

SCHEDULES

SCHEDULE 6

Section 16.

THE TOLL PERIOD

PART I

THE PERIOD ALLOWED FOR THE LEVY OF TOLLS BY THE PERSON APPOINTED

The maximum toll period

- 1 Subject to the following provisions of this Part of this Schedule, the period during which the person appointed under section 11 of this Act may levy tolls is the period of twenty years beginning with the transfer date (referred to below in this Part of this Schedule as the maximum toll period).

Early termination of the toll period

- 2 (1) Where—
- (a) on any date (“the determination date”) before the end of the maximum toll period it appears to the Secretary of State that the funding requirement with respect to relevant financial commitments will have been met before the end of that period; and
 - (b) the permitted date for termination by reference to meeting that requirement falls before the end of the maximum toll period;
- he shall determine the latter date as the date for early termination of the toll period under this paragraph.
- (2) The reference in sub-paragraph (1)(b) above to the permitted date for termination by reference to meeting the funding requirement with respect to relevant financial commitments is a reference to—
- (a) the earliest date by which it appears to the Secretary of State that that requirement will have been met; or
 - (b) the date immediately following the end of the period of six months beginning with the determination date;
- whichever is the later.
- (3) Where at any time before the date for early termination of the toll period currently applicable in accordance with any determination under this paragraph (including a previous determination under this sub-paragraph) it appears to the Secretary of State that the funding requirement with respect to relevant financial commitments will not have been met by that date—
- (a) if it appears to him that that requirement will have been met at some time after that date but before the end of the maximum toll period, he shall determine the earliest date by which it appears to him that that requirement

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- will have been met as the date for early termination of the toll period under this paragraph in substitution for the date currently applicable; or
- (b) in any other case, he shall cancel the determination of the date currently applicable.
- (4) A cancellation under sub-paragraph (3)(b) above of a determination under this paragraph shall not prejudice any subsequent application of this paragraph if at any later date the requirements of sub-paragraph (1) above are satisfied.
- (5) On making or cancelling any determination under this paragraph the Secretary of State shall notify the person appointed in writing of the determination or the cancellation.
- (6) Subject to paragraph 4 below, the period during which the person appointed may levy tolls shall end on any date fixed by a determination under this paragraph which has not been cancelled before the date is reached.
- 3 (1) For the purposes of paragraph 2 above, the funding requirement with respect to relevant financial commitments is to be taken as met by any date if the aggregate amount of all relevant revenue received by the person appointed before that date, less the aggregate amount of the costs mentioned in sub-paragraph (2) below, is equal to or greater than the amount which would be required to meet, on that date, all relevant financial commitments, less the aggregate amount of any permitted payments in respect of relevant financial commitments made or due before that date.
- (2) The costs referred to in sub-paragraph (1) above are—
- (a) any expenditure incurred before that date by the person appointed for the purposes of or in connection with the exercise of any relevant functions, other than payments in respect of relevant financial commitments;
- (b) any liabilities so incurred (other than relevant financial commitments) which fall to be met but have not in fact been met before that date;
- (c) permitted payments in respect of relevant financial commitments made or due before that date; and
- (d) such provision as it appears to the Secretary of State appropriate to make for meeting—
- (i) any liabilities so incurred (other than relevant financial commitments) which fall to be met on or after that date;
- (ii) liabilities that may arise on or after that date in respect of anything done before that date for the purposes of or in connection with the exercise of any relevant functions; and
- (iii) costs arising as a result of or in connection with tolls ceasing to be leviable.
- (3) In this paragraph—
- (a) “relevant revenue” means—
- (i) tolls collected in pursuance of this Act; and
- (ii) such other revenue received by the person appointed as falls in accordance with the contract to be treated for the purposes of this paragraph as relevant revenue;
- (b) “relevant financial commitments” means such financial commitments incurred by the person appointed for the purposes of or in connection with the exercise of any relevant functions as fall in accordance with the contract to be treated for the purposes of this paragraph as relevant financial commitments;

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- (c) “financial commitments” means obligations in respect of—
 - (i) the repayment of the principal of loans;
 - (ii) the redemption of loan stock; and
 - (iii) the payment of interest on loans or in respect of loan stock, or the making of a payment of any other description in connection with any loan; and
 - (d) “the contract” means the contract under which the person appointed to levy tolls was appointed.
- (4) References in this paragraph to permitted payments in respect of relevant financial commitments are references to such payments in respect of those commitments as are required or permitted in accordance with the contract to be met from relevant revenue before the end of the period during which the person appointed may levy tolls.

