

PART IV

The Finances Of The Port Authority

(a) Charges

21. Power to make certain charges

- (1) The Port Authority may demand, take and recover in respect of any dracone or floating dock, crane rig, drilling rig or other floating plant which is not a ship, as defined by section 57 of the Harbours Act 1964, entering or leaving the limits such charge as they think fit, and the provisions of sections 30, 31..... of the Harbours Act 1964 shall with any necessary modifications, apply to the charges authorised by this subsection as they apply to ship, passenger and goods dues.
- (2)(a) The Port Authority may demand, take and recover in respect of anything done or provided by them or on their behalf such reasonable charge as they may determine.
- (b) In this subsection "charge" does not include a ship, passenger or goods due as defined by section 57 of the Harbours Act 1964, or a charge authorised by subsection (1) of this section.

Notes

Definitions. For "charge" and "goods", see s 2(1) ante.

Harbours Act 1964. Ss 32 & 34 which used to follow s 31 were repealed by the Transport Act 1981, ss 18(1), 40(1), Sch 6, para 9(1), Sch 12, Pt II.

22. Charges regulations

- (1) The Port Authority may make regulations-
 - (a) prescribing the time when a charge falls due for payment to the Port Authority and where and to whom a charge is to be paid;
 - (b) requiring-
 - (i) the master or owner of a vessel or a ship's agent; and
 - (ii) a person using a service or facility for which the Port Authority may charge and the agent of any such person;to give to the Port Authority such information as is required by the Port Authority for, or in connection with, the assessment and collection of a charge;
 - (c) requiring a trader to give to the Port Authority in relation to goods for which he is responsible such information as is required by the Port Authority for, or in connection with, the assessment and collection of port rates;
 - (d) prescribing the manner in which a return of information required by the regulations is to be made and, if the return is required to be in writing, the number of copies to be provided;
 - (e) prescribing the time within which the said information is to be provided;
 - (f) prescribing the manner in which and the time within which a claim under subsection (2) of section 29 (Exemption from port rates for bunker fuel and fish) of this Act and a claim for a return of money paid in respect of port rates is to be made and the information and evidence to be supplied by the claimant in support of the claim;
 - (g) subject to subsection (1) of section 30 (Exemption from port rates for goods in transit) of this Act, prescribing the manner in which a claim to exemption from a charge is to be made and the

information and evidence to be supplied by the claimant in support of the claim; and

(h) making such other provision-

(i) in relation to the assessment, collection or recovery of charges; and

(ii) in relation to claims to exemption from or rebates on charges;

as the Port Authority consider necessary or desirable.

(2) Regulations made under this section may require the person paying a charge to furnish to the Port Authority a statement as to the rate in the Port Authority's published schedules of charges which is applicable in the circumstances and the sum payable in accordance with that rate.

(3) Regulations made under this section may require payment of a charge or claims for exemption to be made or information to be supplied to a person collecting charges on behalf of the Port Authority under an agreement made between the Port Authority and that person or to some other agent of the Port Authority.

(4) (a) A relevant extract from subsisting regulations made under this section shall be included in each schedule of charges published by the Port Authority.

(b) Copies of the regulations shall be published by the Port Authority.

(5) (a) Regulations made under this section shall be binding on all persons concerned unless the Port Authority are in default in complying with the requirements of paragraph (a) of subsection (4) of this section.

(b) The Port Authority may waive the requirements of any of the said regulations.

Notes

Prescribing the time ... for payment. If no such time is specified, charges are payable on demand; see s 35(1) post. For recovery and enforcement of charges, see s 39 post.

Information. See, further, ss 43 and 44 post.

Definitions. For "charge", "goods", "master", "owner", "port rates", "published", "trader" and "vessel", see s 2(1) ante, and as to "port rates", note also s 2(3) ante.

23. Arrangements with Commissioners of Customs and Excise

(1) The Port Authority and the Commissioners [for Revenue and] Customs may enter into any such agreement or arrangement as they think fit to provide for, or to facilitate, the assessment, collection or recovery of charges.

(2) (a) The Commissioners [for Revenue and] Customs may produce to a duly authorised officer of the Port Authority any records or papers in their custody relating to any vessel or goods.

(b) Notwithstanding the provisions of section 64 of the Merchant Shipping Act, 1894, the said Commissioners shall not charge the Port Authority a fee in respect of the inspection by an officer of the Port Authority of a register book kept by them under section 4 of the said Act.

Notes

Definitions. For "charges", "goods" and "vessel", see s 2(1) ante.

The Commissioners for Revenue and Customs Act 2005 brought into force by a Commencement Order on 18 April 2005, SI 2005/1126 united the revenue with the customs.

Merchant Shipping Act 1894, ss 4, 64. Repealed; for provisions as to the registration of ships, see now, in particular, the

24. Compounding arrangements and rebates

Nothing in section 30 of the Harbours Act 1964 shall require the Port Authority to include in the list of ship, passenger and goods dues kept at the harbour office, as required by subsection (1) of that section, charges subject to a compounding arrangement in respect of, or reduced by a rebate allowed on, a due included in the said list.

Notes

Definition. For "goods" see s 2(1) ante.

25. Canal Tolls and Charges No. 6 (River Lee etc.) Order Confirmation Act 1894, not to apply to Thames

The Canal Tolls and Charges No.6 (River Lee, etc.) Order Confirmation Act, 1894, shall not apply to the Thames.

Notes

The Thames. For meaning, see s 2(1) ante.

26. Charges for Richmond footbridge

(1) The Port Authority may demand, take and recover reasonable tolls from persons using the footbridge forming part of the Richmond works and section 6 of the Transport Charges &c. (Miscellaneous Provisions) Act, 1954, shall not apply to the footbridge.

(2) The Port Authority shall display at the footbridge a list of tolls fixed by them under this section and no toll shall be recoverable which is not included in a list so displayed.

(3) An officer of the Port Authority may prevent a person who refuses to pay the toll from using the footbridge.

Notes

Definitions. For "the Richmond works", see s 2(1) ante.

27. Exemption from charges at Richmond lock and slipway

No charge shall be made for the use of Richmond lock or slipway-

(a) by trading barges and tugs towing them; or

(b) by a vessel returning through the lock or slipway on the day of its original passage.

