mainly in connection with any of the transferred harbours or the ferry undertaking (and who shall be willing to enter the service of the Authority) on terms and conditions not less favourable than those on which he is employed by that authority immediately before the day of transfer:

Transfer of
staff.

Provided that the Authority shall not be required to take into their service any officer or servant whose contract of service was entered into after 1st July 1967 unless such contract was entered into to replace an officer or servant who had left the service of a transferring authority and contained terms and conditions substantially similar to those of the contract with that officer or servant or unless such contract was entered into with the approval of the Authority or, before the first meeting of the Authority, the National Ports Council.

Part IV.
Pensions etc.

22.—(1) In this article—

“the Fund” means the fund relating to the superannuation scheme to be established by the Authority under article 65 of this Scheme;

“pension rights” in relation to any person means the rights of that person, his spouse and dependants, as respects pensions, gratuities and other like benefits and includes the possibility of receiving any such benefits pursuant to the exercise of a statutory discretion or to a customary practice and also the right to a return of contributions to a pension fund, with or without interest thereon.

(2) The Authority, in relation to any person who enters their service pursuant to article 21 of this Scheme, shall as from the day of transfer provide, or secure the provision of, pension rights (taking into account all service before that day in respect of which pension rights applicable in relation to that person by virtue or in consequence of his employment by a transferring authority have accrued) not less favourable than those which apply in relation to that person immediately before that day by virtue or in consequence of his employment by a transferring authority, regard being had to any contributions payable by the person in question in respect of pension rights applicable in relation to him by virtue or in consequence of his employment either before or after the day of transfer.

(3)(a) On the day of transfer the moneys and other assets standing to the credit of the superannuation fund established by the Commissioners under the Tyne Improvement Acts 1850 to 1958 shall be transferred to and form part of the Fund.

(b) As soon as practicable after the day of transfer each of the Corporations shall pay to the Authority such transfer values, in respect of persons transferred from the service of that Corporation pursuant to article 21 of this Scheme and who as from that day become members of the Fund, as shall be agreed between that Corporation and the Authority or, in default of such agreement, as shall be determined by the Minister of Housing and Local Government, and the sums so paid shall be transferred to and form part of the Fund.

(4) If as a result of a person leaving the service of a transferring authority and entering that of the Authority pursuant to article 21 of this Scheme contributions paid by that person under any superannuation or pension scheme are returned to him with or without interest thereon the amount so returned shall be paid by that person to the Authority and if he fails to make such payment within a reasonable time of being requested by the Authority so to do the Authority's obligations in relation to him under this article shall cease to have effect.

(5) Any pension or gratuity by way of periodical payments being paid immediately before the day of transfer by the Commissioners to a person previously employed by them or the spouse or dependants of such a person shall on and after the day of transfer continue to be paid by the Authority instead of the Commissioners in accordance with the terms and arrangements relating to such pension or gratuity in operation immediately before the day of transfer and, following the death of any such person, the Authority shall make such payments to his spouse and dependants (if any survive him) as, in accordance with the terms and arrangements in operation immediately before the day of transfer, the Commissioners would have done if this Scheme had not been confirmed.

(6) Any gratuity by way of periodical payments (which for the purposes of this paragraph includes any allowance granted under the Newcastle-upon-Tyne Corporation Act 1937(a)) being lawfully paid immediately before the day of transfer by any of the Corporations to a person who immediately before he retired was employed by that Corporation wholly or mainly in connection with a transferred harbour shall on and after the day of transfer continue to be paid by the Authority instead of by the Corporation, in accordance with the terms and arrangements in operation immediately before the day of transfer.

(7) The Authority shall pay to each of the Corporations the amount of any payments which that Corporation is required to make—

(a) to its superannuation fund under or in pursuance of any provision of the Local Government Superannuation Acts 1937 to 1953;

(b) by virtue of, or by reference to, increases under the Pensions (Increase) Acts 1920 to 1965, or by virtue of, or by reference to, increases under any similar enactment for the time being in force;

and which, but for this Scheme, would have fallen on or after the day of transfer to be debited in the accounts of that Corporation's undertaking at a transferred harbour.

(8) Notwithstanding any provision governing the operation of the Tyne Commission Superannuation Fund, a person transferred from the service of the Commissioners pursuant to article 21 of this Scheme shall not by reason of such transfer be entitled to any return of contributions to that Fund.

(9) Nothing in this article shall apply in respect of or in relation to any member of the Tyne force as defined in article 69 of this Scheme.

23. Any question which may arise under article 21 or paragraph (2) of article 22 of this Scheme between the Authority and a person who enters their service pursuant to the said article 21 may be reported by the Authority or by such person to the Minister of Labour and, if a dispute so reported is not otherwise disposed of, that Minister shall refer it for determination by the industrial court.

Deter-
mination of
questions
about
terms of
service or
pension
rights.

24. Where at any time after the day of transfer the Authority consider it necessary in the interests of their more efficient organisation or administration to require an officer or servant who has entered their employment pursuant to article 21 of this Scheme to work at a place other than that at which he worked before the day of transfer the Authority shall reimburse that officer or servant for any removal expenses and increase in travelling expenses which he may incur to such extent and for such period as may be reasonable in the circumstances.

Allowance
for removal
or travelling
expenses.

25.—(1) It shall be the duty of the Authority, except so far as they are satisfied that adequate machinery exists for achieving the purpose of this paragraph, to seek consultation with any organisation appearing to the Authority to be appropriate, with a view to the conclusion between the Authority and that organisation of such agreements as appear to the parties to be desirable with respect to the establishment and maintenance of machinery for—

General
provisions
as to terms
and
conditions
of employ-
ment of
staff.

(a) 1 Edw 8 & 1 Geo. 6. c. xciv.

Part IV.

- (a) the settlement by negotiation of terms and conditions of employment of persons employed by the Authority, with provision for reference to arbitration in default of such settlement in such cases as may be determined by or under the agreements; and
- (b) the promotion and encouragement of measures affecting the safety, health and welfare of persons employed by the Authority and the discussion of other matters of mutual interest to the Authority and such persons, including efficiency in the operation of the Authority's services.

(2) Nothing in this article shall be construed as prohibiting the Authority from taking part together with other employers in the establishment and maintenance of machinery for the settlement of terms and conditions of employment, the promotion and encouragement of measures affecting the health, safety and welfare of their workers, and the discussion of other matters of mutual interest to them and their workers.

Part V.

PART V

DUTIES AND POWERS OF AUTHORITY

General duties of the Authority.

26. It shall be the duty of the Authority subject to the provisions of this Scheme to take such steps from time to time as they may consider necessary for the conservancy, maintenance and improvement of the Port and the accommodation and facilities (including navigational facilities) afforded therein or in connection therewith, and for these purposes, and without prejudice to the generality of the foregoing, the Authority may—

- (a) improve, maintain, regulate and manage the Port and, subject to the provisions of this Scheme, provide port facilities therein;
- (b) turn their resources to account so far as not required for the purposes of the Port; and
- (c) do all other things which in their opinion are expedient to facilitate the proper carrying on or development of the Port.

Jurisdiction of Authority.

27. The Authority and the harbour master shall exercise jurisdiction within the limits of the Port.

Harbour master's powers.

28.—(1) Section 52 of the Harbours Clauses Act 1847, as incorporated with this Scheme—

- (a) shall extend to empower the harbour master to give directions prohibiting the mooring of vessels in any particular part or parts of the Port; and
- (b) shall not be construed to require the harbour master in emergency to give particular directions in the case of every vessel in respect of which it is desired to exercise any of the powers of that section, but in pursuance of that section for all or any of the purposes thereof the harbour master shall be entitled in emergency to give general directions applicable to all vessels or to particular classes of vessels.

(2) Section 53 of the Harbours Clauses Act 1847, as incorporated with this Scheme, shall not be construed to require the harbour master to serve a notice in writing of his directions upon the master of a vessel, and such directions may be given orally or otherwise communicated to the master.

29. Without prejudice to the provisions of section 3 of the Tyne Improvement Act 1908(a) as applied to the Authority by virtue of this Scheme, the powers of that section shall be exercisable in relation to the bed of the sea in or near any approach to the Port.

Part V.
—
Extension of
dredging
powers.

30.—(1) Notwithstanding anything in this or any other statutory provision of local application the Authority may from time to time set apart and appropriate any lands, works, buildings, machinery, equipment or other property of the Authority, for the exclusive, partial or preferential use and accommodation of any particular trade, person, vessel or class of vessels, or goods, subject to the payment of such charges and subject to such terms, conditions and regulations as the Authority may think fit.

Power to
appropriate
lands and
works for
particular
trades etc.

(2) No person or vessel shall make use of any lands, works, buildings, machinery, equipment or other property so set apart or appropriated without the consent of the harbour master or other duly authorised officer of the Authority, and the harbour master or, as the case may be, such officer may order any person or vessel making use thereof without such consent to leave or be removed, and the provisions of section 58 of the Harbours Clauses Act 1847 shall extend and apply mutatis mutandis to and in relation to any such vessel.

