

THE TRANSPORT AND WORKS ACT 1992

THE TYNE TUNNELS ACT 1998

THE PROPOSED RIVER TYNE (TUNNELS) ORDER

AMENDMENTS

- to -

Provisions in the draft Order relating to tolls

In Article [39] delete paragraph 39(7) and substitute

"(7) The tolls chargeable in respect of any vehicle or class of vehicles shall on the appointed day be at such level as the undertaker may determine and any revision to those tolls thereafter shall be determined in accordance with the provisions of Schedule [12]

New Schedule [12]

SCHEDULE [12]

Article [39]

LEVEL OF TOLLS

1. In determining the tolls leviable in respect of any vehicle or class of vehicles the undertaker shall comply with the provisions of this Schedule
2. The amount of tolls leviable in respect of any vehicle or class of vehicles may not be increased more than twice in any period of twelve months
3. Save as paragraphs 4 and 5 below provide the amount of tolls leviable in respect of any person, vehicle or class of vehicle may not be increased except to an amount arrived at by increasing the amount applicable in the case of that vehicle or class of vehicle on the relevant date by the same percentage as the percentage increase between –
 - (a) the retail prices index for the base month; and
 - (b) the retail prices index for the month of November immediately preceding the date upon which the change in the level of tolls is to have effect.

4. Where an increase in the level of tolls pursuant to paragraph 2 above would be insufficient for the purposes set out in this paragraph the amount of tolls leviable in respect of any vehicle or class of vehicle may be increased to an amount required
 - (a) to provide such funds as are or are likely to be necessary to discharge the obligations of the undertaker pursuant to a concession agreement;
 - (b) to discharge the undertaker's duties and meet or defray its in respect of the management operation and maintenance of the tunnel crossing;
 - (c) to pay the interest on, and repay the principal of monies borrowed in respect of the existing tunnels and in respect of which any indebtedness, which subsists at the date upon which this order comes into force;
 - (d) after discharging in each year the obligations of the undertaker pursuant to a concession agreement and the matters set out at (b) and (c) above to pay into any maintenance or reserve fund provided in respect of the tunnel crossing; and
 - (e) to provide funds for and to meet expenses incurred in or the cost of securing any necessary authority or consent for, and in securing the construction, maintenance and operation of the new tunnel.
5. The provisions of paragraphs 7 to 9 below shall apply to any such increase as is referred to in paragraph 4 above.
6.
 - (1) Whenever, the undertaker proposes to increase the amount of tolls leviable in respect of any vehicle or class of vehicles the undertaker shall publish in a local newspaper circulating in the Metropolitan area of Tyne and Wear a notice substantially in the form set out in Part II of this Schedule, such notice to be published not less than 28 days before such increase shall come into effect.
 - (2) Where paragraph 3 above applies to any increase in tolls or paragraph 4 applies and no objections are received as set out in paragraph 7 below the undertaker may charge the tolls set out in a notice given under subparagraph (1) of this paragraph from a date 28 days after the date upon which that notice is published.

Local Inquiries

7. Where paragraph 4 above applies to any proposed increase and an objection is made by any person in writing and received by the undertaker on or before the expiration of 28 days from the date of the notice published in accordance with paragraph 4 above and the objection not withdrawn, the undertaker may not increase the amount of any tolls until it has complied with the provisions of paragraphs 8 and 9 below.
8.
 - (1) Where any objections have been made in accordance with paragraph 5 above to a proposed increase in the amount of tolls the undertaker shall cause a local inquiry or other hearing to be held for the purpose of considering the objections.
 - (2) The local inquiry or other hearing shall be held by a person appointed by the Secretary of State.