Notes

Definitions. For "tug" and "vessel", see s 2(1) ante.

28. Exemption from charges for Crown, etc.

Except in so far as may be agreed between the Port Authority and the government department or person

concerned or as may be specifically laid down by statute nothing in any enactment authorising the Port Authority to make charges shall extend to authorise the Port Authority to make a charge on

(a) a vessel-

- (i) belonging to or in the service of Her Majesty or any member of the Royal Family; or
- (ii) in the service of the Commissioners [for Revenue and] Customs or of the Commissioner of the Metropolitan Police and not carrying goods for reward; or
- (iii) employed by or under the authority of the ... the Secretary of State for Defence for the conveyance under contract of postal packets as defined by the Post Office Act, 1953, not being a vessel also conveying passengers or goods for reward; or
- (iv) in the service of the Trinity House and not carrying goods for reward;

(b) the Commissioners [for Revenue and] Customs in respect of a vessel or goods under customs seizure;

[(c)]

(d) troops landed at the port premises or a person employed by the Secretary of State for Defence while in the execution of his duty;

(e) goods belonging to the Secretary of State for Defence.

Notes

The words omitted from Ss (a) (iii) and Ss (c) were repealed by the Post Office Act 1969 s.141 Sch.11

Postal packets. *Postal packets are now defined by the Postal Services Act 2000 s.125(1) as "a letter parcel packet or other article transmissible by post."*

Postmaster General. *See the note to s 61 post.*

Secretary of State for Defence. *ie. the Secretary of State charged with general responsibility for defence; see the Defence (Transfer of Functions) Act 1964, s 1(1).*

The Commissioners for Revenue and Customs Act 2005 brought into force by a Commencement Order on 18 April 2005, SI 2005/1126 united the revenue with the customs.

Definitions. *For "charges", "enactment", "goods", "port premises", "the Trinity House" and "vessel", see s 2(1) ante.*

29. Exemption from port rates for bunker fuel and fish

(1) The following shall be exempt from port rates :-

- (a) bunker fuel for own use on board a vessel;
- (b) fish caught in the open sea and brought in a fresh condition into the limits direct from the fishing grounds or direct from any port in the United Kingdom where the fish have been landed for the sole purpose of sale, packing and transhipment direct to a place adjacent to the Thames.

(2) If imported fuel is used for the purpose of bunkering a vessel leaving the limits, the Port Authority shall repay any port rates paid on that fuel.

Notes

Claims. *Claims under this section must be made within the time specified in regulations made under s 22 ante; see s 41 post.*

United Kingdom. ie. Great Britain and Northern Ireland; see the Interpretation Act 1978, s 5, Sch 1. "Great Britain" means England, Scotland and Wales by virtue of the Union with Scotland Act 1706, preamble, Art I, as read with s 22(1) of, and Sch 2, para 5(a) to, the 1978 Act. Neither the Channel Islands nor the Isle of Man is within the United Kingdom.

Definitions. For "fish", "port rates", "the limits", "the Thames" and "vessel", see s 2(1) ante, and as to "port rates", note also s 2(3) ante.

30. Exemption from port rates for goods in transit

- (1) (a) Subject to the provisions of this subsection, imported goods which are, as soon as practicable after arrival within the limits, loaded on to another vessel for conveyance to another port, shall be exempt from port rates.
- (b) The exemption shall not apply unless the trader or his agent or the owner, master or ship's agent of the importing or exporting vessel-
- (i) within seventy-two hours of the arrival of the goods, gives to the Port Authority a certificate that it is intended that the goods shall be conveyed by vessel to another port; and
- (ii) immediately the goods have been loaded on the exporting vessel, gives to the Port Authority a certificate that the goods were so loaded as soon as practicable after their arrival within the limits.
- (c) A certificate under paragraph (b) of this subsection shall be in such form and contain such information as the Port Authority may require and the Port Authority may extend the time within which the certificate is to be given.
- (d) A person who claims exemption under this subsection shall provide the Port Authority with such information and evidence in relation to the claim, in addition to that contained in a certificate given under this subsection, as the Port Authority may reasonably require.
- (2) Goods which remain on board the vessel in which they entered the limits and which are conveyed therein to another port shall be exempt from port rates.

Notes

Definitions. For "goods", "master", "owner", "port rates", "the limits", "trader" and "vessel", see s 2(1) ante, and as to "port rates", note also s 2(3) ante.

31. Exemption from port rates for estuary traffic

- (1) Goods imported into the limits from, or exported from the limits to, a coastal place landward of a line drawn from Reculvers Towers in Kent to Colne Point in Essex, or of any line that may be substituted therefor under subsection (3) of section 57 of the Customs and Excise Act, 1952 (in this section called an "intermediate place"), shall be exempt from port rates.
- (2) Goods imported to an intermediate place and thence imported into the limits, or exported from the limits to an intermediate place and thence exported without, in either case, having been landed at the intermediate place, shall be considered for the purpose of subsection (1) of this section as imported from or exported to a place seaward of the said line and not from, or to, an intermediate place.
- (3) The harbour authority having jurisdiction in an intermediate place shall, if required by the Port Authority, collect port rates and pay them over to the Port Authority and for that purpose shall have all the powers of the Port Authority in relation to the collection and recovery of port rates, other than the power to make regulations under section 22 (Charges regulations) of this Act, and shall be entitled to be repaid by the Port Authority any expenses properly incurred by them in the exercise of those powers.

Notes

Harbour authority. See s 2(1) ante. Cf s 2 Harbours and Passing Tolls, etc Act 1861 "Harbour Authority" shall include all persons or bodies of persons, corporate or unincorporate, being proprietors of or interested with the duty of constructing, improving, managing, maintaining, or lighting any harbour.

Definitions. For "goods", "port rates" and "the limits", see s 2(1) ante, and as to "port rates", note also s 2(3) ante.

Customs and Excise Act 1952, s 57(3). Repealed by the Customs and Excise Management Act 1979, s 177(3), Sch 6, Pt 1 and replaced by s 69(3) of that Act.