31. Notwithstanding anything in this or any other statutory provision of local application the Authority for the purposes of or in connection with the management of the Port may lease or grant the use or occupation of or any easement, servitude or other right or interest in or over any lands, works, buildings, machinery, equipment or other property of the Authority for such period or periods, at such rents and considerations and on such terms and conditions as shall be agreed between the Authority and the person taking the same.

Power to
lease etc.

32.—(1) The Authority, ^{as the ferry undertaking} in respect of property vested in them and held for the purposes of the Port, ^{which is no longer required for those purposes,} may dispose of such property in such manner, whether by way of sale, exchange, lease, the creation of any easement, right or privilege or otherwise, for such period, upon such conditions and for such consideration as they think fit.

Disposal of
property no
longer re-
quired for
the Port.

(2) If any such property being fixed property transferred under article 10 of this Scheme was, before the day of transfer, the property of one of the Corporations, the Authority before exercising their power of sale in respect of that property under this article shall by notice in writing offer to transfer it to that Corporation, and on the acceptance of such offer shall give effect to the transfer on terms restricted to the provisions of paragraph (4) of this article.

(3) An offer made under the last foregoing paragraph shall be deemed to have been refused if the Corporation do not, within two months after the receipt of the notice, serve on the Authority a counter-notice signifying their acceptance of the offer.

(4) Where any property is transferred to a Corporation pursuant to paragraph (2) of this article—

(a) the obligation of the Authority under article 14 of this Scheme for the repayment of loan charges in so far as it relates to the property in question shall, in relation to any period on and after the day on which the property is so transferred, cease to have effect;

(a) 8 Edw. 7 c. lxxxv.

Amended
by
Sec 13
of
Port of
Tyne
Act
1970.

Part V.

- (b) if on that day any amount is owing by the Authority in respect of moneys borrowed by them for the purposes of that property, the provisions of the said article 14 shall apply in respect of that property with the substitution, for references to the Authority and to each of the Corporations, of references respectively to the Corporation to which the property is so transferred and to the Authority;
- (c) the Corporation shall reimburse to the Authority any expenditure of a capital nature (subject to an appropriate deduction in respect of depreciation suffered) incurred by the Authority in relation to the property and not financed out of borrowings;
- (d) any dispute which may arise under this paragraph shall be determined by an arbitrator to be appointed by agreement between the parties or, in default of agreement, by the President of the Institute of Municipal Treasurers and Accountants.

Use of
warehouses
as bonded
warehouses.

33.—(1) The Authority may, at their discretion, use as a bonded warehouse any of their warehouses, sheds or other buildings, or any part thereof which may be duly approved by the Commissioners of Her Majesty's Customs and Excise, when such are intended for the deposit of goods liable to duties of customs or excise.

(2) The Authority may, if required, give to the Commissioners of Her Majesty's Customs and Excise general security by bond under their common seal for payment of duties of customs or excise on or for the due exportation of goods deposited in their warehouses, sheds, buildings, yards or storage areas.

(3) The Authority may give such bonds or securities under their common seal as may be required by the laws for the time being in force relating to all premises for which Her Majesty's Customs and Excise may require bonds and securities to be given.

(4) All warehouses, sheds or other buildings belonging to the Authority in which goods prohibited to be used for home consumption, or liable to duties of customs or excise, may be deposited, shall, if required by the Commissioners of Her Majesty's Customs and Excise, be secured in such manner as shall be approved by such Commissioners.

Authority
may issue
certificates
of deposited
goods.

34.—(1) The Authority may at the request of a person—

(a) warehousing or depositing goods in a warehouse or place in the dock estate specially appropriated for the purpose; or

(b) entitled to goods so warehoused or deposited;

issue to him a warrant for the delivery of the goods so warehoused or deposited or such part thereof as may be specified in the warrant.

(2) A warrant issued under paragraph (1) of this article shall be transferable by endorsement and shall entitle the person named therein or the last endorsee thereof to the delivery of the goods specified therein and the goods so specified shall for all purposes be deemed to be his property.

Notice
before entry
of dangerous
goods.

~~35.—(1) Except in case of emergency, the owner or master of a vessel carrying any dangerous goods shall, before the vessel enters the Port, give notice to the harbour master of the nature and quantity of such goods, and if such notice is not given the owner or master shall be guilty of an offence and liable to a fine not exceeding one hundred pounds.~~

1 Deleted by

~~(2) Where the owner or master of a vessel is charged with an offence under paragraph (1) of this article it shall be a defence to prove that he did not know and could not with reasonable diligence have ascertained the nature of the goods in respect of which the proceedings are taken.~~ Part V.

Repealed by
S.I. 1987/37

36. The Authority shall not be responsible for the safety of any goods deposited in any part of the dock estate not specifically set apart by them for the purpose of warehousing. Liability for safety of goods.

37. The Authority may remove, or cause to be removed, any goods remaining on or in any part of the dock estate after the expiry of the periods prescribed, or to be prescribed, by the Authority, to their own or any other public warehouse or store, and such removal shall be carried out at the expense and risk of the owner: Power to remove goods.

Provided always that—

- (i) notwithstanding such removal or placing in store, such goods shall be liable to a general lien for the cost of removal, and for any charges payable to the Authority by the owner; and
- (ii) the power of the Authority for preventing the removal of goods until the cost of removal, and the charges, have been paid shall extend and apply to any goods removed or placed in store under the provisions of this article.

38.—(1) The Authority may, by resolution, designate any dock, wharf or other works, or any portion thereof, for the loading and unloading of any goods to which this article applies. Power to give directions as to loading or unloading of certain goods.

(2) Where pursuant to paragraph (1) of this article the Authority have designated a place for the loading or unloading of goods of any description the harbour master may direct that goods of that description intended to be loaded on board, or unloaded from, a vessel shall not be deposited or received elsewhere than at the place so designated, and in the event of any person disobeying any such direction the Authority may remove the goods to the place so designated, and any expense incurred by them in so doing may be recovered by them from that person as a simple contract debt in any court of competent jurisdiction.

(3) The goods to which this article applies are goods in bulk and goods the nature or character of which is such as, in the opinion of the Authority, to give rise to special risk of contamination, taint, stain, injury or danger to other goods or to persons, or to necessitate the provision of special facilities for the handling thereof or for the safety, protection, welfare or accommodation of persons employed in or in connection with such handling.

39. Any person who obstructs or interferes with the harbour master or with any officer or servant of the Authority in the exercise of his powers or the performance of his duties under this Scheme shall be guilty of an offence and liable to a fine not exceeding fifty pounds. Obstruction of harbour master and others.

40.—(1) In relation to any vessel sunk, stranded or abandoned (whether before or after the commencement of this Scheme) in such a manner as to be an obstruction or danger to navigation in the Port or in or near any approach thereto— Power with respect to disposal of wrecks.

Part V.

(a) subject to sub-paragraph (b) of this paragraph, and to any enactment for the time being in force limiting liability, the Authority may recover as a simple contract debt from the owner of any vessel in relation to which they have exercised their powers under section 530 of the Merchant Shipping Act 1894(a) any expenses incurred by them under that section which are not reimbursed out of the proceeds of any sale effected under that section;

(b) except in a case which is in the opinion of the Authority a case of emergency, sub-paragraph (a) of this paragraph shall not apply in relation to any vessel unless, before exercising in relation to that vessel any of the powers conferred on them by the said section 530 other than the power of lighting and buoying, the Authority have given to the owner of the vessel not less than forty-eight hours' notice of their intention to do so; and if before the notice expires they receive from the owner counter-notice in writing that he desires to dispose of the vessel himself, and no direction is served in respect of the vessel under sub-paragraph (b) of paragraph (2) of the next following article, he shall be at liberty to do so, and the Authority shall not exercise the powers aforesaid in relation to that vessel until the expiration of seven days from the receipt of the counter-notice and of any further continuous period thereafter during which the owner of the vessel proceeds with the disposal thereof with all reasonable diligence and in compliance with any directions for the prevention of interference with navigation which may be given to him by the Authority.

(2) Notice under the last foregoing sub-paragraph to the owner of any vessel may be served by the Authority either by delivering it to him or by sending it to him by registered or recorded delivery post addressed to him at his last known place of business or abode in the United Kingdom, or if the owner or such place of business or abode is not known to the Authority by displaying the notice at the offices of the Authority for the period of its duration.

(3) In this article the expression "owner" in relation to any vessel means the person who was the owner of the vessel at the time of the sinking, stranding, or abandoning thereof.

Protection
of Crown
interests in
wrecks.