Toll extension period

- 4
- (1) This paragraph applies where on any date on which apart from this paragraph the period during which the person appointed may levy tolls would come to an end by virtue of paragraph 2 above (“the early termination date”) there is in force a contract between the Secretary of State and the person appointed providing for the levy of tolls by that person during an additional period (“the toll extension period”) of not more than twelve months beginning with the date immediately following the early termination date and ending not later than the end of the maximum toll period.
 - (2) The period during which the person appointed may levy tolls, and that person’s appointment under section 11 of this Act to levy tolls, shall be treated as continuing until the end of the toll extension period or the termination of the contract relating to the levy of tolls during the toll extension period, whichever first occurs.
 - (3) The Secretary of State shall not enter into a contract providing for the levy of tolls by the person appointed during any additional period falling after any date for early termination of the toll period determined under paragraph 2 above unless it appears to him to be appropriate to do so for the purpose of making provision out of revenue produced by the tolls during the additional period for meeting expenses properly chargeable to revenue account which are likely to be incurred in, or in connection with, the maintenance of the crossing after the end of the additional period.

PART II

THE PERIOD ALLOWED FOR THE LEVY OF TOLLS BY THE SECRETARY OF STATE

The original maximum toll period

- 5
- Subject to the following provisions of this Part of this Schedule, where section 11(6) of this Act applies the period during which the Secretary of State may levy tolls is—
- (a) where the appointment of the person appointed under that section to levy tolls comes to an end after the transfer date, the period beginning immediately after the termination of his appointment and ending at the end of the period of twenty years beginning with the transfer date; or
 - (b) in any other case, that period of twenty years;

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and the period applicable in accordance with this paragraph is referred to below in this Part of this Schedule as the original maximum toll period.

Relevant receipts and assumed interest receipts

- 6 (1) In this Part and in Part III of this Schedule the expressions mentioned below in this paragraph have the meanings there given.
- (2) “Relevant receipts” means—
- (a) any assets transferred to the Secretary of State by virtue of section 14 (2) (b) of this Act on termination of the appointment of the person appointed under section 11 of this Act to levy tolls;
 - (b) any other sums received by the Secretary of State in consequence of or in connection with the termination of the contract under which that person was appointed or in pursuance of any right transferred to him by virtue of section 14 of this Act on termination of that person’s appointment;
 - (c) tolls collected by or on behalf of the Secretary of State; and
 - (d) any other sums received by the Secretary of State in connection with the exercise (whether by him or by a person appointed to collect tolls on his behalf) of—
 - (i) any functions of the Secretary of State under this Act; or
 - (ii) any functions of the Secretary of State under any other enactment with respect to the maintenance or improvement of, or other dealing with, any trunk road or other land comprised in the crossing.
- (3) “Assumed interest receipts” means interest on any surplus which may arise during any period in revenue from relevant receipts and amounts treated as received by way of interest on such revenue, as compared with the amounts which would be required during that period for the purposes mentioned in Part III of this Schedule if that revenue and any amounts treated as so received were applied for those purposes.

Extension of the original maximum toll period

- 7 (1) If at any time during the original maximum toll period it appears to the Secretary of State that the aggregate of relevant receipts and assumed interest receipts before the end of that period is likely to fall short of the aggregate of the amounts required during that period for the purposes so mentioned, he may by order direct that that period shall be extended by five years.
- (2) The power to make an order under this paragraph is exercisable on one occasion only.
- (3) No order shall be made under this paragraph unless a draft of the order has been laid before, and approved by a resolution of, the Commons House of Parliament.
- (4) References in this Part and in Part III of this Schedule to the relevant period are references to the original maximum toll period or, if that period has been extended under this paragraph, to that period as so extended.

Early termination of the relevant period

- 8 (1) Subject to sub-paragraph (2) below, if as respects any date before the end of the relevant period it appears to the Secretary of State that the aggregate of relevant receipts and assumed interest receipts up to that date is equal to or greater than the

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aggregate of the amounts required before that date for the purposes mentioned in Part III of this Schedule, the period during which he may levy tolls shall end on that date.

