



# Dartford-Thurrock Crossing Act 1988

## 1988 CHAPTER 20

### PART III

#### OPERATION OF THE CROSSING

*Power to levy tolls and management and maintenance,  
etc., of the crossing and the approach roads*

#### **11 Power to levy tolls for use of the crossing.**

- (1) Subject to and in accordance with the following provisions of this Part of this Act, tolls may be levied in respect of vehicles using either of the tunnels or the bridge.
- (2) Below in this Act “toll” means a toll leviable under this Part of this Act.
- (3) Tolls may be levied by a person appointed by the Secretary of State, if the requirements of subsection (4) below are met in relation to that person’s appointment.
- (4) The appointment must be made under a contract between the Secretary of State and the person appointed providing for the construction by that person of the bridge (whether or not together with any other of the scheduled works) and the maintenance by that person—
  - (a) as from such date as may be provided by or under the contract, of the tunnels and such other parts of the crossing as may be specified in the contract; and
  - (b) as from such later date as may be so provided, of the whole of the crossing;and that contract must not have been preceded by any contract between the Secretary of State and any other person providing for the construction of the bridge.
- (5) The appointment shall be subject to such terms and conditions as may be agreed in the contract.
- (6) Where the contract comes to an end otherwise than—

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- (a) on exercise by the person appointed of any right of his to terminate the contract in consequence of any breach by the Secretary of State of his obligations under the contract; or
  - (b) at the end of the period allowed under section 16 of this Act for the levy of tolls by the person appointed in default of earlier termination of his appointment; tolls may be levied by the Secretary of State.
- (7) Tolls shall be leviable by the person appointed under this section—
- (a) as from the transfer date, as respects vehicles using either of the tunnels; and
  - (b) as from the date on which the bridge is first open for public use, as respects vehicles using the bridge;
- until the end of the period so allowed or the termination of his appointment, whichever first occurs.
- (8) If subsection (6) above applies, tolls shall be leviable by the Secretary of State as respects vehicles using either of the tunnels or the bridge as from the time when the contract comes to an end or, where it comes to an end before the date applicable in the case of the vehicles in question in accordance with subsection (7)(a) or (b) above, as from that date.
- (9) In this Act “the crossing” means—
- (a) the tunnel crossing;
  - (b) the bridge (including the highway carried by it); and
  - (c) any land which may be acquired by the Secretary of State in exercise of any of his powers under Part XII of the 1980 Act in relation to any trunk road or other land forming part of the crossing by virtue of paragraph (a) or (b) above;
- but as respects any time before the bridge is open for public use references below in this Act to the crossing shall be read as referring only to the tunnel crossing and such other parts of the crossing as the context may require.
- (10) References in this Act to the toll period are references—
- (a) to the period allowed under section 16 of this Act for the levy of tolls by the person appointed under this section in default of earlier termination of his appointment; or
  - (b) if subsection (6) above applies, to the period beginning with the transfer date and ending at the end of the period allowed under that section for the levy of tolls by the Secretary of State.

## **12 Delegation of functions of Secretary of State in relation to the crossing and the approach roads.**

- (1) Subject to the following provisions of this section, the Secretary of State may by agreement with any person delegate to that person all or any of his functions with respect to the maintenance and improvement of, or other dealing with, any trunk road or other land comprised in the crossing.
- (2) A delegation under subsection (1) above may only be made—
  - (a) if tolls are for the time being leviable by the person appointed under section 11 of this Act, to that person; or
  - (b) if tolls are for the time being leviable by the Secretary of State and he appoints any person to collect the tolls as his agent, to that person.