41.—(1) Without prejudice to section 741 of the Merchant Shipping Act 1894 (which relates to the exemption from the provisions of that Act of vessels belonging to Her Majesty), as modified by any Order in Council made under section 80 of the Merchant Shipping Act 1906(b), the powers conferred on the Authority by section 530 of the said Act of 1894 shall not be exercisable—

(a) in relation to any vessel sunk, stranded or abandoned by design by or under the orders of a person acting on behalf of Her Majesty or an officer or servant of the Crown acting in the course of his duty as such;

(b) except with the consent of the Secretary of State for Defence, which may be given with or without such a direction as is referred to in paragraph (2)(b) of this article, in relation to any vessel which is not excluded from the exercise of those powers by virtue of being a vessel belonging to Her Majesty but which, at the time when the vessel was sunk, stranded or abandoned—

(a) 57 & 58 Vict. c. 60.

(b) 6 Edw. 7. c. 48.

- (i) had been required to be placed at the disposal of Her Majesty or of a government department; and
- (ii) was appropriated to the service, under the direction and control of the Secretary of State for Defence, of Her Majesty's ships of war.

(2) The Authority shall give notice in writing to the Secretary of State for Defence and to the Board of Trade of any decision of the Authority to exercise in relation to any vessel referred to in paragraph (1)(b) of this article any of the powers aforesaid other than the power of lighting and buoys and, except in a case which is in the opinion of the Authority a case of emergency, shall not proceed with the exercise thereof—

- (a) except with the consent of the Secretary of State for Defence and the Board of Trade, before the expiration of a period of fourteen days from the giving of the notice; or
- (b) if before the expiration of the said period there is served on the Authority a direction by the Secretary of State for Defence or the Board of Trade that those powers shall not be exercised in relation to that vessel except in such a case as aforesaid;

and where, in any such case as aforesaid, the Authority proceed to exercise those powers without the consent and before the expiration of the period mentioned in sub-paragraph (a) of this paragraph or after a direction has been served on them as aforesaid, they shall not in the exercise of those powers use any explosives and, if before the expiration of the period aforesaid, such a direction as aforesaid is served on them, shall not be entitled to exercise the power of sale conferred by the said section 530 or the power conferred by paragraph (1)(a) of the last foregoing article of this Scheme:

Provided that—

- (i) the Authority shall not be required to give notice under this paragraph in respect of any vessel in respect of which they have received a consent under paragraph (1)(b) of this article, but any direction such as is referred to in sub-paragraph (b) of this paragraph accompanying that consent shall be deemed for the purposes of this paragraph and of paragraph (2) of the last foregoing article to have been duly served under sub-paragraph (b) of this paragraph;
- (ii) the prohibition on the use of explosives imposed by this paragraph shall not apply to the use for cutting away the superstructure of a vessel of such small explosive charges as may for the time being be approved by the Board of Trade for the purposes of this proviso.

(3) Without prejudice to the power of sale conferred on the Authority by the said section 530, the Authority shall hold and dispose of any wreck within the meaning of Part IX of the said Act of 1894 raised, removed or recovered under that section, and any surplus proceeds of sale within the meaning of that section, in accordance with such directions (if any) as may be given to them by the receiver of wreck; and on exercising the said power of sale in the case of any property the Authority shall discharge any sums payable in respect of that property by way of duties of customs or excise, and any sums so discharged shall be deemed to be expenses incurred by the Authority under that section.

Part V.

(4) Any limitation on the powers of the Authority in relation to any vessel arising by virtue of paragraph (1) or paragraph (2) of this article shall not operate to authorise the exercise in relation to that vessel of the powers conferred on the Trinity House by section 531 of the said Act of 1894.

Authority may contract for police.

42.—(1) The Authority may contract and agree from time to time with a police authority for any police area for the execution by constables of a police force maintained for that area of police duty within the Port or any part thereof on such terms and conditions and for such payment or consideration as the Authority shall think proper and as shall be agreed between them and the police authority.

(2) In this article "police authority" has the same meaning as in the Police Act 1964(a).

Powers of interrogation, removal and search.

43.—(1) Any constable or any responsible officer of the Authority may require any person in, on or seeking access to the Port or any vessel using the Port to state truly his name and address and the nature and place of his business there or his purpose there or in seeking access thereto and may require any such person to produce for inspection by such constable or officer any pass or other authority which may have been issued to him by or on behalf of the Authority, and any person who fails to comply with any such requirement shall be guilty of an offence and liable to a fine not exceeding ten pounds.

(2) Any constable may remove from the Port or from any vessel using the Port any disorderly person or any person having no right or lawful purpose there and may prevent any such person from having access thereto.

(3) Any constable or any officer of Her Majesty's Customs and Excise may detain and search within the Port any person or any vehicle, vessel or other property, upon whom or in or about which there is reasonable cause for believing that there may be found any uncustomed or prohibited goods or anything stolen or unlawfully obtained from the Port or from any vessel using the Port.

Foy boatmen services.

44. The Authority may undertake directly or by contract the work normally undertaken by foy boatmen including running lines and assisting in the mooring and unmooring of vessels.

Provision against danger to navigation.

45.—(1) In case of injury to or destruction or decay of an existing tidal work or any part thereof the Authority shall forthwith notify the Trinity House and shall lay down such buoys exhibit such lights and take such other steps for preventing danger to navigation as the Trinity House shall from time to time direct.

(2) If the Authority fail to notify the Trinity House as required by this article or to comply in any respect with a direction given under this article they shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

Abatement of existing works abandoned or decayed.

46.—(1) Where an existing tidal work is abandoned, or suffered to fall into decay, the Board of Trade may by notice in writing require the Authority at their own expense either to repair and restore the work or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Board think proper.

(a) 1964 c. 48.

(2) Where fixed property transferred to and vested in the Authority on the day of transfer by virtue of this Scheme and consisting partly of an existing tidal work and partly of works on or over land above the level of high water is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Board of Trade may include that part of the work or any portion thereof in any notice under this article.

Part V.

(3) If on the expiration of thirty days from the date when a notice under this article is served upon the Authority they have failed to comply with the requirements of the notice the Board of Trade may execute the works specified in the notice and any expenditure incurred by them in so doing shall be recoverable from the Authority as a simple contract debt.

47. The Board of Trade may at any time if they deem it expedient order a survey and examination of an existing tidal work and any expenditure incurred by the Board of Trade in any such survey and examination shall be recoverable from the Authority as a simple contract debt.

Survey of existing tidal works.

48.—(1) The Authority shall at the outer extremity of every existing tidal work exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Trinity House shall from time to time direct.

Permanent lights on existing tidal works.

(2) If the Authority fail to comply in any respect with a direction given under this article they shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

PART VI

Part VI.

CHARGES

49. In addition to their power to demand, take and recover ship, passenger and goods dues under section 26 of the Act, the Authority may demand, take and recover in respect of any floating manufactured article (not being a ship within the meaning of the Act) entering, using or leaving the Port such dues as they think fit; and the provisions of sections 30, 31, 32 and 34 of the Act (which require lists of charges to be available for inspection and sale; give a right of objection to ship, passenger and goods dues; empower the Minister to revise such dues; and make supplementary provision in relation to those matters) shall, with any necessary modifications, apply to the dues authorised by this article as they apply to ship, passenger and goods dues.

Charges on certain floating articles.

50. The Authority may demand, take and recover such reasonable charges for services and facilities provided by them as they may from time to time determine.

Charges for services and facilities.

51. Charges shall be payable subject to such conditions as the Authority may from time to time specify in their published list of charges.

Conditions relating to payment of charges

<p>Part VI.</p> <p>As to payment of charges.</p>	<p>52.—(1) The several charges which the Authority are for the time being authorised to demand, take and recover in respect of vessels and goods under any enactment shall be payable before the removal from the Port of any vessel or goods in respect of which they are payable and may be demanded, taken and recovered by such persons, at such places, at such times and under such regulations as the Authority may from time to time appoint.</p> <p>(2) An officer as defined in the Customs and Excise Act 1952 may refuse clearance of any vessel if he is satisfied that payment of any charges payable to the Authority in respect of that vessel or any goods therein has not been made or satisfactorily secured.</p> <p>(3) Charges payable to the Authority shall be payable by the owner of any vessel or goods in relation to which the charges are payable.</p> <p>(4) Where charges payable to the Authority may be recovered by them from more than one person, the said persons shall be jointly and severally liable.</p>
<p>Penalty for evading payment of charges.</p>	<p>53. If the owner of any vessel or goods or any other person at any time eludes or attempts to elude or evade payment of, or refuses or neglects to pay, any charges payable by such owner or person to the Authority at the time when they become due and payable, he shall be liable to pay to the Authority a sum equal to three times the amount of such charges, which sum shall be a debt due to the Authority and shall be recoverable by the Authority in any court of competent jurisdiction.</p>
<p>Claims for repayment of charges.</p>	<p>54. Any person claiming the return of the whole or any part of any charges paid to the Authority shall make his claim, and produce all documents and give all information required by the Authority in proof thereof, within one year from the time of payment; and in default thereof the claim shall cease to be enforceable.</p>
<p>Payment of charges on warehoused goods.</p>	<p>55. The owner or person having the charge of any goods warehoused, placed, stored or yarded in a warehouse, transit shed or area, store or yard of the Authority shall, before the removal of those goods from the warehouse, transit shed or area, store or yard and at such date or date as shall be fixed by the Authority, pay such charges as shall be then due and payable on those goods.</p>
<p>Deposit for charges.</p>	<p>56. The Authority may, if they think fit, require any person liable, or to become liable, to pay charges to the Authority to deposit with their collector, or to guarantee, such sum as, in the opinion of the Authority, is reasonable having regard to the probable amount of the charges.</p>
<p>Recovery of charges.</p>	<p>57. In addition to any remedy given by this Scheme and by the Harbours Clauses Act 1847, as incorporated with this Scheme, and whether the demand required by section 44 of that Act has been made or not, the Authority may recover any charges payable to them as a debt in any court of competent jurisdiction.</p>
<p>Exemptions from charges</p>	<p>58. Nothing in this Scheme shall extend to authorise the Authority to levy charges on or regulate or subject to control a vessel in the service of the Corporation of the master, pilots and seamen of the Trinity House of Newcastle-upon-Tyne, not being a vessel carrying goods for reward.</p>

FINANCIAL

59.—(1) The Authority may from time to time borrow upon the security of all or any of the revenues and property of the Authority and by any method or methods they see fit— Borrowing powers.

