1991 No. 1258

HARBOURS, DOCKS, PIERS AND FERRIES

The Sealink (Transfer of Heysham Harbour) Harbour Revision Order 1991

Made - - - -	*22nd May 1991*
Coming into force -	*23rd May 1991*

Whereas the making of this Order is not opposed:

Now therefore the Secretary of State for Transport (being the appropriate Minister under section 14(7) of the Harbours Act 1964(a) for the purpose of making this Order), in exercise of the powers conferred by Section 14 of the said Act and now vested in him(b) and of all other powers enabling him in that behalf, and on the application of Heysham Port Limited, hereby makes the following Order:–

PART I

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Sealink (Transfer of Heysham Harbour) Harbour Revision Order 1991 and shall come into force on 23rd May 1991.

Interpretation

2.—(1) In this Order, unless the context otherwise requires–

"the Act of 1894" means the Merchant Shipping Act 1894(c);

"the Company" means Heysham Port Limited;

"the day of transfer" means the day after the day on which expires a period of four weeks beginning with the day on which this Order comes into force;

"dredging licence" means a licence under article 21 of this Order;

"enactment" means any Act or any order or scheme made under an Act;

"Heysham Harbour" means the harbour of Heysham as regards which there are vested in Sealink immediately before the day of transfer statutory powers or duties of improvement, maintenance or management;

"level of high water" means the level of mean high-water springs;

(a) 1964 c.40; section 14 and Schedule 3 were amended by the Transport Act 1981 (c.56), section 18 and Schedule 6, paragraphs 2 to 4, 12 and 14.
(b) *See* section 57(1) of the Harbours Act 1964 and S.I. 1981/238.
(c) 1894 c.60.

"operator" and "telecommunications code system" have the same meaning as in the Telecommunications Act 1984(a);

"Sealink" means Sealink Harbours Limited;

"statutory undertaker" means–

(a) any person who is a statutory undertaker for any of the purposes of the Town and Country Planning Act 1990(b);

(b) any other person who exercises functions under the Land Drainage Act 1976(c);

(c) a coast protection authority within the meaning of section 1 of the Coast Protection Act 1949(d); or

(d) any operator of a telecommunication code system;

"tidal work" means so much of any work for the time being vested in the Company as is on, under or over tidal waters or tidal lands below the level of high water including any such work transferred to the Company by this Order;

"the transferred harbour" means Heysham Harbour;

"Trinity House" means the Corporation of Trinity House of Deptford Strond;

"works licence" means a licence under article 20 of this Order.

(2) In this Order a reference to the undertaking of Sealink at the transferred harbour is a reference to the powers, duties, property, rights and liabilities of Sealink in relation to that harbour which are transferred by this Order.

PART II

TRANSFER OF SEALINK'S UNDERTAKING AT HEYSHAM HARBOUR

Designation of Company as harbour authority

3. On the day of transfer the Company shall become the harbour authority for the transferred harbour and Sealink shall cease to be the harbour authority for that harbour.

Transfer of functions, property etc.

4.—(1) On the day of transfer all property and rights vested in Sealink and held by it for the purposes of the transferred harbour and all liabilities incurred by it for the purposes of the transferred harbour shall be transferred to and vested in the Company.

(2) Subject to the provisions of this Order, on the day of transfer the powers and duties conferred or imposed on Sealink by any statutory provision of local application applied in relation to it by the Scheme dated 27th October 1981 made by Sealink U.K. Limited pursuant to section 2 of the Transport Act 1981(e) and approved by the Secretary of State with modifications on 5th July 1982 read with Schedule 4 to the Transport Act 1968(f) as applied by the said section 2 (subject to any subsequent repeal or amendment of any such statutory provision), or by any enactment subsequent to that Scheme, for the purpose of, or in connection with, the improvement, maintenance or management of the transferred harbour shall be transferred to the Company and accordingly as from that day any such statutory provision of local application shall, so far as it relates to the transferred harbour and with any necessary modifications, apply in relation to the Company as if for references to Sealink there were substituted (unless the context otherwise requires) references to the Company.

(a) 1984 c.12.
(b) 1990 c.8.
(c) 1976 c.70.
(d) 1949 c.74.
(e) 1981 c.56.
(f) 1968 c.73.

