



Severn Bridges Act 1992

1992 CHAPTER 3

PART II

OPERATION OF SEVERN BRIDGES

Management of bridges etc.

15 Exercise of relevant functions by concessionaire

- (1) Where a concession agreement is subsisting on the appointed day, all relevant functions, or so many of them as are specified in the concession agreement, shall be exercisable by the concessionaire (instead of by the Secretary of State) during the concession period.
- (2) The functions concerned shall be exercised by the concessionaire in accordance with the concession agreement.
- (3) In exercising a function in accordance with this section the concessionaire shall not be regarded for any purpose as acting as the agent of the Secretary of State.
- (4) The concessionaire may enter into and carry into effect agreements with any person for any purpose connected with the exercise of any relevant function.
- (5) Nothing in this section or in the concession agreement shall prevent the Secretary of State from exercising a relevant function if he considers that it is in the public interest for him to do so.
- (6) Where a concession agreement is subsisting on the appointed day, no agreement made before that day under section 6 of the Highways Act 1980 (agreement between Secretary of State and council for delegation of functions to council) shall have effect on or after that day in so far as it relates to—
 - (a) the existing bridge or the highway carried by it, or
 - (b) the existing toll plaza area or the highway within it.

16 Delegation of relevant functions

- (1) The Secretary of State may by an agreement under this section delegate any relevant function which is not for the time being exercisable by the concessionaire to any person (other than a council to which it may be delegated under section 6(1) of the Highways Act 1980).
- (2) Functions delegated by an agreement under this section shall be exercised in accordance with such conditions as the Secretary of State may attach to the delegation; and the delegation shall end in accordance with the agreement.
- (3) In exercising a function delegated by an agreement under this section the person to whom it is delegated shall act as agent for the Secretary of State.
- (4) A person to whom a relevant function is delegated by an agreement under this section may enter into and carry into effect agreements with any person for any purpose connected with the exercise of the function.
- (5) Nothing in this section or in an agreement made under it shall prevent the Secretary of State from exercising a relevant function if he considers that it is in the public interest for him to do so.
- (6) Where a function may be delegated by an agreement under this section to a person other than a council to which subsection (1) of section 6 of the Highways Act 1980 applies, the function may also be delegated to such a council in accordance with that subsection (if it could not be apart from this subsection).

17 Grant to concessionaire of interests in land

- (1) The Secretary of State may grant to the concessionaire a lease or other interest in or right over any land if it appears to the Secretary of State expedient to do so for the purpose of or in connection with the exercise by the concessionaire of the functions conferred or imposed on him under the concession agreement or under or by virtue of this Act.
- (2) No enactment or rule of law regulating the rights and obligations of landlords and tenants shall prejudice the operation of an agreement between the Secretary of State and the concessionaire as to the terms on which land which is the subject of a lease granted in pursuance of this section is to be provided for his use.
- (3) Accordingly, no such enactment or rule of law shall apply in relation to the rights and obligations of the parties to a lease granted in pursuance of this section—
 - (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 a 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 such a 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 an obligation of the other party under the lease.

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- (1) Where a concession agreement is subsisting on the appointed day, there shall be treated as made by Avon County Council to the concessionaire on that day a transfer of an undertaking, to which the Transfer of Undertakings (Protection of Employment) Regulations 1981 shall apply, in which all the persons specified in subsection (2) below are employed.
- (2) The persons referred to in subsection (1) above are persons who—
 - (a) immediately before the appointed day are employed by Avon County Council in connection with the collection of tolls under the Severn Bridge Tolls Act 1965 or the maintenance or improvement of, or other dealing with—
 - (i) the existing bridge or the highway carried by it, or
 - (ii) the existing toll plaza area or the highway within it, and
 - (b) are designated, or of a description of persons designated, by an order made by the Secretary of State.
- (3) Where by reason of the application to a person of the Transfer of Undertakings (Protection of Employment) Regulations 1981 by virtue of subsection (1) above the person ceases to be employed by Avon County Council he shall not be treated for any purpose as having been made redundant.
- (4) Subsection (5) below has effect in relation to a pension to which paragraph 1 of Schedule 3 to the Pensions (Increase) Act 1971 (local government pensions) applies if the latest services in respect of which it is payable are services rendered at any time before the appointed day in connection with—
 - (a) the collection of tolls under the Severn Bridge Tolls Act 1965, or
 - (b) the maintenance or improvement of, or other dealing with—
 - (i) the existing bridge or the highway carried by it, or
 - (ii) the existing toll plaza area or the highway within it.
- (5) For the purposes of sub-paragraph (2) of that paragraph (funding of pension increases after transfer of functions), nothing occurring immediately before, on or at any time after the appointed day by reason of the operation of any provision of this Act or of the Highways Act 1980 shall be taken to amount to a transfer from Avon County Council to another authority of the function in connection with which the latest services were rendered.