(a) such sums of money as they may think necessary not exceeding in the aggregate five million pounds; and

(b) with the consent of the Minister such further sums of money as they may require:

Provided that in calculating for the purpose of sub-paragraph (a) of this paragraph the aggregate sums of money borrowed by the Authority there shall be excluded any sums borrowed for use within twelve months of the date of borrowing for repayment of any sum for the time being outstanding by way of principal on any amount previously borrowed.

(2) Moneys borrowed by the Authority under this article shall be applied only to purposes to which capital money is properly applicable.

(3) For the purposes of the last foregoing paragraph, but without prejudice to the generality thereof, purposes to which capital money is properly applicable shall be deemed to include—

(a) the payment of any interest falling due within the five years immediately following the date of the borrowing of any sum of money borrowed by the Authority under this article; and

(b) the repayment within twelve months of the date of borrowing of any sum for the time being outstanding by way of principal on any amount previously borrowed.

60.—(1) The Authority may borrow temporarily, by way of overdraft or otherwise, such sums as the Authority may require for meeting their obligations or discharging their functions under or in pursuance of any enactment: Temporary borrowing.

Provided that the total amount outstanding at any one time of the money so borrowed shall not exceed ~~one million pounds~~ *Except with the Consent of the Secretary of State) exceed four million pounds.*

(2) The power conferred by this article shall be in addition to any other borrowing power for the time being enjoyed by the Authority.

61. It shall not be lawful to exercise the powers of borrowing conferred upon the Authority by this Scheme otherwise than in compliance with the provisions of any order for the time being in force made under section 1 (Treasury control of borrowing, etc.) of the Borrowing (Control and Guarantees) Act 1946(a). *Amended by Saving for powers of Article Treasury 2. of The Port of Tyne Rev. Order 1982*

62. Where the Authority, in exercise of the powers conferred upon them by any enactment, commence any work from which revenue may after its completion be derived, they may, during such period not exceeding ten years from the commencement of that work as they determine, charge to capital as part of the cost of that work interest on any money raised to defray— Power to charge interest to capital.

Part VII.

- (a) the cost of acquisition of lands for the purpose of that work; and
- (b) the expense of constructing or carrying out that work.

Reserve fund.

63.—(1) The Authority may carry to a reserve fund such part of their receipts on revenue account as shall be available for the purpose until the fund amounts to one million pounds; and if the fund at any time falls below that amount the Authority may carry to the fund so much of any such receipts as is required to restore the fund to that amount and is available for the purpose.

(2) The reserve fund so formed shall from time to time be applied by the Authority in their discretion—

- (a) in or towards meeting any deficiency on revenue account in any year; or
- (b) to meet any extraordinary claim or demand in respect of the undertaking; or
- (c) for improving the navigation of the Port; or
- (d) in or towards payment of the cost of renewing, improving and extending any part of the works of the Authority; or
- (e) for any other lawful purpose duly sanctioned by the Authority.

(3) The sums paid into the reserve fund shall be invested in statutory securities.

General insurance fund.

64.—(1) The Authority may if they think fit establish an insurance fund with a view to providing a sum of money which shall be available for making good any losses, damages, costs and expenses to which the Authority may be subjected in consequence of such risks as may from time to time be specified in a resolution of the Authority (in this article referred to as “the specified risks”).

(2) The establishment of a fund under this article shall not prevent the Authority from insuring in one or more insurance offices against the whole or any part of all or any of the specified risks, nor, if they think fit, from reducing or discontinuing the fund.

(3) The Authority may pay into the said fund in any year such sums as the Authority may think fit out of the receipts of the Authority on revenue account and as part of their working and establishment expenses and the cost of maintenance of the undertaking.

(4) In this article “insurance office” means—

- (a) an insurance company; or
- (b) an underwriter who is a member of an association of underwriters.

Super-annuation scheme.

65.—(1) As from the day of transfer the Authority shall establish and maintain a superannuation scheme which shall be regulated by such rules as are from time to time made by the Authority in that behalf, and shall from time to time contribute to that scheme, out of their revenues, such sums as they are required to contribute in accordance with the said rules.

(2) All expenses of the scheme established under this article, including the payment of any officers especially appointed by the Authority in connection therewith, shall be payable out of the revenues of the Authority.

66.—(1) The accounts of the Authority shall be audited annually by an auditor appointed by the Authority and a person shall not be qualified to be so appointed unless he is a member, or in the case of a firm all the partners therein are members, of one or more of the following bodies, that is to say:—

Part VII.
—
Accounts
and
audit.

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(a) by the Board of Trade.

(2) The report of the auditor on the accounts of the Authority for each financial year shall be submitted to a meeting of the Authority to be held as soon as reasonably practicable.

67.—(1) Where by this Scheme the liability under or for any mortgage or other security charged on the revenues of the Commissioners is transferred to the Authority, such mortgage or other security shall, as from the day of transfer, take effect as a security created or issued by the Authority charged on the revenues and property of their total undertaking and, subject to the provisions of this article, the holders thereof shall enjoy and be subject to the same rights, liabilities and incidents against and in relation to the Authority as they would have enjoyed and been subject to against and in relation to the Commissioners if this Scheme had not been confirmed.

Mortgages
etc.

(2) The mortgages and other securities referred to in the last preceding paragraph and all securities created or issued by the Authority shall rank equally without any priority and any security created or issued by the Authority under a statutory provision applied in relation to them by this Scheme shall be charged on the revenues and property of their undertaking.

(3) The provisions of section 76 (Register of mortgages to be kept and to be open to inspection) and section 78 (Register of transfers to be kept) of the Commissioners Clauses Act 1847(b) shall apply in relation to the Authority as regards both the securities mentioned in paragraph (1) of this article and any securities created or issued by the Authority subject to the modifications that for references to the Clerk to the Commissioners there shall be substituted references to the officer of the Authority for the time being designated by the Authority to keep the registers specified in the said sections and that the words "every such transfer" in the said section 78 shall be construed as meaning every transfer of any such security as is hereinbefore referred to.

68. Subject to the provisions of article 16 of this Scheme, as from the day of transfer the liability of any of the transferring authorities under the provisions of the National Ports Council Provision of Funds Scheme 1965(c) to pay any sum for which a demand has been issued to them under article 3 of that Scheme shall be transferred to, and become the liability of, the Authority.

National
Ports
Council
levy.

(a) 11 & 12 Geo. 6. c. 38.

(b) 10 & 11 Vict. c. 16.

(c) S.I. 1965/2196 (1965 III, p. 6417).

POLICE

- Definitions. 69. In this Part—
 “the Police Pensions Regulations” means the regulations for the time being in force under section 1 of the Police Pensions Act 1948(a);
 “the South Shields authority” means the police authority for the police area which on the day of transfer comprises the county borough of South Shields;
 “the South Shields force” means the police force maintained by the South Shields authority;
 “the Tyne force” means the force known as the River Tyne Police Force, established under the Tyne Improvement Act 1852(b).
- Dissolution of River Tyne Police Force. 70. On the day of transfer the Tyne force shall be dissolved.
- Transfer of members of Tyne Force. 71.—(1) On the day of transfer every member of the Tyne force shall be transferred to the South Shields force.
 (2) All members of the Tyne force transferred by this article shall be deemed, as from the day of transfer, to have been duly appointed as members of the South Shields force and to have been duly attested as such, and on the day of transfer shall hold in the South Shields force the same ranks respectively as they held immediately before that day in the Tyne force.
- Payments by Authority in respect of police pension rights. 72.—(1) The Authority shall reimburse to the South Shields authority any sums which are payable by that authority under the Police Pensions Regulations by way of award to or in respect of persons who shall have ceased, at any time before the day of transfer, to be members of the Tyne force.
 (2) Subject to the provisions of paragraph (3) of this article, as soon as practicable after the day of transfer the Authority shall pay to the South Shields authority a sum actuarially equivalent to the contingent liabilities of the South Shields authority, on the day of transfer, to pay, under the Police Pensions Regulations, awards to and in respect of members of the Tyne force transferred pursuant to the last foregoing article.
 (3) The sum referred to in paragraph (2) of this article shall be determined by agreement between the Authority and the South Shields authority, or, in default of such agreement, by the Secretary of State, and shall be paid by such instalments, at such times and in such manner as shall be so determined.
- Transfer of property, rights and liabilities. 73.—(1) On the day of transfer there shall be transferred to and vested in the South Shields authority such property of the Commissioners as shall be designated for the purpose by agreement between the Authority and the South Shields authority:
 Provided that any dispute as to the property to be transferred shall be referred to and determined by the Secretary of State.