Saving of byelaws etc.

5. As from the day of transfer any byelaw, regulation, licence or consent made, issued or granted by Sealink in relation to the transferred harbour and in force immediately before that day shall notwithstanding the making of this Order continue in force and shall be deemed to have been made, issued or granted by the Company.

Saving of agreements etc.

6. All sales, conveyances, leases, grants, assurances, deeds, contracts, bonds, agreements, notices and demands affecting the undertaking of Sealink at the transferred harbour and in force immediately before the day of transfer (other than any lease or deed the parties to which include both Sealink and the Company) shall (in so far as they relate to that 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 Company as if (except in any case where the Company as agent for Sealink is already a party thereto, or bound thereby or entitled to the benefit thereof) the Company instead of Sealink had been a party thereto or bound thereby or entitled to the benefit thereof.

Continuance of proceedings

7. Nothing in this Order 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 Sealink or by or in favour of or against the Company as agent for Sealink, in relation to Sealink's undertaking at the transferred harbour and any such action, arbitration or proceeding or cause of action, arbitration or proceeding (other than an action, arbitration or proceeding which is or may be an issue between Sealink and the Company or Sea Containers Ltd.) may be maintained, prosecuted or continued by or in favour of or against the Company and may be amended in such manner as may be necessary for that purpose.

Charges

8.—(1) On and after the day of transfer the Company shall in the exercise of statutory powers and duties at the transferred harbour, have power to make such reasonable charges for its services and facilities as it thinks fit.

(2) This article does not apply in relation to–

(a) ship, passenger and goods dues; or

(b) charges ascribable to the running of a ferry service in or from a harbour;

and does not authorise the making of any charge in a case where an enactment relating to the transferred harbour expressly provides for freedom from charges or otherwise prohibits the making of any charge.

(3) The provisions of sections 27 to 48 of the Harbours, Docks and Piers Clauses Act 1847(a) (which provide for various matters connected with liabilities for and collection of the rates to be taken by undertakers) as incorporated with or applied by any enactment relating to the transferred harbour apply to charges under this article as if they were rates payable under that enactment.

(a) 1847 c.27.

PART III

NEW PROVISIONS RELATING TO THE COMPANY AT THE TRANSFERRED HARBOUR

Coming into force of new provisions

9. The subsequent provisions of this Part of this Order shall have effect on and after the day of transfer.

Works in the transferred harbour

10.—(1) The Company, subject to obtaining the necessary rights in or over land, may execute, place, maintain and operate in and over the transferred harbour such works and equipment as are required for or in connection with the exercise by it of any of its functions and may alter, renew or extend any works so constructed or placed.

(2) In the exercise of the powers of this article the Company shall not–

(a) interfere with or damage or otherwise injuriously affect any apparatus belonging to or maintained by any statutory undertaker; or

(b) do anything which will obstruct or impede any work relating to the inspection or repair of any such apparatus;

without the consent of the statutory undertaker concerned.

(3) In this article "works" means works of any description, and includes the reclamation of land reasonably required for the purpose of executing works.

Power to dredge

11.—(1) The Company may deepen, widen, dredge, scour and improve the bed and foreshore of the transferred harbour and of the approaches to the transferred harbour and may blast any rock within the transferred harbour or in such approaches.

(2) Any materials (other than wreck within the meaning of Part IX of the Act of 1894) taken up or collected in the course of such operations shall be the property of the Company and may be used, sold, removed, deposited or otherwise disposed of as the Company may think fit:

Provided that the Company shall not lay down or deposit any materials in a place below the level of high water except in such position as the Secretary of State may approve and subject to such conditions or restrictions as he may impose.

(3) Paragraph (2) of article 10 of this Order shall apply in relation to the exercise by the Company of the powers of this article as it applies in relation to the exercise by the Company of the powers of the said article 10.

Tidal works not to be executed without approval of Secretary of State

12.—(1) A tidal work shall not be constructed, extended, enlarged, altered, replaced or relaid except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by him before the work is begun.