- (3) Subsections (2) and (3) of section 250 of the Local Government Act 1972 (power to summon and examine witnesses) shall apply to an inquiry held under this paragraph as they apply to an inquiry held under that section.
- (4) The Tribunals and Inquiries Act 1992 shall apply to a local inquiry or other hearing held under this paragraph as it applies to a statutory inquiry held by the Secretary of State but as if in section 10(1) of that Act (statement of reason or decision) the reference to any decision taken by the Secretary of State were a reference to a decision taken by the undertaker.
- (5) No local inquiry or other hearing need be held under this paragraph if all persons who have made objections have withdrawn their objections.
9. (1) Where the undertaker has caused a local inquiry or other hearing to be held the undertaker must, after considering the report of the person holding the inquiry or other hearing either
- (a) increase the amount of tolls to the sum set out in the notice referred to in paragraph 4 above,
 - (b) decline to increase the amount of tolls, or
 - (c) increase the amount of tolls to the amount recommended by the person holding the inquiry or other hearing
- (2) The undertaker shall publish in a local newspaper circulating in the Metropolitan area of Tyne and Wear a notice substantially in the form set out in Part III of this Schedule, such notice to be published not less than 14 days before the increase set out in that notice shall come into effect
- (3) Notwithstanding the provisions of paragraph 7 above the undertaker may charge the tolls set out in a notice given under sub-paragraph (2) of this paragraph from a date 14 days after the date upon which that notice is published.

Further provision in respect of tolls

10. Section 13 of the Tyne and Wear Act 1976 shall apply to revisions of tolls to which the provisions of paragraphs 1-7 of this Schedule do not apply.
11. Where paragraph 8 above applies for subsections 13(1) to 13(4) to the 1976 Act there shall be substituted the following –
- "13-(1) If at any time it is represented in writing to the Secretary of State by the county council that in the circumstances then existing or in prospect –
- (a) all or any of the tolls fixed by or by virtue of this Act or the River Tyne (Tunnels) Order 200X should be increased by more than the maximum permissible under article [39] of and paragraphs 3 or 5 of Schedule [12] to the River Tyne (Tunnels) Order 200X, or

(b) any classification of traffic then in force for the purposes of the levying of tolls should be revised,

the Secretary of State may, if he thinks fit, make an order increasing all or any of the tolls by more than the increase authorised by that article or revising any such classification of traffic.

(2) (a) An order made by the Secretary of State under subsection (1) above -

- (i) shall fix the date as from which the order shall have effect, which shall not be less than 4 weeks from the date the order is made; and
- (ii) shall supersede the increase in tolls last made by the county council under article 37 of the River Tyne (Tunnels) Order 200X (unless already superseded or revoked by a previous order made under subsection (1) above).

(b) An order made by the Secretary of State under subsection (1) above increasing tolls shall cease to have effect on the coming into force of a subsequent increase in tolls by the county council under article 39 of, and paragraphs 3 or 4 of the said Schedule [12] or a further order under subsection (1) above.

(c) The power of the Secretary of State to make orders under subsection (1) above shall be exercisable by statutory instrument.

(3) In the exercise of the powers conferred upon him by this section, the Secretary of State shall have regard to -

- (a) the financial position and future prospects of the tunnel crossing;
- (b) such other matters of a transportation nature within the Metropolitan area of Tyne and Wear as may be considered by the Secretary of State at that time to be relevant; and
- (c) such other matters of an economic, environmental or social nature within that county as may be considered by the Secretary of State at that time to be relevant.

(3A) In the event of a representation being made to the Secretary of State under subsection (1) above the county council shall furnish the Secretary of State with such information and particulars as the Secretary of State may require and shall publish in The London Gazette and in one or more newspapers circulating in the Metropolitan area of Tyne and Wear a notice stating -

- (a) the general effect of the representation;
- (b) the places at which copies of the representation may be inspected free of charge and copies thereof purchased and the price of such copies;
- (c) that within a period of 42 days from the date of the first publication of the notice, any person having a substantial interest may object to the

representation by giving notice to the Secretary of State accompanied by the grounds of his objection and sending a copy thereof to the county council; and

(d) the Secretary of State's power to hold a local inquiry by virtue of subsection (5) below"

12. Where paragraph 8 above applies, for subsection 13(5) to the 1976 Act there shall be substituted the following –

"(5) Before making an Order under this section the Secretary of State may cause a local inquiry to be held by such person as he may appoint for the purpose."