(a) 11 & 12 Geo. 6. c. 24.

(b) 15 Vict. c. cx.

(2) On the day of transfer there shall be transferred to the South Shields authority all rights and liabilities, whether vested or contingent, to which immediately before that day the Commissioners were entitled or subject by reason of the exercise of their functions in relation to the Tyne force.

Part VIII.
—

(3) If the South Shields authority is the watch committee for the county borough of South Shields, then, in relation to land this article shall have effect as if references therein to the South Shields authority were references to the South Shields Corporation.

74.—(1) Where, immediately before the day of transfer, proceedings were pending by or against the Commissioners with respect to any property, rights or liabilities which are transferred by virtue of the last foregoing article, those proceedings may be carried on thereafter with the substitution for the Commissioners of the South Shields authority or, as the case may be, the South Shields Corporation.

Transi-
tional
provisions.

(2) Where, immediately before the day of transfer, a member of the Tyne force is entitled to appeal to the Secretary of State under the provisions of section 37 of the Police Act 1964, or where any such member has appealed to the Secretary of State under those provisions before that day but the appeal has not been determined, then, unless the Secretary of State otherwise directs, the disciplinary authority for the police area which on the day of transfer comprises the county borough of South Shields shall be the respondent for the purposes of the appeal, and in the case of a pending appeal shall be substituted as respondent in place of the disciplinary authority for the Tyne force.

(3) Subject to the foregoing provisions of this Part, anything done before the day of transfer by, to or before the Commissioners or by, to or before the chief constable of the Tyne force shall, in so far as may be necessary for the purpose or in consequence of the provisions of this Part, have effect after that day as if it had been done by, to or before the South Shields authority or the chief constable of the South Shields force.

PART IX

Part IX.
—

BYELAWS

75.—(1) Subject to the provisions of this Scheme the Authority may make byelaws for all or any of the following purposes:—

General
byelaws.

- (a) for regulating the use, operation and superintendence of the Port and the docks, berths, wharves, quays, piers, jetties, staiths, warehouses, sheds, landing places, equipment, works and conveniences in the Port;
- (b) for regulating the admission to, movement and berthing within, and the departure of vessels from, the Port, or the removal of vessels, and for the good order and government of vessels whilst within the Port;
- (c) for regulating the shipping and unshipping, landing, warehousing, stowing, depositing and removing of goods within the limits of the Port, and at the premises of the Authority;
- (d) for regulating the navigation, berthing and mooring of vessels within the Port and their speed and manner of navigation, and the use of tugs within the Port;

Part IX.

- (e) for preventing damage or injury to any vessel, goods, vehicle, plant, machinery, property or persons within the Port, or on the premises of the Authority;
- (f) for regulating the conduct of persons in the Port;
- (g) for regulating the placing, maintenance and use of moorings within the Port;
- (h) for preventing and removing obstructions or impediments within the Port or in or near the seaward approaches to the Port;
- (i) for regulating the proper management, operation and use of ferries within the Port and the collection and recovery of charges for such use;
- (j) for regulating the use of yachts, sailing boats, rowing boats, pleasure craft and other small craft and the holding of regattas and other public events within the Port;
- (k) for prohibiting the use of motor boats (which expression for the purposes of this sub-paragraph means a small craft propelled by mechanical power) without a licence from the Authority, and for regulating the grant, suspension and revocation of, and the charge to be made for, such licence;
- (l) for regulating the launching of vessels within the Port;
- (m) for prohibiting persons working or employed in, or entering the Port or any part thereof, from smoking therein;
- (n) for regulating or preventing the use of fires and lights within the Port and the premises belonging thereto, and within any vessel within the Port;
- (o) for regulating traffic on railways within the dock estate and the use of locomotives thereon;
- (p) for regulating the movement, speed and parking of vehicles within the dock estate;
- (q) for amending or revoking any byelaws, rules or regulations made by a transferring authority in pursuance of any enactment repealed by this Scheme;
- (r) for regulating the exercise of the powers vested in the harbour master.

(2) Any person deeming himself aggrieved by the withholding, suspension or revocation of a licence under the provisions of byelaws made by virtue of sub-paragraph (k) of the foregoing paragraph may appeal to a magistrates' court within twenty-one days after such withholding, suspension or revocation:

Provided that the person so aggrieved shall give twenty-four hours' written notice of the appeal and the grounds thereof to the secretary of the Authority and the court shall have power to make such order as they see fit and to award costs which if awarded to the Authority shall be recoverable summarily as a civil debt and in any case shall be recovered in any court of competent jurisdiction.

Byelaws as
to lights
and
signals etc.

76.—(1) Subject to the provisions of this Scheme, the Authority may make byelaws for all or any of the following purposes:—

- (a) for prescribing the lights and signals to be carried, exhibited or made by vessels while being used, navigated or moored within the Port;

- (b) for prescribing the lights and signals to be exhibited or made by vessels aground within the Port;
 - (c) for prescribing the lights and signals to be exhibited or made by wreck-marking vessels or by other devices used for marking obstructions within the Port;
 - (d) for prescribing steering and sailing rules for the regulation of vessels used or navigated within or entering or leaving the Port;
 - (e) for prescribing the lights and signals to be exhibited or made at the entrance to any dock or at any wharf, pier or other work for assisting the navigation of vessels within the Port.
- (2) In this article "signals" include sound signals.
- (3) Different byelaws may be made under this article in relation to different classes of vessels.

~~77. (1) The Authority may make byelaws as to the loading and discharging by vessels within the Port of dangerous goods and as to the bringing, handling, transport or storage of such goods within the port, and generally as to the precautions to be observed with respect to such goods while within the Port, and such byelaws may in particular provide—~~

Byelaws relating to certain dangerous goods.

- (a) for regulating the places at which vessels are to load or discharge dangerous goods and the time and mode of, and the precautions to be taken on, such loading and discharging; and
- (b) for regulating the places at which vessels carrying dangerous goods are to be moored; and
- (c) for the due enforcement of the byelaws.

Repealed by S.I. 1987/37

(2) Where a person is charged with an offence against a byelaw in force under this article it shall be a defence for that person to prove that the offence was not caused or facilitated by any act or neglect on his part, or on the part of any person engaged or employed by him, and if that person is charged as the owner or master of a vessel that in addition all reasonable means were taken by the master to prevent the commission of the offence.

The Dangerous Substances in Harbour Areas Regs. 1987

(3) Byelaws made under paragraph (1) of this article may contain provisions for imposing on persons offending against any of the byelaws penalties not exceeding, on summary conviction, a fine of one hundred pounds, and, on conviction on indictment, imprisonment for a term of six months, either in addition to, or in substitution for, a fine.

78.—(1) All byelaws made by the Authority (whether under this Scheme or under any other enactment) shall be subject to the provisions contained in subsections (2), (3), (4), (5), (6) and (7) of section 250 and in section 252 of the Local Government Act 1933(a) and those sections shall for the purposes of this article be construed as if the Authority were a local authority within the meaning of those sections and the reference to "the clerk of the authority" included a reference to the secretary of the Authority.

Confirmation of byelaws and fines thereunder.

(2) The Authority shall give to each of the Corporations not less than one month's notice in writing of their intention to apply for the confirmation of any byelaw pursuant to this article, and shall furnish them with a copy of the proposed byelaw, and any of the Corporations shall be entitled to make representations to the confirming authority with respect to any such byelaw.

Part IX.

(3) Except where otherwise provided by this Scheme or by the enactment authorising the making of the byelaws concerned a person offending against any byelaw made by the Authority shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds.

(4) The confirming authority for the purposes of the said section 250 shall be the Minister.

Part X.

PART X

MISCELLANEOUS

Offenders
to make
good
damage.

79.—(1) Any person offending against or committing any breach or contravention of any of the provisions of this Scheme or of any byelaw made by the Authority under this Scheme or under any other enactment or made by a transferring authority under any enactment repealed by this Scheme and still in force shall, in addition to any fine thereby incurred, be liable to repay to the Authority the cost of repairing or making good any damage directly or indirectly occasioned thereby to the property of the Authority.