(2) If a tidal work is constructed, extended, enlarged, altered, replaced or relaid in contravention of this article or of any condition or restriction imposed under it–

(a) the Secretary of State may by notice in writing require the Company at its own expense to remove the tidal work or any part thereof and restore the site to its former condition; and if, at the end of 30 days from the date when the notice is served upon the Company it has failed to comply with the requirements of the notice, the Secretary of State may execute the work specified in the notice; or

(b) if it appears to the Secretary of State urgently necessary to do so, he may remove the tidal work, or part of it, and restore the site to its former condition;

and any expenditure so incurred by the Secretary of State shall be recoverable from the Company.

Lights on tidal works during construction

13.—(1) The Company shall at or near a tidal work during the whole time of the construction, extension, enlargement, alteration, replacement or relaying thereof, 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 Secretary of State shall from time to time direct.

(2) If the Company fails to comply with any requirement of a direction given under this article it shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine:

Provided that it shall be a defence for the Company to prove that all due diligence was used to secure compliance with any such direction.

Provision against danger to navigation

14.—(1) In the case of injury to, or destruction or decay of, a tidal work or any part thereof the Company shall as soon as reasonably practicable notify Trinity House and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House may from time to time direct.

(2) If the Company fails to notify Trinity House as required by this article or to comply with any requirement of a direction under it the Company shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Abatement of works abandoned or decayed

15.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the Company at its own expenses 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 he thinks fit.

(2) Where–

(a) a work consisting partly of a tidal work and partly of works on and over land above the level of high water is abandoned or suffered to fall into decay; and

(b) that part of the work on or over land above the level of high water is in such a 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 Secretary of State may include that part of the work, or any portion thereof, in any notice under this article.

(3) If, at the end of 30 days from the date when a notice under this article is served upon the Company it has failed to comply with the requirements of the notice, the Secretary of State may execute the work specified in the notice and any expenditure incurred by him in so doing shall be recoverable from the Company.

Survey of tidal works

16. If he deems it expedient, the Secretary of State may at any time order a survey and examination of a tidal work or of the site upon which it is proposed to construct the work, and any expenditure incurred by him in any such survey and examination shall be recoverable from the Company.

Permanent lights on tidal works

17.—(1) After the completion of a tidal work the Company shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps, if any, for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) If the Company fails to comply in any respect with a direction given under this article it shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine:

Provided that it shall be a defence for the Company to prove that all due diligence was used to secure compliance with any such direction.

Restriction of works and dredging

18.—(1) Subject to paragraph (3) below, no person other than the Company shall–

(a) construct, alter, renew or extend any works; or

(b) dredge;

on, under or over tidal waters or tidal land below the level of high water in the transferred harbour unless he is licensed so to do, in the case of works by a works licence and in the case of dredging by a dredging licence, nor except upon the terms and conditions, if any, upon which the licence is granted and in accordance with plans, sections and particulars approved in pursuance of article 20 or, as the case may require, article 21, of this Order.

(2) The Company may by notice require a person who contravenes this article to remove, abate or rectify, within a reasonable time specified in the notice, any work, operation or omission to which the contravention relates, and to restore the site thereof to its former condition; and if he fails to comply with the notice the Company may carry out the works so required and may recover the reasonable cost of so doing from that person.

(3) Nothing in this article shall apply to–

(a) any operations or works specifically authorised by any enactment; or

(b) any operations or works of a statutory undertaker.

(4) Any person who without reasonable excuse contravenes this article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Control of certain operations and works of statutory undertakers

19.—(1) This article applies to any operations or works in the transferred harbour of a statutory undertaker on, under or over tidal waters or tidal land below the level of high water in the transferred harbour, not being operations or works which are specifically authorised by any enactment.

(2) Subject to paragraph (3) below, a statutory undertaker shall not carry out any operations or works to which this article applies unless it has given notice of its intention to do so to the Company and has supplied the Company with such particulars as it may reasonably require.

(3) Where, in an emergency, it is impracticable to give notice as required by paragraph (2) above, the statutory undertaker concerned shall inform the Company of the operations or works as soon as reasonably practicable.

(4) Any operations or works to which this article applies shall be carried out subject to any directions which may from time to time be given by the Company to the statutory undertaker concerned, being directions such as in the opinion of the Company are necessary for the avoidance of danger and the prevention, so far as reasonably possible, of interference with navigation in the carrying out of such operations or works.