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- (3) Without prejudice to the application of subsection (1) above and section 6(1) of the 1980 Act (delegation by Secretary of State of trunk road functions to local councils) in relation to functions of the Secretary of State under this Act, each of those provisions shall apply in relation to—
- (a) any functions conferred by or under this Part of this Act on the crossing operator which are for the time being exercisable by the Secretary of State; and
  - (b) the power of the Secretary of State under section 23 of this Act to withdraw or suspend the restriction imposed by subsection (1) of that section;
- as it applies in relation to functions of his of a description mentioned in subsection (1) above.
- (4) In this Act “the crossing operator” means the person appointed under section 11 of this Act to levy tolls, in relation to any time when tolls are for the time being leviable by that person, and otherwise means the Secretary of State.
- (5) No functions may be delegated under subsection (1) above to any council to whom the Secretary of State may under section 6(1) of the 1980 Act (including that provision as extended by subsection (3) above) delegate any of his functions.
- (6) Any person to whom any functions are delegated under this section shall, in the exercise of those functions, act as agent for the Secretary of State and in accordance with such conditions as he may attach to the delegation.
- (7) Any agreement made by the Secretary of State for delegating any of his functions under this section shall not prevent him from exercising any function delegated if he considers that it is necessary or expedient for him to do so—
- (a) by reason of any emergency; or
  - (b) on the ground that, in his view, the delegate has failed or will be unable to carry out any works, or do any other thing, that appears to the Secretary of State to be necessary for the discharge of that function.
- (8) A delegation of any functions under this section may be terminated in such circumstances and in such manner as may be provided under the agreement providing for the delegation.
- (9) Nothing in this section limits the power of the Secretary of State to enter into and carry into effect agreements with any person for any purpose connected with the exercise of any function he has power to delegate under subsection (1) above.

### **13 Leases of crossing land, etc.: application of landlord and tenant law.**

- (1) The Secretary of State shall have power to grant to the person appointed under section 11 of this Act a lease—
- (a) of any land comprised in the crossing; and
  - (b) of any easement or right in or over land not so comprised, being an easement or right acquired by him under section 2 of this Act or transferred to him under section 6 of this Act;
- if it appears to him to be expedient to do so for the purpose of or in connection with the exercise by that person of any of the functions mentioned in subsection (2) below.
- (2) Those functions are—
- (a) any functions of the person appointed under the contract under which he was appointed;

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- (b) any functions conferred or imposed by or under this Part of this Act on the crossing operator which are for the time being exercisable by the person appointed; and
  - (c) any functions of the Secretary of State delegated to him under section 12 of this Act.
- (3) No enactment or rule of law regulating the rights and obligations of landlords and tenants shall prejudice the operation of any agreement between the Secretary of State and the person appointed so far as relates to the terms on which any land which is the subject of a lease granted in pursuance of this section is to be provided for that person's use; and accordingly no such enactment or rule of law shall apply in relation to the rights and obligations of the parties to any lease so granted—
- (a) so as to exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
  - (b) so as to confer or impose on either party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
  - (c) so as to restrict the enforcement (whether by action for damages or otherwise) by either party to the lease of any obligation of the other party under the lease.

#### **14 Termination of appointment under section 11 after the transfer date.**

- (1) This section applies where the appointment of the person appointed under section 11 of this Act to levy tolls comes to an end after the transfer date.
- (2) Subject to the following provisions of this section and section 15 of this Act, on the termination of the appointment there are transferred to the Secretary of State by virtue of this section—
- (a) all movable property belonging to the person appointed immediately before termination—
    - (i) which was transferred to that person under section 7 of this Act; or
    - (ii) which, immediately before termination, was property which was normally kept anywhere within the crossing;
  - (b) all assets of the person appointed of a description within subsection (3) below which fall in accordance with the contract under which he was appointed to be transferred to the Secretary of State on termination of the appointment in the circumstances in which it has in fact terminated; and
  - (c) all rights and liabilities of the person appointed subsisting immediately before termination which—
    - (i) were acquired or incurred by that person for the purposes of or in connection with the exercise of any relevant functions; or
    - (ii) arose from that person's occupation of the crossing;
 and the property so transferred vests, by virtue of this section, in the Secretary of State.
- (3) The assets referred to in subsection (2)(b) above are—
- (a) assets representing revenue produced by the tolls and other revenue of the person appointed; and

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- (b) the unexpended balances of any loan funds raised by the person appointed for the purposes of or in connection with the exercise of any relevant functions.
- In paragraph (b) above “loan funds” means funds raised by borrowing or by the issue of loan stock.
- (4) Subsection (2)(c) above does not apply in relation to rights and liabilities in respect of loans, loan stock and loan charges.
- (5) Where the appointment terminates at the end of the period allowed under section 16 of this Act for the levy of tolls by the person appointed, any right or liability of that person under any contract (not being a contract of employment) entered into by him for or in connection with the collection of tolls is not transferred by virtue of this section unless it is acquired or incurred in respect of things done or omitted before termination.
- (6) Parts II and III of Schedule 5 to this Act shall have effect for making in connection with the operation of this section provision relating to employees and former employees of the person appointed.