32. Further exemption for estuary traffic

(1) River duties of tonnage and port rates shall not be chargeable on a vessel or on goods carried therein by reason only that the vessel passes through the limits on a voyage between a place on-

- (a) the river Medway or on the Swale;
- (b) the Kent coast between Warden Point and the North Foreland; or
- (c) the Essex coast between Foulness Point and the Naze;

and any other place outside the limits.

(2) River duties of tonnage shall not be chargeable on a vessel for passengers only in relation to a voyage made by the vessel while plying between a place on the river Medway or on the Swale and a place eastward of the Yantlet line.

Notes

By The Port of London Authority Harbour Revision Order 1999 in force 26th May 1999 the prohibition on charging river duties of tonnage on vessels passing through the limits on a voyage between a place on the Medway and any other place ceased to have effect.

Definitions. For "goods", "port rates", "rivers duties of tonnage", "the limits", "the Yantlet line" and "vessel", see s 2(1) ante, and as to "port rates", not also s 2(3) ante.

33. Exemption from river duties of tonnage

The following vessels shall be exempt from river duties of tonnage:-

- (a) a vessel of not more than 45 register tons trading coastwise between the limits and a place in Great Britain;
- (b) a vessel having as the principal part of its cargo corn imported coastwise;
- (c) a vessel not more than 60 feet in length and registered under the Merchant Shipping Act, 1894, as a fishing boat;
- (d) a vessel in respect of which a declaration is made on its entry into the limits that the whole of its cargo is to be exported from the limits and which ultimately leaves the limits without breaking bulk or taking in goods to be exported;
- (e) a vessel entering or leaving the limits in ballast.

Notes

Great Britain. For meaning see the note "United Kingdom" to s 29 ante.

Definitions. For "goods", "river duties of tonnage", "the limits" and "vessel", see s 2(1) ante.

Merchant Shipping Act 1894. Repealed; for provisions as to the registration of ships, see now the Merchant Shipping Act 1995, Pt II, and regulations made thereunder. As to the registration of fishing boats under that Act, note in particular s 15 of the 1995 Act.

34. Exemption from Navigation Tolls

Repealed by the Port of London Authority Harbour Revision Order 2003 article 6.

35. Payment of charges

- (1) Charges shall be paid at the time specified in relation thereto by the Port Authority in regulations made under section 22 (Charges regulations) of this Act, or, if no such time is so specified, on demand, and for the purposes of this Part of this Act a charge shall be deemed to have been demanded when it falls due in accordance with a provision in the said regulations.
- (2) (a) Charges on or in respect of a vessel shall be payable by the owner or master of the vessel.
(b) Port rates shall be payable by the trader or, in the case of imported goods, if the trader does not enter the goods at the Custom House, by the person who enters the goods there.
(c) Where a charge payable to the Port Authority may be recovered from more than one person the said persons shall be jointly and severally liable.

Notes

Charges shall be paid. For recovery and enforcement of charges, see s 39 post.

This Part of this Act. ie. Pt IV (ss 21-59) of this Act.

Definitions. For "charges", "goods", "master", "owner", "port rates", "the Custom House", "trader" and "vessel", see s 2(1) ante, and as to "port rates", note also s 2(3) ante.

36. Security for charges

The Port Authority may require a person who incurs or intends to incur a charge to deposit with them, or to guarantee, such sum of money as is, in the opinion of the Port Authority reasonable having regard to the amount or probable amount of the charge and where such a person fails to deposit or to guarantee the sum of money required, the Port Authority may detain a vessel at the docks or goods on the port premises in respect of which the charge has been, or will be, incurred until the requirement has been complied with or the charge paid.

Notes

Definitions. For "docks", "goods", "port premises" and "vessel", see s 2(1) ante.

37. Certificate of payment

Where a person who has paid, or by agreement with the Port Authority given security for, a charge on or in respect of a vessel or port rates on imported goods, requests a certificate of his having done so for production to a customs officer in order to prevent refusal to receive a report inwards or to grant a clearance outwards or refusal to pass an entry under section 40 (Refusal of customs clearance) of this Act, the Port Authority shall give him such a certificate in such form as they shall determine.

Notes

Has paid ... give security. As to the payment of charges, see s 35 ante, and as to the giving of security therefor, see s 36 ante.

Definitions. For "charge", "customs officer", "goods", "port rates" and "vessel", see s 2(1) ante, and as to "port rates", note also s 2(3) ante.

38. Entry on vessels

- (1) A duly authorised officer of the Port Authority may on producing, if so required, his authority, board a vessel in the docks or within the limits to ascertain the charges payable on or in respect of the vessel or on or in respect of goods carried therein and to obtain any other information required for, or in connection with, the assessment and collection of charges.
- (2) A master of a vessel who refuses to comply with a reasonable request for information or for the production of a document made by an officer of the Port Authority who has boarded his vessel pursuant to subsection (1) of this section shall be guilty of an offence and liable to a fine not exceeding [level 3 on the standard scale].

Notes

The reference to level 3 on the standard scale in sub-s (2) is substituted by virtue of the Criminal Justice Act 1982, s 46. (The maximum fine was previously increased to £200 by the Port of London Act 1982, s 3(1), Sch 1, Pt 1). Under s.37(2) of the Criminal Justice Act 1982, as amended by The Criminal Justice Act 1991, level 3 is now £1,000.

As to the authentication of documents given or issued by the Port of London Authority, see s 183 post.

Standard Scale. By the Interpretation Act 1978, s 5, Sch 1, and the Criminal Justice Act 1982, s 37(3), this means the standard scale set out in s 37(2) of the 1982 Act as amended by The Criminal Justice Act 1991. The scale is: level 1: £200; level 2: £500; level 3: £1,000; level 4: £2,500 and level 5: £5,000, but different amounts may be substituted by amendment to this Act by order under s.143 of the Magistrates' Courts Act 198 or under section 87 of the Legal Aid Sentencing and Punishment of Offenders Act 2012

Definitions. For "charges", "docks", "goods", "master", "owner", "the limits" and "vessel", see s 2(1) ante.