19 Termination of concession agreement

- (1) Where the concession agreement terminates, there shall be transferred to the Secretary of State under this subsection all property, rights and liabilities of the concessionaire which, in accordance with the concession agreement, fall to be so transferred in the circumstances (not including any rights or liabilities relating to any person's employment).
- (2) There shall also be treated as made by the concessionaire to the Secretary of State on the termination a transfer of an undertaking, to which the Transfer of Undertakings (Protection of Employment) Regulations 1981 shall apply, in which all the persons specified in subsection (3) below are employed.
- (3) The persons referred to in subsection (2) above are persons—

Status: This is the original version (as it was originally enacted).

- (a) who immediately before the termination are employed by the concessionaire in connection with the collection of tolls or the exercise of relevant functions, and
 - (b) whose only or main place of work in that employment immediately before the termination is at the bridges or toll plaza areas.
- (4) All rights and liabilities of the concessionaire under any agreement or arrangement for the payment of pensions, allowances or gratuities to or in respect of—
 - (a) persons to whom subsection (2) above applies, or
 - (b) persons specified in subsection (5) below,
 shall be transferred to the Secretary of State under this subsection on the termination.
- (5) The persons referred to in subsection (4)(b) above are persons—
 - (a) who have ceased to be employed by the concessionaire before the termination but immediately before so ceasing were employed by him in connection with the collection of tolls or the exercise of relevant functions, and
 - (b) whose only or main place of work in that employment was at the bridges or toll plaza areas.
- (6) All property, rights and liabilities transferred under or by virtue of this section shall vest in the Secretary of State.

20 Termination: supplementary

- (1) Property vested in the Secretary of State under section 19 above shall vest free from any security to which it was subject immediately before the termination.
- (2) Where before the termination possession of such property has been taken by a person in pursuance of legal process or distress, the Secretary of State may recover that property from any person in possession of it without being required, as a condition of doing so, to meet a liability in respect of which that process or distress was issued or levied.
- (3) Subsection (1) above shall not affect a liability secured by a security from which such property is released by virtue of that subsection; and subsection (2) above shall not affect a liability in respect of which the process or distress was issued or levied.
- (4) Where a liability which, if it had subsisted immediately before the termination, would have fallen to be transferred to the Secretary of State under or by virtue of section 19 above has been discharged before termination, nothing in the Insolvency Act 1986 shall—
 - (a) affect the validity of anything done by the concessionaire or by any other person in discharging that liability,
 - (b) authorise a court to make an order affecting the property of, or imposing an obligation on, any person in consequence of or in connection with the receipt by that person or by any other person of a payment made, property transferred or other benefit provided by the concessionaire or by any other person in discharging that liability, or
 - (c) be treated as giving rise to a trust affecting money or property so transferred.
- (5) Subject to subsection (1) above, property vested in the Secretary of State under section 19 above shall be held by him subject to all covenants, conditions and restrictions subject to which the property was held by the concessionaire.

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- (6) A dispute between the Secretary of State and the concessionaire as to the property, rights or liabilities transferred under or by virtue of section 19 above shall be determined in accordance with the concession agreement.
- (7) A dispute between the Secretary of State and any person other than the concessionaire as to any such matter shall be determined by arbitration; and the arbitration shall be conducted by a single arbitrator agreed between the parties or, in default of agreement, appointed on the application of either party (after notice in writing to the other) by the President of the Law Society.
- (8) Subject to the concession agreement and to subsection (1) above, all agreements and other transactions entered into or effected by the concessionaire and subsisting immediately before the termination, in so far as they relate to property, rights or liabilities transferred to the Secretary of State under or by virtue of section 19 above, shall have effect with the substitution of the Secretary of State for the concessionaire.
- (9) Accordingly—
 - (a) such an agreement or transaction may be enforced by or against the Secretary of State, and
 - (b) references to the concessionaire in an agreement (whether or not in writing) and in a deed, bond, instrument or other document, so far as relating to property, rights or liabilities so transferred, shall be taken after the termination as referring to the Secretary of State.
- (10) Subject to the concession agreement, all legal and other proceedings begun before the termination and relating to property, rights or liabilities transferred to the Secretary of State under or by virtue of section 19 above, other than proceedings for enforcing a security from which such property is released by virtue of subsection (1) above, may be carried on with the substitution of the Secretary of State for the concessionaire; and such proceedings may be amended in such manner as may be necessary for that purpose.
- (11) In this section “security” means a mortgage, charge, lien or other security.