



# New Roads and Street Works Act 1991

## 1991 CHAPTER 22

### PART I

#### NEW ROADS IN ENGLAND AND WALES

##### *Toll orders*

#### **6 Toll orders.**

- (1) An order authorising the charging of tolls (a “toll order”) may be made in relation to a special road proposed to be provided by a highway authority.

The order shall state whether it authorises the charging of tolls by a concessionaire or by the highway authority.

[<sup>F1</sup>(1A) Subsection (1) is subject to section 33(4) of the Planning Act 2008 (exclusion of powers to make or confirm orders in relation to highways for which development consent required).]

- (2) A toll order relating to a special road to be provided by the Secretary of State shall be made by the Secretary of State; and a toll order relating to a special road to be provided by a local highway authority shall be made by the authority and confirmed by the Secretary of State.
- (3) Schedule 2 has effect as to the making or confirmation of a toll order and as to its validity and date of operation.
- (4) The proceedings required to be taken in relation to a toll order shall (so far as practicable) be taken concurrently with the proceedings required to be taken under the <sup>M1</sup>Highways Act 1980 in relation to the special road scheme authorising the provision of the road to which the order relates.
- (5) The Secretary of State shall not make or confirm the scheme or the toll order unless he makes or confirms them both.

*Status: Point in time view as at 01/03/2010.*

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- (6) The power conferred on the Secretary of State by this section to make or confirm a toll order is exercisable by statutory instrument.

#### Textual Amendments

**F1** S. 6(1A) inserted (1.3.2010) by [Planning Act 2008 \(c. 29\)](#), s. 241(8), [Sch. 2 para. 49](#) (with s. 226); [S.I. 2010/101](#), art. 2 (with art. 6)

#### Marginal Citations

**M1** 1980 c. 66.

## 7 The toll period.

- (1) A toll order shall provide for tolls to be chargeable for a period (the “toll period”) specified in or determined in accordance with the order.
- (2) The order may provide for the toll period to end—
- (a) on a date, or at the end of a period, specified in the order, or
  - (b) on a date determined by reference to—
    - (i) the achievement of a specified financial objective, or
    - (ii) the passage of a specified number of vehicles,
 or such other factors, or combinations of factors, as may be specified in the order, or
  - (c) on whichever is the earlier or later of dates specified in or determined in accordance with the order.
- (3) In the case of a toll order authorising the charging of tolls by a concessionaire, it is for the highway authority to decide any matter relevant to determining the date on which the toll period ends.

## 8 Amount of tolls chargeable by concessionaire.

- (1) A toll order authorising the charging of tolls by a concessionaire shall specify the maximum tolls which may be charged if, and only if, the road to which the order relates consists of or includes a major crossing to which there is no reasonably convenient alternative.
- (2) The Secretary of State may make provision by regulations as to what is to be treated as a major crossing for this purpose and as to the circumstances in which another route is to be taken to be, or not to be, a reasonably convenient alternative.
- (3) Subject to any such regulations, a major crossing means a crossing of navigable waters more than 100 metres wide and a reasonably convenient alternative means another crossing (other than a ferry) which is free of toll and is within five miles of the crossing in question.

For this purpose—

- (a) the width of tidal waters shall be ascertained by reference to the mean high-water mark and the width of other waters by reference to the ordinary limits of the waters, and

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- (b) the distance between two crossings shall be taken to be the shortest distance between the centre lines of the two crossings.
- (4) The order shall specify the maximum tolls which may be charged for the use of the crossing or any length of the road including the crossing; and if the condition as to absence of a reasonably convenient alternative is satisfied in relation to certain types of traffic only, the order shall make provision only in relation to those types of traffic.
- If that condition ceases to be satisfied, generally or in relation to certain types of traffic, the provisions of the order as to maximum tolls shall cease to apply, or cease to apply to that type of traffic, for so long as that remains the case.
- (5) The order may specify different maxima for different descriptions of traffic (which need not correspond with the classes of traffic prescribed by the special road scheme) and may provide for the amounts to be varied in accordance with a formula specified in the order.
- (6) Regulations under this section shall be made by statutory instrument and shall not be made unless a draft of them has been laid before and approved by a resolution of each House of Parliament.