39. Recovery and enforcement of charges

- (1) In addition to any other remedy given to them under any enactment, the Port Authority may recover a charge payable to them as a debt in any court of competent jurisdiction.
- (2) If a charge is not paid on demand or at the time specified in relation thereto in regulations made under section 22 (Charges regulations) of this Act, as the case may be, the Port Authority may (unless a deposit of a sum of money or guarantee in respect thereof has been given to the Port Authority under section 36 (Security for charges) of this Act)-
 - (a) in the case of a charge on or in respect of goods on the port premises, detain the goods;
 - (b) in the case of port rates on goods not on the port premises, seize the goods from a vessel in a dock or within the limits or from a place within the limits and detain them; and
 - (c) in the case of a charge on or in respect of a vessel in a dock or within the limits, seize and detain the vessel and its appurtenances.
- (3) If goods-
 - (a) subject to a charge other than port rates are removed from the port premises at a time when the charge has not been paid: or
 - (b) subject to port rates are removed beyond the limits to a place not on the port premises at a time when the port rates have not been paid;

the Port Authority may (unless a deposit of a sum of money or guarantee in respect thereof has been given to the Port Authority under section 36 (Security for charges) of this Act)-

- (i) in the case of the removal of goods covered by paragraph (a) of this subsection, detain any goods which belong to, or stand in the name of, any person liable for the unpaid charge and which are on the port premises, and seize and detain any such goods from a vessel in a dock or within the limits; or
- (ii) in the case of the removal of goods covered by paragraph (b) of this subsection, detain any goods which belong to the owner of the goods removed and which are on the port premises, and seize and detain any such goods from a vessel in a dock or within the limits.

[The power of the Port Authority under paragraph (ii) of section 39(3) to detain goods which are on the port premises shall be treated as including power to seize any such goods from the Company's port premises and detain them].

(4) The Port Authority may after giving not less than seven days' notice-

- (a) in the case of goods detained for a charge other than port rates, to the owner or person in whose name the goods stand in the records of the Port Authority;
- (b) in the case of goods detained for port rates under paragraph (ii) of subsection (3) of this section, to the owner of the goods;
- (c) in the case of other goods detained for port rates, to any one person falling within the definition of a trader in section 2 (Interpretation) of this Act; or
- (d) in the case of a vessel, to the owner or, if he cannot be ascertained, to the master;

sell any of the goods or the vessel or its appurtenances detained pursuant to subsection (2) or subsection (3) of this section or, if any property detained is in the opinion of a responsible officer of the Port Authority unsaleable, the Port Authority may dispose of the property as they think fit and may recover as a debt in any court of competent jurisdiction from the person responsible for paying the charges in question the expenses of seizure, detention, attempted sale and disposal of the property detained:

Provided that if any goods detained under subsection (2) or subsection (3) of this section are perishable and a responsible officer of the Port Authority is of opinion that it is impracticable to give the notice required by this subsection because the goods will, or may, deteriorate in value during the delay occasioned by the giving of the notice, the Port Authority may sell the goods without giving the said notice but shall as soon as practicable inform the person to whom the notice would have been given of the action being taken.

- (5) Notwithstanding that notice has been given to the Port Authority in relation to the goods under section 494 of the Merchant Shipping Act, 1894, the Port Authority shall not in selling detained goods which are perishable be required to sell the goods by public auction or to comply with the provisions of subsection (2) of section 497 of the said Act.
- (6) If the master of a vessel which is being detained under this section or under this section as applied by any other section of this Act removes or attempts to remove the vessel without the written permission of the Port Authority, he shall be guilty of an offence and liable to a fine not exceeding [level four on the standard scale].
- (7) The proceeds from the sale of any goods or vessel under this section shall be applied in the following order:-
 - (a) in payment of the expenses of seizure, detention and sale and of expenses incurred by the Port Authority in assessing or recovering the unpaid charge in respect of which the seizure or detention was effected including the amount of any costs ordered to be paid to the Port Authority under subsection (10) of this section;
 - (b) in payment of the said charge;
 - (c) in the case of imported goods, if a written claim for unpaid freight in respect of the carriage of those

goods in the importing vessel is made on the Port Authority within five days of the sale, in payment of that claim.

- (8) (a) If the proceeds of sale are insufficient after deduction of the amount of any duties of customs or excise paid by the Port Authority to reimburse the Port Authority for the expenses which could be deducted under paragraph (a) of subsection (7) of this section the Port Authority may recover the deficiency from the person liable to pay the unpaid charge on account of which the property was sold as a debt in any court of competent jurisdiction.
- (b) Any surplus proceeds of sale in hand at the end of six months from the date of sale shall, during the next following period of six months, be released by the Port Authority on demand to the person appearing to the Port Authority to be entitled thereto, and at the end of this further period any proceeds of sale not so released shall belong to the Port Authority.
- (9) Any goods or vessel detained by the Port Authority and not disposed of by them under the powers of this section shall, on payment of the charges due thereon, be released by the Port Authority to the person appearing to the Port Authority to be entitled thereto.
- (10) If, when any property has been detained under this section a dispute arises as to the amount of the unpaid charge or the expenses of the seizure or detention of the property, the Port Authority shall not apply any proceeds of sale in payment of the charge or expenses incurred by them until the dispute has been determined by a court of competent jurisdiction, which may make such order as to costs as it thinks fit.
- (11) (a) If the place of business or abode of the person to be notified under this section is not known to the Port Authority or is outside the United Kingdom or if, in the opinion of a responsible officer of the Port Authority, the property to be sold has been abandoned, the notice may be given by displaying it at the head office of the Port Authority for seven days before the sale.
- (b) If the owner or master of a vessel cannot be ascertained the notice shall be given by affixing it in a conspicuous position on the vessel.
- (12) A duly authorised officer of the Port Authority may, on producing, if so required, his authority, at all reasonable times enter a vessel or place for the purpose of seizing goods which the Port Authority are authorised to seize and detain under this section.

Notes

The reference to level 4 on the standard scale in sub-s (6) is substituted by virtue of the Criminal Justice Act 1982, s 46. (The maximum fine was previously increased to £500 by the Port of London Act 1982, s 3(1), Sch 1, Pt I. Under s.37(2) of the Criminal Justice Act 1982, as amended by The Criminal Justice Act 1991, level 4 is now £2,500

The clarification of paragraph (ii) Section 39(3) was made by the Port of Tilbury Transfer Scheme 1991 Confirmation Order 1992 SI 1992/284.