General Provisions as to Tolls

13. Any increase in tolls pursuant to the provisions of this Order or to the 1976 Act –
- (a) if it is neither a multiple of ten pence nor an amount which on division by ten produces a remainder of five pence shall be rounded to the nearest ten pence; and
 - (b) if it is an amount which on division by ten produces a remainder of five pence shall be increased by five pence
14. (a) Subject to paragraph (b) below, the references in this schedule to the retail prices index are references to the general index of retail prices (for all items) published by the Central Statistical Office of the Chancellor of the Exchequer.
- (b) If that index is not published for any month these references are references to any substituted index or index figures published by that office for that month or to any other index or substitute for an index for that month which may in the reasonable opinion of the undertaker be appropriate for the purposes of this Schedule.
15. In this Schedule -
- "the base month" means April 1999 or, following an increase in tolls in accordance with this Schedule or otherwise, the month immediately preceding the month in which falls the date upon which the last increase in tolls by the undertaker took effect; and
- "the relevant date" means 1st May 1999 or, following an increase in tolls in accordance with this Schedule or otherwise, the date upon which such increase in tolls took effect.

Application of tolls

16. The tolls authorised by Article [39] of this Order to be demanded, taken and recovered may be applied by the undertaker –
- (a) in paying of the costs and expenses incurred in managing, operating and maintaining the tunnel crossing;

- (b) in providing such funds as are or are likely to be necessary to discharge the obligations of the undertaker pursuant to a concession agreement;
- (c) in paying the interest on, and repaying the principal of monies borrowed in respect of the existing tunnels and in respect of which any indebtedness subsists at the date on which this order comes into force;
- (d) after discharging in each year the obligations of the undertaker pursuant to a concession agreement and the matters set out at (b) and (c) above;
- (e) in making payment into any maintenance or reserve fund provided in respect of the tunnel crossing;
- (f) in making grants to the passenger transport executive for the Metropolitan area of Tyne and Wear;
- (g) in accordance with the Tyne Tunnels Act 1998;
- (h) in making payments to the undertaker's general funds;
- (i) for such purposes relating to the provision of public transport facilities in Metropolitan area of Tyne and Wear, and in such manner as it seems fit;
- (j) in providing funds for and in meeting expenses incurred in or the cost of securing any necessary authority or consent for, and in securing the construction, maintenance and operation of the new tunnel; and
- (k) for such other purposes, and in such manner, as it sees fit.

PART II

THE RIVER TYNE (TUNNELS) ORDER 200X (the "Order")

NOTICE OF PROPOSED INCREASE IN TOLLS

The Tyne and Wear Passenger Transport Authority proposes to increase the tolls leviable for use of the Tyne Tunnel Crossing in respect of the vehicles or classes of vehicle in column (a) of the table below to the amount set out in column (b) of that table.

(a) vehicle or class or vehicles	(b) toll

[Paragraph 3 of Schedule [12] to the Order applies to the above increase in tolls. The increase in tolls will take effect no sooner than 28 days after the date of this notice.] *[or*

] [Paragraph 4 of Schedule [12] to the Order applies to the above increase in tolls. Any objections to, or other representations about, the proposals should be sent to the Engineer to the Tunnels. The Tyne and Wear Passenger Transport Authority, Civic Centre, Newcastle upon Tyne NE1 8PD on or before [expiry date for objections]. An objection or

representation MUST (i) be received by the Engineer to the Tunnels on or before [expiry date for objections], (ii) be made in writing, (iii) state the grounds of the objection or representation, (iv) indicate who is making the objection or representation, and (v) give an address to which correspondence relating to the objection or representation may be sent.]

The Engineer to the Tunnels may make objections and other representations public.

Signed _____

Date _____

For and on behalf of the Tyne and Wear Passenger Transport Authority.

PART III

THE RIVER TYNE (TUNNELS) ORDER 200X (the "Order")

NOTICE OF INCREASE IN TOLLS

The Tyne and Wear Passenger Transport Authority of Civic Centre, Newcastle upon Tyne NE1 8PD has received objections to a proposed increase in tolls for use of the Tyne Tunnel Crossing and [all objections having been withdrawn/having caused a local inquiry to be held in accordance with paragraph 8 of the Order and having considered the report of the inspector] will increase the amount of tolls leviable in respect of the vehicles or classes of vehicles set out in column (a) of the table below to the amount set out in column (b) of that table.

(a) vehicle or class or vehicles	(b) toll

The increase in tolls will take effect no sooner than 14 days after the date of this notice.

Signed _____

Date _____

For and on behalf of the Tyne and Wear Passenger Transport Authority.

In Schedule 11

Delete reference to Section 13 of the Tyne and Wear Act 1976