(2) The Authority may recover as a simple contract debt from any such person the cost of repairing or making good any such damage and may detain any vessel or other property belonging to or in charge of such person or belonging to the employers of such person until the said cost has been paid or until security therefor has been given to the satisfaction of the Authority.

Removal
of vehicles.

80.—(1) If a vehicle is left without the permission of the Authority—

(a) in any place where it is likely to obstruct or interfere with the use of the dock estate; or

(b) in any part of the dock estate where the parking of vehicles is prohibited and notice of such prohibition has been erected by the Authority;

the Authority may remove the vehicle, or cause it to be removed.

(2) Any notice erected under sub-paragraph (b) of the foregoing paragraph shall be conspicuously posted in or in proximity to the place to which it relates.

(3) Where the Authority in exercise of the powers of this article remove a vehicle or cause it to be removed, the expenses of and incidental to the removal shall be recoverable by the Authority as a debt in any court of competent jurisdiction.

(4) If the Authority in exercise of the powers of this article remove a vehicle to a place not readily visible from the place whence it is so removed they shall, if and as soon as it is reasonably practicable to do so, send to the person for the time being registered as the owner of the vehicle for the purposes of the Road Vehicles (Registration and Licensing) Regulations 1964(a) or any other regulations having the like effect for the time being in force, at his last known address, his registered address or the address where the vehicle is ordinarily kept, notice that they have exercised the powers of this article and of the place to which the vehicle has been removed.

(a) S.I. 1964/1178 (1964, II p. 2722).

- (5) A notice stating the general effect of paragraph (1) of this article shall be displayed in a prominent position at each place where a road accessible to vehicles enters any part of the dock estate. Part X.
81. Nothing in this Scheme shall affect prejudicially any estate, right, power, privilege or exemption of the Crown and, in particular, nothing herein contained shall authorise the Authority to take, use or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary or any land, hereditaments, subjects or rights of whatsoever description belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of such commissioners on behalf of Her Majesty first had and obtained for that purpose. Crown rights.
82. Except as therein otherwise provided, nothing in this Scheme shall affect prejudicially any right, power, privilege, immunity or authority of the Corporation of the master, pilots and seamen of the Trinity House of Newcastle-upon Tyne, or of any of the members thereof. For protection of Trinity House of Newcastle-upon-Tyne.
83. Nothing in this Scheme shall affect the continued application to the Tynemouth Corporation, in relation to that part of the Corporation's fish quay undertaking which is not transferred to the Authority pursuant to this Scheme, of any enactments relating to that undertaking which are not repealed by article 88 of, and Schedule 2 to, this Scheme. Tynemouth Corporation fish quay undertaking.
84. Nothing in this Scheme shall prejudice or derogate from any of the rights or privileges or the jurisdiction or authority of the Trinity House. Saving for the Trinity House.
85. Any person employed by the Minister or the Board of Trade and any officer as defined in the Customs and Excise Act 1952 shall have free access to the Port while in the execution of his duty. Crown right of access.
86. In the application of the Tyne Improvement Act 1929(a) to the Authority on and after the day of transfer section 7 shall have effect as if after the word "Port" in each place where it occurs there were inserted the words "as defined in the Port of Tyne Reorganisation Scheme 1967" and as if in subsection (1) thereof the words "by the existing Acts and this Act" were omitted. Modification of enactment.
- 87.—(1) As from the day of transfer paragraph (a) of section 3(1) of the Tyne Pilotage Order 1922(b) shall have effect as if for the words "Tyne Improvement Commissioners" there were substituted the words "Port of Tyne Authority". Tyne Pilotage Authority.
- (2) Notwithstanding anything contained in the said Order of 1922 the members of the Tyne Pilotage Authority appointed by the Commissioners holding office immediately before the day of transfer shall cease to hold office on that day and the Authority shall at a meeting to be held before the day of transfer appoint the three members of the Tyne Pilotage Authority to be appointed by them and the members so appointed shall come into office on the day of transfer and shall hold office for so long as the persons who under this paragraph cease to hold office would otherwise have been entitled to continue in office.
- 88.—(1) The provisions of the enactments specified in Schedule 2 to this Scheme shall, on the day of transfer, be repealed to the extent shown in that Schedule: Repeal and application of enactments.

(a) 19 & 20 Geo. 5. c. xlix.

(b) 12 & 13 Geo. 5. c. xiii.

Part X.

Provided that any subsisting local enactment for the protection of any person or body in relation to works authorised by a provision so repealed shall have effect in relation to those works as if the provision in question had not been so repealed.

(2) Any local enactment (not being an enactment specified in Schedule 2 to this Scheme) which makes provision for the protection of a transferring authority or their predecessors in relation to a transferred harbour or to the ferry undertaking shall, on and after the day of transfer, with any necessary modifications apply and have effect as if for references to the transferring authority or their predecessors, as the case may be, there were substituted (unless the context otherwise requires) references to the Authority.

(3) Notwithstanding the repeals effected by this article the provisions of section 2 of the Tyne Improvement Act 1919(a), section 26 of the Tyne Improvement Act 1950(b) and the Third Schedule to the said Act of 1950, in so far as they determined the charges and rates which may be levied under the following enactments:—

Tyne Improvement Act 1890(c)—

section 35 (Power to license and make charges in respect of certain river craft);

Tyne Improvement Act 1925(d)—

section 14 (Prohibition against dredging, etc., without licence);

section 17 (Power to license foy-boatmen);

shall, on and after the day of transfer, with any necessary modifications apply and have effect as if for references to the transferring authority or their predecessors, as the case may be, there were substituted (unless the context otherwise requires) references to the Authority.

Con-
tinuance
of pro-
ceedings.

89. Nothing in this Scheme shall release, discharge or suspend any action, arbitration or other proceeding, or any cause of action, arbitration or other proceeding, pending or existing immediately before the day of transfer by or in favour of or against a transferring authority in relation to their undertaking at a transferred harbour or to the ferry undertaking, and, subject to the provisions of this Scheme, any such action, arbitration or proceeding or cause of action, arbitration or proceeding may be maintained, prosecuted or continued by or in favour of or against the Authority.

Saving of
agree-
ments etc.

90. Subject to the provisions of this Scheme, all sales, conveyances, leases, grants, assurances, deeds, contracts (other than contracts the benefits of, and liabilities under, which are not transferred by this Scheme), bonds, agreements, notices and demands affecting the undertaking of a transferring authority at a transferred harbour, or the ferry undertaking, and in force immediately before the day of transfer shall (in so far as they relate to such an undertaking) on and from that day be as binding and of as full force and effect in every respect and may be enforced as fully and effectively against or in favour of the Authority as if instead of the transferring authority the Authority had been a party thereto or bound thereby or entitled to the benefits thereof.

(a) 9 & 10 Geo. 5. c. lx.
(c) 53 & 54 Vict. c. xxviii.

(b) 14 Geo. 6. c. xvii.
(d) 15 & 16 Geo. 5 c. xxxiii.

91. Subject to the provisions of this Scheme, any statutory provision or agreement, or other document whatsoever, which refers or relates to a transferring authority in relation to their functions at a transferred harbour or in respect of the ferry undertaking shall, on and after the day of transfer, have effect subject to any necessary modifications as if for any reference however worded and whether express or implied—

Part X.

Conse-
quential
modifica-
tion of
statutory
provisions
etc.

(a) to that authority there were substituted a reference to the Authority; and

(b) to any officer or servant of that authority there were substituted a reference to the officer or servant of the Authority who corresponds as nearly as may be to the first-mentioned officer or servant.

92. Notwithstanding any of the repeals effected by this Scheme, every byelaw, rule, regulation, direction, licence or consent made, issued or granted by a transferring authority in relation to a transferred harbour or to the ferry undertaking and in force immediately before the day of transfer shall, until amended or revoked, continue to have effect as if it had been made, issued or granted by the Authority and, in the case of any byelaw, confirmed as provided in this Scheme.

Saving of
existing
byelaws
etc.

93.—(1) Where any property, rights or liabilities which apart from this article would be transferred by article 10 of this Scheme is or are used, enjoyed or incurred in part for the purposes of a transferred harbour and in part for other purposes, the transferring authority and the Authority may, notwithstanding any previous provision of this Scheme, enter into agreements for the adjustment of any such property, rights or liabilities.

Adjust-
ment of
property,
rights and
liabilities.

(2) Without prejudice to the generality of paragraph (1) of this article any such agreement may provide for the joint user of any property, for payments to be made in respect of any of the terms or conditions of the agreement and for any such property, rights or liabilities as are mentioned in paragraph (1) of this article to be excluded from the transfer under this Scheme.

(3) In default of agreement as to any matter requiring adjustment under this article or as to the transfer, or exception from transfer, of any property, rights or liabilities pursuant to article 10 of this Scheme, the question shall be referred to a single arbitrator to be agreed between the parties or, failing such agreement, to be appointed on the application of either of them (after notice in writing to the other) by the President of the Institute of Chartered Surveyors and the award of the arbitrator may provide for any matter for which an agreement under this article might have provided.