*Sub-s (1): **May recover ... as a debt in any court.** Note the provisions of the Magistrates' Courts Act 1980, s 58(2).*

Standard scale: See the note to s 38 ante.

United Kingdom. See the note to s 29 ante.

*Sub-s (12): **On producing, if so required, his authority.** See the note to s 38 ante. As to the authentication of documents given or issued by the Port of London Authority, see s 183 post.*

Application of section. This section is applied by ss 143 and 145 post.

Definitions. For "charge", "dock", duties of customs and excise", "enactment", "goods", "master", "owner", "port premises", "port rates", "trader", "the limits" and "vessel", see 2(1) ante, and as to "port rates", note also s 2(3) ante.

Merchant Shipping Act 1894, ss 494, 497(2). Repealed by the Statute Law (Repeals) Act 1993.

40. Refusal of customs clearance

A customs officer may refuse

(a) to receive a report inwards or to grant a clearance outwards to a vessel; and

(b) to pass an entry for imported goods liable to port rates;

unless he is satisfied that all charges payable to the Port Authority on or in respect of that vessel, or that all port rates payable on those goods, as the case may be, have been paid or that a sum of money or guarantee in respect thereof has been deposited with, or given to, the Port Authority under section 36 (Security for charges) of this Act.

Notes

Definitions. For "charges", "customs officer", "goods", "port rates" and "vessel", see s 2(1) ante, and as to "port rates", note also s 2(3) ante.

41. Claims for repayment of port rates

A person making a claim under subsection (2) of section 29 (Exemption from port rates for bunker fuel and fish) of this Act or claiming a return of money paid in respect of port rates shall make his claim within the time specified in regulations made by the Port Authority under section 22 (Charges regulations) of this Act, and, if he fails to do so, the claim shall cease to be enforceable.

Notes

Definition. For "port rates" see s 2(1) ante, and as to "port rates", note also s 2(3) ante.

42. Liens for port rates

(1) A person who by agreement with the Port Authority collects port rates on their behalf and who pays, or gives security for the payment of, port rates on goods in his possession shall have a lien on the said goods for the amount paid or security given in respect thereof.

(2) A wharfinger or carrier who is not himself liable for the payment of port rates may pay or by agreement with the Port Authority give security for, port rates on goods in his custody and, in that event, he shall have a like lien on the said goods for the amount of those port rates as he would have in respect of his charges for safe custody or carriage of the goods, as the case may be.

Notes

Gives security. ie. under s 36 ante, or under sub-s (2) above.

Definitions. For "charges", "goods" and "port rates", see s 2(1) ante, and as to "port rates", note also s 2(3) ante.

43. Weighing etc, of goods for purposes of port rates

(1) A person in possession of goods in respect of which information relating to the assessment or collection of port rates has been given to the Port Authority pursuant to regulations made under section 22 (Charges regulations) of this Act shall give to a duly authorised officer of the Port Authority, on production of his authority, reasonable facilities for weighing, measuring and examining the goods and shall, if so requested, give to such an officer any information he may reasonably require for the purpose of checking or amplifying the information already given to the Port Authority in respect of the goods.

(2) A person who fails to comply with subsection (1) of this section shall be guilty of an offence and liable to a fine not exceeding [level three on the standard scale].

Notes

The reference to level 3 on the standard scale in sub-s (2) is substituted by virtue of the Criminal Justice Act 1982, s 46. (The maximum fine was previously increased to £200 by the Port of London Act 1982, s 3(1), Sch 1, Pt I). Under s.37(2) of the Criminal Justice Act 1982, as amended by The Criminal Justice Act 1991, level 3 is now £1,000

Information ... has been given. See also s 38 ante.

On production of his authority. See the corresponding note to s 38 ante.

Standard scale. See the note to s 38 ante.

Definitions. For "goods" and "port rates", see 2(1) ante, and as to "port rates", note also s 2(3) ante.

44. False information and evasion of charges

(1) A person who-

- (a) in response or in purported response to a requirement made on him by regulations made under section 22 (Charges regulations) of this Act gives any information or makes a statement which he knows to be false in a material particular; or
- (b) with intent to evade or to enable another person to evade a charge fails within the time prescribed in the said regulations to give information in response to a requirement to do so made on him thereby;

shall be guilty of an offence and liable to a fine not exceeding [level 4 on the standard scale].

(2) A person who eludes or evades or attempts to elude or evade payment of, or refuses to pay, a charge due from him to the Port Authority shall-

- (a) be liable to pay to the Port Authority, in addition to the charge, a sum equal to the amount thereof, which sum shall be a debt due to the Port Authority and shall be recoverable by them in any court of competent jurisdiction; and
- (b) be guilty of an offence and liable to a fine not exceeding [level 4 on the standard scale];

notwithstanding the fact that subsequent to the commission of the offence he has tendered or paid to the Port Authority the charge in question.

Notes

The references to level 4 on the standard scale are substituted by virtue of the Criminal Justice Act 1982, s 46. (The maximum fines were previously increased to £500 by the Port of London Act 1982, s 3(1), Sch 1, Pt I). Under s.37(2) of the Criminal Justice Act 1982, as amended by The Criminal Justice Act 1991, level 4 is now £2,500

Standard scale. See the note to s 38 ante.

A debt ... recoverable ... in any court. Note the provisions of the Magistrates' Courts Act 1980, s 58.

Definition. For "charge" see s 2(1) ante.

45. Refusal to pay charges for landing place

An officer of the Port Authority may prevent a vessel from using a landing place provided by the Port Authority, if the master of the vessel refuses to pay the charges for such use.

Notes

Landing place. For the provision of "landing places" (as defined in s 2(1) ante) by the Port Authority, see s 81 post.

Definitions. For "charges", "master" and "vessel", see s 2(1) ante.

(b) *Financial management and borrowing powers*

46. Port Fund

The port fund shall be continued and maintained and all receipts of the Port Authority shall be carried to the port fund and all payments by the Port Authority shall be made out of the port fund.