## **15 Termination: supplementary provisions.**

- (1) Any property vested in the Secretary of State by virtue of section 14 of this Act on termination of the appointment of the person appointed under section 11 of this Act to levy tolls shall vest free from any security to which it was subject immediately before termination.
- (2) Where before termination possession of any such property has been taken by any person in pursuance of any legal process or distress, the Secretary of State shall be entitled to recover that property from any person in possession of it without being required, as a condition of doing so, to meet any liability in respect of which that process or distress was issued or levied.
- (3) Subsection (1) above is without prejudice to any liability secured by any security from which any such property is released by virtue of that subsection, and subsection (2) above is without prejudice to any liability in respect of which the process or distress there mentioned was issued or levied.
- (4) Where any liability which, if it had subsisted immediately before termination, would have fallen to be transferred to the Secretary of State by virtue of section 14 of this Act has been discharged before termination, nothing in the <sup>MI</sup>Insolvency Act 1986 shall—
- (a) affect the validity of anything done by the person appointed or by any other person in discharging that liability;
  - (b) authorise a court to make any order affecting the property of, or imposing any obligation on, any person in consequence of or in connection with the receipt by that person or by any other person of any payment made, property transferred or other benefit provided by the person appointed or by any other person in discharging that liability; or
  - (c) be treated as giving rise to any trust affecting any money or property so transferred.
- (5) Subject to subsection (1) above, any property vested in the Secretary of State by virtue of section 14 of this Act shall be held by him subject to all covenants, conditions and restrictions subject to which the property was held by the person appointed.

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- (6) Any dispute between the Secretary of State and any person as to the property or liabilities transferred by virtue of section 14 of this Act shall be determined by arbitration; and, where any such dispute is one between the Secretary of State and the person appointed, the arbitration shall be subject to the provisions relating to arbitration of the contract under which that person was appointed.
- (7) Subject to subsection (1) above, all agreements or other transactions entered into or effected by the person appointed and subsisting immediately before termination, in so far as they relate to property or liabilities transferred by virtue of section 14 of this Act to the Secretary of State, shall have effect with the substitution of the Secretary of State for the person appointed; and accordingly—
- (a) any such agreement or transaction may be enforced by or against the Secretary of State; and
  - (b) references to the person appointed—
    - (i) in any agreement (whether or not in writing) and in any deed, bond or instrument, so far as relating to any such property or liabilities; and
    - (ii) in any other document whatsoever relating to or affecting any such property or liabilities;
 shall be taken after termination as referring to the Secretary of State.
- (8) All proceedings, legal or other, begun before termination and relating to any such property or liabilities, other than proceedings for enforcing any security from which any such property is released by virtue of subsection (1) above, may be carried on with the substitution of the Secretary of State in lieu of the person appointed, and any such proceedings may be amended in such manner as may be necessary for that purpose.
- (9) In this section “security” means any mortgage, charge, lien or other security.
- (10) References in this Act, in relation to the person appointed, to relevant functions are references to—
- (a) any functions of the person appointed under the contract under which he was appointed or under any lease granted under section 13 of this Act;
  - (b) any functions conferred or imposed by or under this Part of this Act on the crossing operator which are for the time being exercisable by the person appointed; and
  - (c) any functions of the Secretary of State delegated to him under section 12 of this Act.

#### Marginal Citations

M1 1986 c. 45.

## 16 Time limit for levy of tolls.

- (1) Tolls shall cease to be leviable at the end of the period allowed under subsection (2) below or, where section 11(6) of this Act applies, at the end of the period allowed under subsection (3) below.
- (2) The period allowed for the levy of tolls by the person appointed under section 11 of this Act, in default of earlier termination of his appointment, is the period determined in accordance with Part I of Schedule 6 to this Act.

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- (3) The period allowed for the levy of tolls by the Secretary of State is the period determined in accordance with Part II of that Schedule.
- (4) Where the period allowed for the levy of tolls by the person appointed under section 11 of this Act includes any toll extension period under paragraph 4 of that Schedule, references in section 14 of this Act to relevant functions shall include references to any functions of the person appointed under the contract relating to the levy of tolls by that person during the toll extension period.

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