(4) Where a question has arisen under this article in respect of any property, right or liability and has not been agreed or determined by arbitration before the day of transfer such property, right or liability shall not on that day be transferred by virtue of this Scheme but may, so far as is necessary for the effective operation of a transferred harbour by the Authority, be used or enjoyed by the Authority on such terms as may be agreed or, failing agreement, as may subsequently be determined by arbitration and, if it is subsequently agreed or determined that such property, right or liability shall be transferred to the Authority, it shall by virtue of this Scheme be transferred in such manner and upon such terms and conditions as shall be agreed or determined and on a date stated in the agreement or in the award of the arbitrator, as the case may be.

Part X.
Tyne Fisheries Advisory
Committee.

94.—(1) There shall be established in accordance with this article a Tyne Fisheries Advisory Committee (in this article referred to as "the Committee") for the purposes hereinafter appearing.

(2) Subject to paragraph (5) of this article, the Committee shall consist of representatives appointed by the following bodies as under—

(a) by the North East Coast Fishing Vessel Owners' Association—three;

(b) by the North Shields ~~Seiners'~~ ^{FISHERMEN'S} Association—two;

(c) by the North Shields Wholesale Fish Merchants' Association—
one;

(d) by the ~~Tyne Association of Norwegian Fish Salesmen~~ ^{NORTH SHIELDS FISH SALESMEN PROTECTION ASSOCIATION}—one;

(e) by the Transport and General Workers' Union (Fishing Branch)—one:

See letter
dated JAN
1987 FROM
DEPT. OF T.

Provided that the failure of any body or bodies to make an appointment under this paragraph shall not invalidate the establishment of the Committee if not less than three such representatives are appointed.

(3) Each appointment under the foregoing paragraph shall be notified in writing to the Authority.

(4) The persons appointed under paragraph (2) of this article shall hold and vacate office in accordance with their terms of appointment and shall, on ceasing to hold office, be eligible for re-appointment:

Provided that any such person may at any time, by notice in writing to the body that appointed him, resign his office.

(5) If any of the bodies specified in paragraph (2) of this article shall cease to exist the Minister shall, by notice in writing to the Committee and to the Authority, nominate another body to take its place for the purposes of this article, and thereupon this article shall be construed as if such substituted body were named therein in place of the body that has ceased to exist:

Provided that the Minister shall not be required to make any nomination under this paragraph if she considers that there is no other body sufficiently representative of the interests of the body that has ceased to exist.

(6) The Committee may determine its own quorum and procedure.

(7) The Authority shall (except in a case of special urgency where it is not reasonably practicable so to do) consult the Committee on all matters substantially affecting the interests in the Port of any of the bodies empowered by this article to make an appointment to the membership of the Committee, and the Committee shall be entitled to make to the Authority such representations as it may, from time to time, think fit.

Costs of
Scheme.

95. All costs, charges and expenses of or in connection with the preparation, submission and confirmation of this Scheme and the transfer by virtue thereof of property of the transferring authorities (other than costs, charges and expenses which any person is lawfully ordered to pay, and any costs, charges and expenses incurred in opposing the Scheme) shall be paid or reimbursed by the Authority.

SCHEDULE 1

Article 7 *First Schedule.*

INCIDENTAL PROVISIONS WITH RESPECT TO THE AUTHORITY

APPOINTMENT OF CHAIRMAN AND DEPUTY-CHAIRMAN

1. ~~The first chairman of the Authority shall be appointed by the Minister from among the members thereof and shall, unless he resigns his office or ceases to be a member of the Authority, continue in office until the first meeting of the Authority in 1971.~~

2. ~~The Authority shall at their first meeting in 1971 and at their first meeting in every subsequent year appoint one of their number to be chairman and the chairman shall, unless he resigns his office or ceases to be a member of the Authority, continue in office until the next annual appointment of a chairman.~~

3. ~~The Authority shall at their first meeting in each year appoint one of their number to be deputy-chairman and the deputy-chairman shall, unless he resigns his office or ceases to be a member of the Authority, continue in office until the next annual appointment of a deputy-chairman.~~

4.—(1) ~~On a casual vacancy occurring in the office of chairman or deputy-chairman of the Authority the vacancy shall be filled by the appointment by the Authority of one of their number at a meeting held as soon as practicable after the vacancy occurs.~~

(2) ~~The person appointed under this paragraph to fill a vacancy shall hold office until the date on which the person in whose place he is appointed would ordinarily have retired, and shall then retire.~~

Repealed by Article 6 of The Post of Tyne Authority (Constitution) Rev. Order 1974

~~FIRST MEETING OF AUTHORITY~~

5. ~~The first meeting of the Authority shall be convened by the chairman for such day previous to the day of transfer and at such place as he may fix and the chairman shall make arrangements for notice of the meeting to be sent by post to each member of the Authority.~~

VACATION OF OFFICE BY MEMBERS OF AUTHORITY

6. ~~An appointed member of the Authority may resign his office at any time by notice in writing given to the chairman of the Authority, who shall advise the Minister forthwith of such resignation.~~

7. ~~A member of the Authority appointed by the Minister shall vacate his office on the 31st December being or occurring next after his seventieth birthday whether or not his term of office would have expired in any case on that day and where a member vacates his office pursuant to this paragraph before the date when his term of office would otherwise have expired the vacancy shall be deemed for the purposes of this Scheme to be a casual vacancy.~~

8.—(1) ~~If the Minister is satisfied that a member of the Authority—~~

(a) ~~has been absent from meetings of the Authority for three consecutive months without the permission of the Authority; or~~

(b) ~~has become bankrupt or made a composition or arrangement with his creditors; or~~

(c) ~~is incapacitated by physical or mental illness from discharging the functions of a member of the Authority; or~~

(d) ~~is otherwise unable or unfit to discharge such functions,~~

~~the Minister may declare his office as a member of the Authority to be vacant and thereupon the office shall become vacant.~~

Amended by Article 6 of the Post of Tyne Authority (Constitution) Rev. Order 1974.

First
Schedule.

(2) For the purposes of head (a) of the last preceding sub-paragraph, the attendance of a member of the Authority at a meeting of any committee of the Authority of which he is a member shall be treated as attendance at a meeting of the Authority.

DISQUALIFICATION FOR, AND RE-APPOINTMENT TO, MEMBERSHIP OF AUTHORITY

*Amended by
Article 6 by
the Post of
Tyne Authority
Constitution
Rev. Order
1974.*

9. ~~Except in the case of the first appointments made under this Scheme,~~ ^{No} person who has attained the age of sixty-four shall be appointed by the Minister as a member of the Authority for the first time.

10.—(1) Subject to the following provisions of this paragraph, a person shall be disqualified for appointment by the Minister as a member of the Authority if he—

(a) has been adjudged bankrupt, or has made a composition or arrangement with his creditors; or

(b) has, within the period of five years ending on the date on which his qualification for appointment falls to be determined, been convicted in the British Islands of any offence, and ordered to be imprisoned for a period of not less than three months without the option of a fine.

(2) The disqualification attaching to a person under head (a) of sub-paragraph (1) of this paragraph by reason of his having been adjudged bankrupt shall cease—

(a) if the bankruptcy is annulled, either on the ground that he ought not to be adjudged bankrupt, or on the ground that his debts have been paid in full, on the date of the annulment; or

(b) if he is discharged with a certificate that the bankruptcy was caused by misfortune without any misconduct on his part, on the date of discharge; or

(c) in any other case, on the expiry of five years from the date of his discharge.

(3) The disqualification attaching to a person under head (a) of sub-paragraph (1) of this paragraph by reason of his having made a composition or arrangement with his creditors shall cease—

(a) if he pays his debts in full, on the date on which the payment is completed; or

(b) in any other case, on the expiry of five years from the date on which the terms of the deed of composition or arrangement are fulfilled.

(4) For the purposes of head (b) of sub-paragraph (1) of this paragraph, the ordinary date on which the period allowed for making an appeal with respect to the conviction expires or, if such an appeal is made, the date on which it is finally disposed of, or abandoned, or fails by reason of the non-prosecution thereof, shall be taken to be the date of conviction.

11. Subject to the provisions of this Schedule, a vacating member of the Authority shall be eligible to serve again as a member of the Authority.

APPOINTMENT OF COMMITTEES

12. The Authority may appoint such committees consisting of members of the Authority as the Authority think fit and may delegate to a committee appointed under this paragraph any of their powers or duties except their powers to borrow money.

PROCEEDINGS OF AUTHORITY AND COMMITTEES

First
Schedule.

13. The proceedings of the Authority, or of any committee thereof, shall not be invalidated by any vacancy in their number or by any defect in the appointment, or the qualification for appointment, of any person as a member, or as chairman or deputy-chairman, of the Authority or committee.

14. ~~Subject to the provisions of this Schedule, the Authority may determine their own quorum and procedure and the quorum and procedure of committees appointed by them under paragraph 12 of this Schedule.~~

Repealed by
Article 6 of
The Port of Tyne
Authority
(Constitution)
Rev. Order
1974.