Notes

Definition. For "port fund" see s 2(1) ante.

47. Application of Port Authority's revenue

(1) Subject to subsection (2) of this section, the receipts of the Port Authority on revenue account in each financial year shall be applied for the following purposes in the following order:-

- (a) the payment of working and establishment expenses (including the provision of pensions, or comparable benefits for or in respect of persons employed or formerly employed by them) and of any part of the cost of performing the Port Authority's duties or exercising their powers which is properly chargeable to revenue account;
- (b) the payment of interest on A port stock and on port stock ranking pari passu therewith;
- (c) the payment of interest on other port stock and on moneys borrowed under [sub-paragraphs (i), (ii) and (iv)] of paragraph (a) of subsection (1) of section 48 (Borrowing powers) of this Act;
- (d) the payment of interest on moneys borrowed by the Port Authority and raised by other means ;
- (e) making such provision for depreciation as the Port Authority consider necessary;

and any balance left after making the payments referred to in this subsection shall be used as the Port Authority think fit in the performance of their duties and the exercise of their powers.

(2) If the Minister so directs in writing in relation to any financial year, interest on money borrowed by the Port Authority and repayable within a period not exceeding two years from the date of borrowing shall, for the purposes of subsection (1) of this section, rank pari passu with the payment of interest on port stock other than A port stock.

(3) For the purposes of this section the certificate of the auditor of the Port Authority's accounts shall, subject to any variation allowed in writing by the Minister, be conclusive as to-

- (a) the amount of the receipts of the Port Authority on revenue account in the financial year in question; and
 - (b) the costs which for the purposes of paragraph (a) of subsection (1) of this section are properly chargeable to revenue account.
-

Notes

The words in square brackets in sub-s (1) were substituted by the Port of London Authority (Borrowing Powers) Revision Order 1971, SI 1971/1227, art 2(4).

A port stock was fully repaid in 1999.

Minister. For meaning, see s 2(1) ante and the note "Minister of Transport" thereto.

Definitions. "A port stock", "financial year" and "port stock", see s 2(1) ante.

48. Borrowing powers

[(1) The Port Authority may –

(a) borrow and raise money on the security of the assets for the time being of the Port Authority, of the port fund and of the revenues of the Port Authority by any of the following methods:

(i) by the issue of bonds;

(ii) by the acceptance of deposits;

(iii) by the creation and issue of port stock; and

(iv) by such other method as the Minister shall in writing approve ;

[Where by virtue of an existing local provision any power of a relevant harbour authority with respect to borrowing, the repayment of a loan or the application of borrowed money is subject to the consent or approval of a Minister of the Crown, it may be exercised without that consent or approval.

Where by virtue of such a provision a relevant harbour authority have powers to borrow any amount with the consent or approval of a Minister of the Crown (whether or not they may borrow any other sum without such consent or approval) the maximum amount they may borrow by virtue of that power shall be if a limit is specified in that provision on the sums that may be borrowed with such consent or approval, the amount of that limit increased by 20 per cent.]

(b) raise money by the mortgage of any land which vested in or was acquired by the Port Authority after the 31st July, 1964.]

(2) The total amount of moneys borrowed or raised by the Port Authority for capital purposes under the Port of London Acts, 1908 to 1917, and the enactments repealed by this Act and under this section and outstanding at any one time shall not exceed [two hundred million pounds].

(3) Moneys borrowed or raised by the Port Authority under this section shall be applied only:-

(a) to purposes to which capital is properly applicable;

(b) to the repayment of moneys borrowed or raised by the Port Authority for any purpose; and

(c) with the consent of the Minister, for any other purpose not covered by paragraphs (a) and (b) of this subsection.

[Where by virtue of an existing local provision any power of a relevant harbour authority with respect to borrowing, the repayment of a loan or the application of borrowed money is subject to the consent or approval of a Minister of the Crown, it may be exercised without that consent or approval].

(4) Section 6 of the Public Works Loans Act 1964 shall not apply to the Port Authority.

Notes

Sub-s (1) was substituted by the Port of London Authority (Borrowing Powers) Revision Order 1971, SI 1971/1227, art 2(2).

The words in square brackets in sub-s (2) were substituted by the Port of London Authority (Borrowing Powers, etc) Revision Order 1980, SI 1980/1068, art 2.

The variations to subsections (1)(a)(iv) and 3(c) in brackets were made by Section 3 of the Ports (Finance) Act 1985.

Bonds. *For the regulations relating to bonds, see s 55 post.*

Minister. *For meaning see s 2(1) ante and the note "Minister of Transport" thereto.*

By virtue of the Port of London Authority (Borrowing Powers) Revision Order 1971, SI 1971/1227, art 2(5), the reference to the Minister in sub-s (1) as substituted is to be construed as if that subsection had been substituted before the coming into operation of the Secretary of State for the Environment Order 1970, SI 1970/1681 (i.e. before 12 November 1970).

Capital purposes. See s 56 post.

Definitions. For "enactment", "land", "port fund" and "port stock", see s 2(1) ante.

Port of London Acts 1908 to 1917. Those Acts were largely repealed with savings by the Port of London (Consolidation) Act 1920, ss 3-5, Sch 3, Pt VII, Sch 4 (repealed), and the remaining provisions were repealed with savings by ss 208, 212, Schs 9, 11 post.

49. Temporary Loans

- (1) The Port Authority may, for the purpose of meeting their obligations and carrying out their functions, raise money on the security of the port fund and of the revenues of the Port Authority by means of an overdraft from a bank or other temporary loan, by the issue of bills of exchange, promissory notes and bonds and by the acceptance of deposits.
- (2) The total amount of moneys raised by the Port Authority under section 98 (Power to obtain advances) of the Port of London (Consolidation) Act, 1920, and under this section and outstanding at any one time shall not exceed twelve million pounds or such larger amount not exceeding twenty million pounds as the Minister may sanction.

Notes

Bonds. For the regulations relating to bonds, see s 55 post.

Minister. For meaning, see s 2(1) ante and the note "Minister of Transport" thereto.

Definition. For "port fund", see s 2(1) ante.