Any regulations so made do not apply in relation to an order if notice of the draft order, and of the relevant draft special road scheme, have been published before the regulations come into force.

## 9 Amount of tolls chargeable by highway authority.

- (1) A toll order authorising the charging of tolls by the highway authority shall in every case specify the maximum tolls which may be charged for the use of the road or any length of the road in respect of which tolls are charged.
- (2) The order may specify different maxima for different descriptions of traffic (which need not correspond with the classes of traffic prescribed by the special road scheme) and may provide for the amounts to be varied in accordance with a formula specified in the order.

## 10 Application of enactments relating to monopolies, &c.

- (1) [<sup>F2</sup>For the purposes of the Enterprise Act 2002, a person] authorised by a toll order to charge tolls shall be deemed to supply a service, namely, providing the facility to use the road in return for the toll charged.

<sup>F3</sup>(2) .....

<sup>F4</sup>(3) .....

### Textual Amendments

- F2** Words in s. 10(1) substituted (20.6.2003) by [The Enterprise Act 2002 \(Consequential and Supplemental Provisions\) Order 2003 \(S.I. 2003/1398\)](#), art. 1, **Sch. para. 18(2)(a)**
- F3** S. 10(2) repealed (20.6.2003) by [The Enterprise Act 2002 \(Consequential and Supplemental Provisions\) Order 2003 \(S.I. 2003/1398\)](#), art. 1, **Sch. para. 18(2)(b)**
- F4** S. 10(1)(b)(c)(3) repealed (1.3.2000) by [S.I. 2000/311](#), art. 27

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## **11 Variation or revocation of toll order.**

- (1) A toll order may be varied or revoked—
  - (a) by an order made by the Secretary of State if he is the highway authority for the road, and
  - (b) by an order made by the highway authority and confirmed by the Secretary of State in any other case.
- (2) The Secretary of State may confirm an order made by another authority either without modifications or subject to such modifications as he thinks fit.
- (3) A toll order may not be varied so as to extend the toll period; and a toll order which does not authorise the charging of tolls in respect of the whole length of the special road to which it relates may not be varied so as to extend the length of road in respect of which tolls may be charged.
- (4) A toll order relating to a road subject to a concession may not be varied or revoked without the consent of the concessionaire.
- (5) An order under this section may contain such supplementary, incidental and transitional provisions as appear to the highway authority to be necessary or expedient.
- (6) An order under this section made by the Secretary of State, and an instrument made by the Secretary of State confirming an order under this section made by another authority, shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

The provisions of Schedule 2 (procedure in connection with toll orders) do not apply.

## **12 Extension toll orders.**

- (1) An order authorising the charging of tolls by the highway authority (an “extension toll order”) may be made in relation to a road which is or has been subject to a concession.
- (2) An extension toll order relating to a special road for which the Secretary of State is the highway authority shall be made by the Secretary of State; and an extension toll order relating to a road for which the highway authority is a local highway authority shall be made by that authority and confirmed by the Secretary of State.
- (3) Any extension toll order must be made so as to come into force not later than—
  - (a) the end of the toll period under the previous toll order, or
  - (b) where the concession agreement terminates or is terminated before the end of that period, two years after the termination of the agreement,
 whichever is the earlier.
- (4) The following provisions of this Act apply in relation to an extension toll order as in relation to a toll order under section 6(1)—
  - section 7(1) and (2) (the toll period),
  - section 9 (amount of tolls chargeable by highway authority),
  - section 10 (application of enactments relating to monopolies, &c.),
  - section 11 (variation or revocation of order),
  - sections 13 to 17 (further provisions with respect to tolls), and
  - section 18 (annual report by Secretary of State).

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- (5) An extension toll order made by the Secretary of State, and an instrument made by the Secretary of State confirming an extension toll order made by a local highway authority, shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

The provisions of Schedule 2 (procedure in connection with toll orders) do not apply.

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