(5) Any person who without reasonable excuse contravenes this article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Licensing of works

20.—(1) The Company may upon such terms and conditions as it thinks fit grant to any person a licence to construct, alter, renew or extend any works in the transferred harbour on, under or over tidal waters or tidal land below the level of high water, notwithstanding any interference with public rights of navigation or other public rights by such works as constructed, altered, renewed or extended.

(2) Application for a works licence shall be made in writing to the Company and shall–

(a) be accompanied by plans, sections and particulars of the works to which the application relates;

(b) specify whether the applicant holds such rights in, under or over land as are necessary to enable him to enjoy the benefits of the licence and, if not, the action taken to enable him to obtain such rights if the licence is granted; and, in granting a licence, the Company may require modifications in the plans, sections and particulars so submitted.

(3) The Company may require an applicant for a works licence, on making his application, to pay a reasonable fee in respect of the administrative expenses of dealing with the application; and different fees may be specified in relation to different cases or different classes of cases.

(4)(a) On receipt of an application for a works licence the Company shall serve on the National Rivers Authority a copy of the application and all plans, sections and particulars incident thereto;

(b) The Company shall consider such observations as the National Rivers Authority may submit to the Company within six weeks after service on the National Rivers Authority of the application and particulars as aforesaid, and shall not grant a works licence before the expiry of that period;

(c) In granting any works licence in response to such an application the Company shall impose on the applicant such terms and conditions as give effect to such reasonable requirements to prevent pollution of any watercourse, to safeguard it against damage or to secure that its efficiency for land drainage purposes is not impaired, as the National Rivers Authority may, within the said period, make in any observations to the Company.

(d) The provisions of subparagraph (c) above are subject to the Company's duty under article 22(5) of this Order to give effect to any decision or requirement given or made by the Secretary of State under article 22(4) of this Order.

(5) Where the Company refuses to grant a works licence which has been applied for it shall give reasons in writing for its refusal.

(6) Where the Company grants a works licence upon terms or conditions or requires any modifications in the plans and particulars, it shall give reasons in writing for the terms and conditions imposed or the modifications required.

(7) If within three months from the receipt of the application under paragraph (2) above the Company does not grant a works licence it shall be deemed to have refused the application.

(8) Articles 13 to 17 of this Order shall apply in relation to the holder of a works licence as respects the works which are authorised by the licence as they do in relation to the Company as respects tidal works.

(9) In the carrying out of operations in pursuance of a works licence, the holder of the licence shall not–

(a) interfere with, damage or otherwise injuriously affect any apparatus belonging to or maintained by any statutory undertaker; or

(b) do anything which will obstruct or impede any work relating to the inspection or repair of any such apparatus;

without the consent of the statutory undertaker concerned.

Licence to dredge

21.—(1) The Company may upon such terms and conditions as it thinks fit grant to any person a licence to dredge in any part of the transferred harbour.

(2) Application for a dredging licence shall be made in writing to the Company and shall be accompanied by plans, sections and particulars defining the nature, extent and manner of the operations to be carried out in the exercise of the powers granted by the licence, and in granting any such licence the Company may require modifications in the plans, sections and particulars so submitted.

(3) Article 20(3), (4), (5), (6) and (7) of this Order shall apply in relation to a dredging licence as it applies in relation to a works licence.

(4) Any materials (other than wreck within the meaning of Part IX of the Act of 1894) taken up or collected by means of dredging in pursuance of a dredging licence shall be the property of the holder of the licence and he may use, sell or otherwise dispose of or remove or deposit the materials as he thinks fit:

Provided that no such material shall be laid down or deposited in any place below the level of high water except in such a position as may be approved by the Secretary of State and subject to such conditions and restrictions as he may impose.

(5) The grant of a dredging licence shall not confer statutory authority for the carrying out of the operations covered by the licence.

(6) Paragraph (9) of article 20 of this Order shall apply in relation to the carrying out of operations in pursuance of a dredging licence as it applies in relation to the carrying out of operations in pursuance of a works licence.