Port of London (Consolidation) Act 1920, s 98. Repealed by ss 208, 212, Schs 9, 11 post.

50. Lenders not to be concerned with application of money lent

It shall not be necessary for a person who lends money to the Port Authority to enquire into the application of that money.

51. Port Authority not bound to recognise any trust

The Port Authority shall not be bound to see to the execution of, or be affected by notice of, any trust, whether express, implied or constructive, to which any bill, bond, stock or other document relating to moneys borrowed, or the principal moneys or interest thereby secured, or any money received on deposit or interest thereon may be subject, and the receipt of the holder of a bill or the receipt of the person in whose name any bond, stock or other document, or any money received on deposit stands in the books of the Port Authority, as the case may be, shall be a sufficient discharge to the Port Authority for any money payable in respect thereof, notwithstanding any trust to which the same, or the money secured thereby, may be subject; and the Port Authority shall not be bound to see to the application of the money paid upon such receipt.

Notes

Document. See also Sch 11, para (o) post. As to the authentication of documents, see s 183 post.

52. Ranking of port stock

A port stock and port stock created after the commencement of this Act to rank *pari passu* with A port stock and the interest thereon shall rank in priority to other port stock and the interest thereon but subject thereto all port stock and moneys borrowed under [sub-paragraphs (i), (ii) and (iv)] of paragraph (a) of subsection (1) of section 48 (Borrowing powers) of this Act and the interest on the port stock and such moneys shall

rank pari passu without any priority on account of the date of issue or on any other account.

Notes

The words in square brackets were substituted by the Port of London Authority (Borrowing Powers) Revision Order 1971, SI 1971/1227, art 2(4).

A Port Stock was fully repaid in 1999.

Commencement of this Act. means 26 July 1968.

Definitions. For "A port stock" and "port stock", see s 2(1) ante; see also s 48 ante, as to the creation of "port stock".

53. Stock regulations

- (1) The port stock created and issued by the Port Authority under the Port of London Act, 1908, and outstanding immediately before the commencement of this Act shall continue to be transferred, dealt with and redeemed in accordance with the Port of London Stock Regulations, 1909 to 1927.
 - (2) The port stock created and issued by the Port Authority under the Port of London (Consolidation) Act 1920, and outstanding immediately before the commencement of this Act shall continue to be transferred, dealt with and redeemed in accordance with the Port of London Stock Regulations, 1921.
 - (3) Any port stock created under section 48 (Borrowing powers) of this Act shall be issued, transferred and dealt with in accordance with the Port of London Stock Regulations, 1921, except that, notwithstanding the provisions of the said regulations, the Port Authority shall not be required to set up a fund for the redemption of any such stock and any fund so set up shall not be subject to the said regulations.
 - (4) (a) The Minister may by order amend or revoke the Port of London Stock Regulations, 1909 to 1927, and the Port of London Stock Regulations, 1921, or make new regulations relating respectively to port stock issued under the said Act of 1908, the said Act of 1920 or this Act and references in this section to the Port of London Stock Regulations, 1909 to 1927, and the Port of London Stock Regulations, 1921, shall be deemed to include references to such regulations as amended or to any new regulations.

(b) The Interpretation Act, 1889, shall apply for the interpretation of the Port of London Stock Regulations, 1909 to 1927, as it applies for the interpretation of an Act of Parliament.
 - (5) An order under subsection (4) of this section shall be made by statutory instrument.
-

Notes

Commencement of this Act. means 26 July 1968.

Minister. For meaning, see s 2(1) ante and the note "Minister of Transport" thereto.

Definition. For "port stock", see s 2(1) ante.

Port of London Act 1908. That Act was repealed with savings by the Port of London (Consolidation) Act 1920, s 3, Sch 3, and is now wholly repealed by s 208, Sch 9 Pt I post.

Port of London Stock Regulations 1909 to 1927. These regulations are now deemed to have been made or issued under sub-s (4) above by virtue of s 212, Sch 11, para (h) post.

Port of London (Consolidation) Act 1920. Repealed with savings by ss 208, 209, 212, Schs 9-11 post.

Port of London Stock Regulations 1921. These regulations are now deemed to have been made or issued under sub-s (4) above, by virtue of s 212, Sch 11, para (h) post.

Interpretation Act 1889. Repealed by the Interpretation Act 1978, s 25, Sch 3, and replaced by provisions of that Act.

Orders under this section. No Orders had been made under this section up to 1 March 1987, but the following Orders (as

modified by s 213 post) have effect as if made under this section, by virtue of s 212 Sch 11, para (h) post – the Port of London Stock Regulations 1909, SR & O 1909/284, as amended by SI 1971/1227; the Port of London Stock Regulations 1911, SR & O 1911/376; the Port of London Stock Regulations 1917, SR & O 1917/87; the Port of London Stock Regulations 1921, SR & O 1921/1700, as amended by SI 1971/1227; the Port of London Stock Regulations 1926, SR & O 1956/745; the Port of London Stock Regulations 1927, SR & O 1927/1239.

[54. Miscellaneous rights of stockholders and others

(1) The following shall be secured on the assets for the time being of the Port Authority, on the port fund and on the revenues of the Port Authority-

- (a) the port stock created and issued by the Port Authority under the Port of London Act 1908 and the Port of London (Consolidation) Act 1920;
- (b) any port stock created and any bonds of the Port Authority issued under section 48 (Borrowing powers) of this Act; and
- (c) money borrowed by the Port Authority from the Minister and lent by him in exercise of his powers under section 11 of the Harbours Act 1964.

(2) If the Port Authority-

- (a) are in default in the redemption of port stock or have been in default for not less than three months in the payment of interest on port stock; or
- (b) are in default in the redemption of bonds of the Port authority issued under section 48 (Borrowing powers) of this Act or have been in default for not less than three months in the payment of interest on bonds so issued; or
- (c) are in default in the repayment of money borrowed or raised by the Port Authority by the acceptance of deposits under section 48 (Borrowing powers) of this Act or in the repayment of money borrowed by the Port authority from the Minister and lent by him in exercise of his powers under section 11 of the Harbours Act 1964 or have been in default for not less than three months in the payment of interest on money so borrowed or raised,

the holders of the stock or of the bonds to an aggregate nominal value in each case of not less than five hundred thousand pounds or the persons from whom the deposits (being in aggregate not less than five hundred thousand pounds) have been accepted or the Minister (as the case may be) may apply to the High Court for the appointment of a receiver and manager of the undertaking.