- (2) Where—
- (a) that date falls before the end of the original maximum toll period; and
 - (b) the Secretary of State considers it expedient that he should continue to levy tolls for an additional period determined by him in accordance with subparagraph (3) below;
- the period during which he may levy tolls shall continue until the end of that additional period.
- (3) The additional period shall be such period of not more than twelve months, ending not later than the end of the original maximum toll period, as the Secretary of State may consider appropriate for the purpose of making provision out of revenue produced by the tolls during the additional period for meeting expenses properly chargeable to revenue account which are likely to be incurred in, or in connection with, the maintenance of the crossing after the end of the additional period.

References to interest

- 9 (1) Any reference in paragraph 6(3) above or Part III of this Schedule to interest is a reference to interest at such rate as may be determined to be appropriate in accordance with any directions given by the Treasury.
- (2) Different rates may be so determined in relation to—
- (a) different times;
 - (b) different descriptions of revenue from relevant receipts; and
 - (c) different paragraphs of Part III of this Schedule, and different expenses referred to in any of those paragraphs.

Assumptions as to application of relevant receipts and assumed interest receipts

- 10 (1) For the purpose of determining any question arising under paragraph 7 or 8 above as to the amounts of relevant receipts and assumed interest receipts or the amounts from time to time required for the purposes mentioned in Part III of this Schedule, such assumptions shall be followed by the Secretary of State as to—
- (a) the manner in which those receipts would from time to time be applied, if they were in fact applied for those purposes;
 - (b) the times at which payments would be made in respect of expenses and interest referred to in any paragraph of that Part of this Schedule, if such payments were in fact made; and
 - (c) the amounts of such payments;
- as the Treasury may direct.
- (2) A direction given for the purposes of this paragraph may require different assumptions to be followed in relation to different times and in relation to, or to interest on, different expenses referred to in any paragraphs of that Part of this Schedule.

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PART III

PURPOSES RELEVANT TO PART II

- 11 Reimbursement with interest of all expenses properly chargeable to capital account which have been or may during the relevant period be incurred by the Secretary of State in respect of the provision or maintenance (whether before or after the passing of this Act) of any works comprised in the crossing.
- 12 Reimbursement with interest of all expenses (not falling within paragraph 11 above) which are properly chargeable to capital account and have been incurred by the Secretary of State in making to the person appointed under section 11 of this Act to levy tolls any payment in consequence of or in connection with the termination of the contract under which that person was appointed.
- 13 Reimbursement with interest of all expenses properly chargeable to capital account which may during the relevant period be incurred by the Secretary of State in providing additions to, or improvements of, any works comprised in the crossing.
- 14 Meeting all expenses (including administrative expenses) which are properly chargeable to revenue account and are incurred during the relevant period by the Secretary of State for the purposes of or in connection with the exercise (whether by the Secretary of State or by a person appointed to collect tolls on his behalf) of—
- (a) any functions of the Secretary of State under this Act; or
 - (b) any functions of the Secretary of State under any other enactment with respect to the maintenance or improvement of, or other dealing with, any trunk road or other land comprised in the crossing.
- 15 Making such provision as in the opinion of the Secretary of State is required for making payments to or in respect of persons employed by him or by any person appointed to collect tolls on his behalf whose contracts of employment are terminated in consequence of tolls ceasing to be leviable.
- 16 Making such provision as in the opinion of the Secretary of State is equivalent to that which would be required—
- (a) for keeping the works comprised in the crossing and any additions to or improvements of those works insured during the relevant period against damage not amounting to complete destruction of all works so comprised;
 - (b) for insuring against liabilities arising from the Secretary of State's ownership or occupation of any such works, additions or improvements, or from anything done or omitted in the course of any operations carried out by or on behalf of the Secretary of State in the exercise of any of his functions under this Act or of any functions mentioned in paragraph 14(b) above;
- if those works, and any such additions or improvements, were owned and maintained by a commercial undertaking.
- 17 Meeting all expenses (not falling within paragraph 8(3) above or within any of the preceding paragraphs of this Part of this Schedule) which are incurred by the Secretary of State in consequence of this Act.
- 18 Provision for interest on any deficiency which may arise during any period in revenue from relevant receipts and assumed interest receipts, as compared with the amounts which would be required during that period for the purposes mentioned in paragraphs 11 to 17 above if such revenue and assumed receipts were applied for those purposes.