Appeals in respect of works or dredging licence

22.—(1) An applicant for a works licence or a dredging licence who is aggrieved by–

(a) a refusal of the Company to grant a licence; or

(b) any terms or conditions subject to which the licence is granted; or

(c) any modifications required by the Company in the plans, sections and particulars submitted by the applicant;

may within 28 days from the date on which the Company notifies the applicant of their decision or the date on which the Company is, under article 20(7) or 21(3) of this Order, deemed to have refused the application, appeal to the Secretary of State.

(2) An appeal under paragraph (1) above shall be made by notice in writing stating the grounds of the appeal.

(3) A person who appeals under paragraph (1) above shall give to the Company notice of his appeal accompanied by a copy of his statement of appeal; and the Company shall, within 28 days of the receipt of the notice, be entitled to furnish to the Secretary of State its observations on the appeal.

(4) On an appeal under this article the Secretary of State may–

(a) dismiss the appeal or;

(b) require the Company to grant the licence or, as the case may be, to give its approval upon such terms or conditions and with such modifications (if any) of plans, sections and particulars as the Secretary of State may specify.

(5) The Company shall give effect to any decision or requirement given or made by the Secretary of State under paragraph (4) above.

Power to acquire and dispose of businesses or shares

23.—(1) The Company may–

(a) acquire by agreement–

(i) any business or undertaking which consists wholly or mainly of the carrying out of harbour operations or so much of any business or undertaking as consists of the carrying out of such operations; or

(ii) any business or undertaking which is wholly or mainly engaged in providing services or facilities which the Company itself is authorised to provide;

(b) subscribe for or acquire any shares, stock, debentures, debenture stock or any other security of a like nature of a body corporate which is wholly or mainly engaged, or which it is proposed should become wholly or mainly engaged, in the provision, maintenance or operation of a harbour or in providing services or facilities which the Company itself is authorised to provide;

(c) form and promote, or join with any other person in forming and promoting, a company for carrying on any function of the Company;

(d) dispose of or discontinue the whole or any part of its undertaking acquired under this article and held for the purposes of the transferred harbour but

subject to all liabilities and obligations in respect thereof to which the Company is subject; and

(e) dispose of any shares or other securities subscribed for or acquired under this article.

(2) Nothing in this article shall authorise a company formed under subparagraph (c) of paragraph (1) above to exercise any of the powers of the Company under–

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

(b) the Harbours Act 1964; and

(c) section 18 (Power to Board to make byelaws) of the British Railways (No. 2) Act 1975(a).

Disposal of property no longer required for the transferred harbour

24. The Company, in respect of property vested in it and held for the purposes of the transferred harbour 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 it thinks fit.

Power with respect to disposal of wrecks

25.—(1) In their application to the Company sections 530 and 532 of the Act of 1894 (which confer powers on the Company with respect to, and with respect to anything in or on, any vessel sunk, stranded or abandoned in such manner as to be an obstruction or danger to navigation in a harbour or in or near any approach thereto) shall have effect in relation to the transferred harbour and the approaches thereto–

(a) subject to the provisions of article 26 of this Order; and

(b) in relation to a vessel sunk, stranded or abandoned before, as well as after, the coming into force of this Order.

(2) Subject to the provisions of paragraph (3) of this article and to any enactment for the time being in force limiting his liability, the Company may recover from the owner of any vessel in relation to which it has exercised its powers under section 530 or section 532 of the Act of 1894 (being a vessel sunk, stranded or abandoned after the commencement of this Order) any expenses reasonably incurred by it under those sections in relation to that vessel which are not reimbursed out of any proceeds of sale within the meaning of those sections.

(3) Except in a case which is in the opinion of the Company a case of emergency, paragraph (2) of this article shall not apply in relation to any vessel unless, before exercising in relation to that vessel any of the powers conferred on it by section 530 of the Act of 1894, other than the power of lighting and buoying, the Company has given to the owner of the vessel not less than 48 hours' notice of its intention to do so; and, if before the notice expires the Company receives 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 subparagraph (b) of paragraph (2) of article 26 of this Order, he shall be at liberty to do so, and the Company 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 Company.

(4) Notice under paragraph (3) of this article to the owner of any vessel may be served by the Company either by delivering it to him or by sending it to him by registered post or the recorded delivery service addressed to him at his last known place of business or abode in the United Kingdom or, if the owner or any such place or business or abode is not known to the Company, or is not in the United Kingdom, by displaying the notice at the office of the Company for the period of its duration.