(3) A receiver and manager so appointed shall have-

- (a) the like powers as the Port Authority would have (including, but without prejudice to the duties of the Port Authority under this Act or any other enactment, the powers to dispose of assets of the Port Authority and to discontinue parts of the undertaking) for the purpose of raising any sum required to meet a deficiency in the port fund and to make good the default;
 - (b) such other powers and such duties not exceeding those of the Port Authority as the Court thinks fit,
- and shall apply all money raised by him as the Court directs.

(4) The Court may at any time discharge a receiver and manager so appointed and shall have full jurisdiction over him.

(5) Unless the terms on which it is issued provide otherwise, port stock shall not be redeemable on less than six months' notice.

(6) Interest on A port stock shall be paid half-yearly.]

Notes

This section was substituted by the Port of London Authority (Borrowing Powers) Revision order 1971, SI 1971/1227, art 2(3).

Sub-s (1): Bonds. *For the regulations relating to bonds see, s 55 post.*

Minister. *By virtue of the Port of London Authority (Borrowing Powers) Revision Order 1971, SI 1971/1227, art 2(5), the reference to the Minister in this section as substituted is to be construed as if this section had been substituted before the coming into operation of the Secretary of State for the Environment Order 1970, SI 1970/1681 (ie. before 12 November 1970).*

As to the meaning of "the Minister", see s 2(1) ante and the note "Minister of Transport" thereto.

Sub-(5): Not ... less than six months' notice. *As to the service of documents, see s 184 post.*

Definitions. *For "port fund", "A port stock", "port stock" and "undertaking", see s 2(1) ante.*

Port of London Act 1908. *That Act was repealed with savings by the Port of London (Consolidation) Act 1920, s 3 Sch 3, and is now wholly repealed by s 208, Sch 9, Pt I post.*

Port of London (Consolidation) Act 1920. *Repealed with savings by ss 208, 209, 212, Schs 9-11 post.*

55. Regulations relating to bonds

- (1) Bonds of the Port Authority shall be issued, transferred, dealt with and redeemed upon such terms and in accordance with such provisions as the Minister with the approval of the Treasury may by order prescribe.
- (2) An order under subsection (1) of this section shall be made by statutory instrument.
- (3) The provisions of section 115 of the Stamp Act, 1891, shall with the necessary adaptation apply in relation to bonds issued by the Port Authority as if those bonds were stock or funded debt of the Port Authority within the meaning of that section.
- (4) The Port of London Authority (Manner of Borrowing) Order 1968 shall be deemed to have been made under this section, and the Port Authority may raise money thereunder for the purposes specified in section 48 (Borrowing powers) and section 49 (Temporary loans) of this Act.

Notes

Bonds ... shall be issued. *As to the borrowing powers of the Port of London Authority, see s 48 ante.*

Minister. *For meaning, see s 2(1) ante and the note "minister of Transport" thereto.*

Stamp Act 1891, s 115. *Repealed by the Finance Act 1976, ss 126(4), 132(5), Sch 15, Pt VI.*

Port of London Authority (Manner of Borrowing) Order 1968 SI 1968/901. *The Order was made under the Port of London (Consolidation) Act 1920, s 95 (repealed by ss 208, 212, Schs 9, 11 post.)*

Orders under this section. *Up to 1 March 1997 no Order had been made under this section but by virtue of sub-s (4) above – the Port of London Authority (Manner of Borrowing) Order 1968, SI 1968/901, as modified by s 213 post, has effect as if made under this section.*

56. Power to charge interest on capital

Where the Port Authority commence any work from which revenue may after its completion be derived, they may, during such period as they determine, not exceeding ten years from the commencement of the work or such longer period as the Minister may in writing agree, charge to capital as part of the cost of the work interest on money raised to defray the cost of acquisition of land for the purpose of the work and the expenses of constructing or carrying out the work.

Notes

Minister. *For meaning, see s 2(1) ante and the note "Minister of Transport" thereto.*

57. General reserve

The Port Authority shall continue and maintain a general reserve and shall determine the moneys to be carried to the credit of that reserve, the management thereof and the application for the purposes of the Port Authority of the moneys comprised therein.

58. Saving for powers of the Treasury

It shall not be lawful to exercise the powers of borrowing conferred by this Act otherwise than in compliance with any order for the time being in force made under section 1 of the Borrowing (Control and Guarantees) Act, 1946.

Notes

Powers of borrowing. See s 48 ante.

Borrowing (Control and Guarantees) Act 1946, s 1. Repealed by the Government Trading Act 1990, s 4, Sch 2, Pt I and not replaced.

59. Accounts and audit

- (1) The Port Authority shall keep proper accounts and proper records in relation thereto.
- (2) The accounts for each financial year shall be audited by an auditor or firm of accountants [appointed by the Port Authority.]
- (3) [The auditor or firm must be eligible for appointment as a statutory auditor (see part 42 of the Companies Act 2006).]
- (4)

Notes

The words in square brackets in sub-s (2) were substituted and the whole of sub-s (4) was repealed, by the Port of London Authority (Borrowing Powers, etc) Revision Order 1980, SI 1980/1068, art 3.

The words in square brackets forming sub-s (3) were substituted by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 Schedule 1 para 19 Art 2(1) SI 2009/1941.

United Kingdom. *See the note to s 29 ante.*

Board of Trade. *The functions of the Board of Trade in this respect are now exercisable by the Secretary of State for Trade and Industry; see the Companies Act 1985, s 389(1).*

Definition. *For "financial year" see s 2(1) ante.*

Companies Act 1948, s 161(1). *Repealed by the Companies Consolidation (Consequential Provisions) Act 1985, s 29, Sch 1, and replaced by the Companies Act 1985, s 389(1) (repealed); and then by the Companies Act 1989 Pt II, see now the Companies Act 2006..*

PART V

The Thames

(a) Operations of the Port Authority

60. Dredging and improvement