15. If a member of the Authority is in any way directly or indirectly interested in any contract or proposed contract to which the Authority is, or would be, a party and is present at a meeting of the Authority or of any committee of the Authority at which that contract is the subject of consideration, he shall at that meeting as soon as practicable after the commencement thereof disclose that fact and shall not take any part in any deliberation or decision of the Authority or committee with respect to that contract.

OFFICERS AND SERVANTS

16. The Authority shall appoint a general manager, who shall be their chief executive officer, a secretary, treasurer and such other officers and servants as they may from time to time think proper.

REMUNERATION AND EXPENSES

17. The Authority may pay to the chairman, and other members, of the Authority such fees and such allowances as the Authority think fit.

18. Subject to the provisions of this Scheme, the Authority shall pay to their officers and servants such remuneration as the Authority think fit.

19.—(1) The Authority may pay or make reasonable subscriptions or donations, whether annually or otherwise, to the funds of such associations, public institutions or charities as the Authority think fit.

(2) The Authority may defray reasonable expenses incurred in connection with official receptions or entertainment connected with the Authority or its affairs.

POWER TO PROMOTE AND OPPOSE LEGISLATION

20. The Authority may promote or oppose Bills in Parliament and may apply for or oppose applications for orders, byelaws, schemes or awards to be made under any Act.

AUTHENTICATION OF SEAL

21.—(1) The application of the seal of the Authority shall be authenticated by the signature of the chairman of the Authority or some other member of the Authority authorised by the Authority to authenticate the application of the seal thereof, and of the secretary of the Authority or some person authorised by the Authority to act in his stead in that behalf.

(2) The Authority may authorise a person to act instead of the secretary under this paragraph whether or not the secretary is absent or incapable of acting.

REPEALS

Enactment	Extent of Repeal
A.—ENACTMENTS RELATING TO TYNE IMPROVEMENT COMMISSIONERS	
River Tyne Improvement Act 1850	The whole Act, except sections 4, 39, 41 to 43, 62, 63, 65, 67 and 69.
Tyne Improvement Act 1852 ...	The whole Act, except sections 13 and 77 to 79.
Tyne Improvement Act 1857 ...	The whole Act.
Tyne Improvement Act 1859 ...	The whole Act.
Tyne Improvement Act 1861 ...	The whole Act, except sections 7, 52, 63, 77 and 79 to 82.
Tyne Improvement Act 1865 ...	The whole Act, except sections 2, 4 to 6, 34 to 42, 46, 47, 52, 57 to 59, 66 and 85 to 90.
Tyne Improvement Act 1866 ...	The whole Act.
Tyne Improvement Act 1867 ...	The whole Act, except sections 4, 11, 17, 18 and 22.
Tyne Improvement Act 1870 ...	The whole Act.
Tyne Coal Dues Act 1872 ...	The whole Act.
Tyne Improvement Act 1872 ...	The whole Act, except sections 3 and 5.
Tyne Improvement Act 1877 ...	The whole Act, except section 5 and Schedule (B) (so far as they relate to ships or vessels built or launched in the river, and to machinery) and section 33.
Tyne Improvement Act 1881 ...	The whole Act.
Tyne Improvement Act 1886 ...	The whole Act, except sections 9 to 12, 17, 20 and 21.
Tyne Improvement Act 1890 ...	The whole Act, except sections 3, 4, 25, 26, 28, 29, 35 and 42; section 42 so far as it relates to wrecks.
Tyne Improvement Act 1897 ...	The whole Act, except sections 46, 49 and 69; in section 49 the words "upon his retirement from service".
Tyne Improvement (Constitution and Works) Act 1898	The whole Act.
Tyne Improvement Act 1902 ...	The whole Act, except sections 3, 5, 16 to 18 and 20.
Tyne Improvement Act 1907 ...	The whole Act, except sections 3, 13 18 to 20, 22, 25, 27, 39 and 40.

Enactment	Extent of Repeal
Tyne Improvement Act 1908 ...	The whole Act, except sections 2 to 6 and 8 to 10.
Tyne Improvement Act 1919 ...	The whole Act.
Tyne Improvement Act 1920 ...	The whole Act.
Tyne Improvement Act 1925 ...	The whole Act, except sections 4, 5, 8, 10, 14 to 17, 19, 20, 24, 25, 35, 39 and 40; in subsection (6) of section 17 the words "in Tyne Dock or" and "or West Dunston Staiths or between the said Staiths".
Tyne Improvement Act 1927 ...	The whole Act.
Tyne Improvement Act 1929 ...	The whole Act, except sections 6, 7, 24, 26, 30, and 33 to 36.
Tyne Improvement Act 1934 ...	The whole Act, except sections 2, 3, 70, 73, 74 and 78.
Coal Industry Nationalisation (Harbour Commissioners) Order 1947	Article 5 and the Fourth Schedule.
Tyne Improvement Act 1949 ...	The whole Act.
Tyne Improvement Act 1950 ...	The whole Act, except sections 4, 29 and 34.
Tyne Improvement Act 1952 ...	The whole Act, except sections 3 and 4.
Tyne Improvement Act 1954 ...	The whole Act, except sections 2 and 3.
Tyne Improvement Act 1958 ...	The whole Act.

B.—ENACTMENTS RELATING TO NEWCASTLE CORPORATION

1 Vict. c. lxxii	Section 64 so far as it relates to the dues, duty, tolls and charges payable by reference to the Second and Third Schedules to the Act. Sections 69 to 74. Sections 78, 81 and 133 so far as they relate to watermen and masters of steam boats, wherries or other vessels, or otherwise to the Port. The Second and Third Schedules.
4 & 5 Vict. c. lxxi	Sections 2 and 13 so far as they relate to quay tolls and dues. Sections 11 and 12. Section 23 so far as it relates to the Port. The Second and Third Schedules.
Newcastle-upon-Tyne Improvement Act 1855	Sections 6 and 7, 35 and 36 so far as they relate to the Port.
Newcastle-upon-Tyne Improvement Act 1865	Sections 19 to 21.

*Second
Schedule.*

Enactment	Extent of Repeal
Newcastle-upon-Tyne Improvement Act 1870	Section 51.
Newcastle-upon-Tyne Improvement Act 1871	Sections 36 to 40 and the Fourth Schedule.
Newcastle-upon-Tyne Tramways and Improvement Act 1877	Sections 31 to 33 and the Second Schedule.
Newcastle-upon-Tyne Improvement Act 1892	Sections 101 and 102.
Newcastle-upon-Tyne Corporation Act 1904	Sections 30, 32, 34 to 36, 37, 39 to 41, 43, 45 to 50, 52 to 55, 64, 65 and the Third Schedule.
Newcastle-upon-Tyne Corporation Act 1911	Section 49.
Newcastle-upon-Tyne Corporation Act 1920	Section 67.
Newcastle-upon-Tyne Corporation (Quay Extension &c.) Act 1930	The whole Act, except sections 9, 10, 19, 32 and 34 to 36.
Newcastle-upon-Tyne Corporation (Quay Extension) Act 1935	The whole Act, except sections 9, 18, 30, 32, 38 and 39.
Newcastle-upon-Tyne Corporation Act 1952	Part II, except sections 10, 17, 18 and 24; section 45 so far as it relates to Part II (Quays) of the Act, and section 54.
Newcastle-upon-Tyne Corporation Act 1964.	Section 24.

C.—ENACTMENTS RELATING TO TYNEMOUTH CORPORATION

North Shields Quay Act 1851 ...	The whole Act, except sections 15 to 17, 19, 41 and 43.
Tynemouth Corporation Act 1910	The whole Act, except sections 2 to 8, 10 to 14, 15 (so far as it relates to the Tynemouth Corporation and that part of the Corporation's fish quay undertaking which is not transferred to the Authority pursuant to this scheme), 19 to 28, 30, 36 and 37.
Tynemouth Corporation Act 1924	Section 33
Tynemouth Corporation Act 1953	Sections 15, 19, 22 and 24.

D.—ENACTMENTS RELATING TO GATESHEAD CORPORATION

Gateshead Quay Act 1855 ...	The whole Act, except sections 2, 20, 22, 23, 39, 52, 54, 55 and 58 to 60.
Gateshead Quay (Second) Act 1859	The whole Act, except section 17.

IN WITNESS whereof the Common Seal of the National Ports Council
is hereunto affixed on 7th August, 1967.

ARTHUR KIRBY.

R. C. LIVESEY.

(L.S.)

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order contains the confirmation by the Minister of Transport of the Port of Tyne Reorganisation Scheme 1967 as modified by the Minister.

The Scheme was made under section 18 of the Harbours Act 1964 as extended by section 42 of the Docks and Harbours Act 1966. (1966 c. 28).

STATUTORY INSTRUMENTS

1968 No. 942

HARBOURS, DOCKS, PIERS AND FERRIES

The Port of Tyne Reorganisation Scheme 1967
Confirmation Order 1968

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