(a) 1975 c.xxix.

(5) In this section 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 abandonment thereof.

(6) The powers conferred on the Company by this article shall be in addition to and not in derogation of any other powers exercisable by it for or with respect to the removal of wrecks within the transferred harbour and the approaches thereto.

Protection of Crown interest in wrecks

26.—(1) Without prejudice to section 741 of the Act of 1894 (which relates to the exemption from 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(a) the powers conferred on the Company by sections 530 and 532 of the Act of 1894 with respect to, and with respect to anything in or on, any vessel sunk, stranded or abandoned in such manner as to be an obstruction or danger to navigation in the transferred harbour or the approaches thereto 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 (which may be given with or without such a direction as is referred to in subparagraph (b) of paragraph (2) 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–

(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, of Her Majesty's ships of war.

(2) The Company shall give notice in writing to the Secretary of State of any decision of the company to exercise in relation to any vessel any of the powers aforesaid, other than the power of lighting and buoying, and, except in a case which is in the opinion of the Company a case of emergency, shall not proceed with the exercise thereof–

(a) except with the consent of the Secretary of State before the expiration of a period of 14 days from the giving of the notice; or

(b) if, before the expiration of the said period, there is served on the Company a direction by the Secretary of State 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 Company proceeds to exercise those powers without the consent and before the expiration of the said period of 14 days or after a direction has been served on it as aforesaid, it shall not in the exercise of those powers use any explosives and, if before the expiration of the said period such a direction as aforesaid is served on it, shall not be entitled to exercise the power of sale conferred by section 530 of the Act of 1894, or the power conferred by paragraph (2) of article 25 of this Order:

Provided that–

(i) the Company shall not be required to give notice under this paragraph in respect of any vessel in respect of which it has received a consent under subparagraph (b) of paragraph (1) of this article, but any direction such as is referred to in subparagraph (b) of this paragraph accompanying that consent shall be deemed, for the purposes of this paragraph and of paragraph (3) of the said article 25 to have been duly served under 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 Secretary of State for the purposes of this proviso.

(a) 1906 c.48.

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

(4) Any limitation on the powers of the Company 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 Trinity House by section 531 of the Act of 1894.

For protection of National Rivers Authority

27. Nothing in this Order or in any enactment incorporated with or applied by this Order shall prejudice or affect the application of any byelaws made under the Land Drainage Act 1976 or relieve any person of the obligation to obtain any other licence or consent from the National Rivers Authority required under any enactment.

Saving for Trinity House

28. None of the provisions of this Order shall prejudice or derogate from any of the powers, rights, duties or privileges of Trinity House.

PART IV

REPEALS

Repeal of enactments

29. On the day of transfer the enactments set out in the first column of the Schedule to this Order shall be repealed to the extent specified in the second column of the said Schedule.

Signed by authority of the
Secretary of State for Transport

H. B. Wenbarr Smith
An Under Secretary in the
Department of Transport

22nd May 1991

SCHEDULE

Article 29

REPEALS

Enactments Repealed	*Extent of repeal*
The North-Western Railway Act 1852(a)	Section XL and in section XLVI the words from "and within the limits aforesaid" to the end of the section.
The Midland Railway Act 1896(b)	Section 5 and sections 8 to 13.
The Midland Railway Act 1901(c)	In section 6 the words from "and may dredge" to the end of the section and sections 9 to 14.

(a) 1852 c.cxxxv.
(b) 1896 c.clxxxiii.
(c) 1901 c.xxiv.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order transfers the harbour undertaking at Heysham Harbour from Sealink Harbours Limited to Heysham Port Limited. The Order also includes several new provisions including power for Heysham Port Limited to carry out works in the harbour, a power to dredge in modern terms, powers to license works and dredging by other persons, a power to acquire and dispose of businesses and shares, power to dispose of property no longer required for the purposes of the harbour and provisions relating to the disposal of, and the protection of Crown interest in, wrecks.

The Applicant for the Order is Heysham Port Limited.

£2.60 net

ISBN 0 11 014258 6

Printed in the United Kingdom for HMSO

850 WO1139 C10 5/91 452/3 4235 134976 911790