



Transport Charges &c. (Miscellaneous Provisions) Act 1954

1954 CHAPTER 64 2 and 3 Eliz 2

6 Revision of charges by independent harbour undertakings, etc.

- (1) This section shall apply to any independent statutory undertaking, being—
- (a) ^{F1}
 - (b) an inland waterway undertaking, . . . ^{F2}, or
 - (c) a ferry undertaking, other than an undertaking acquired under the ^{M1}Ferries (Acquisition by Local Authorities) Act 1919, [^{F3}or a ferry undertaking which is operated by or on behalf of [^{F4}the Strathclyde Passenger Transport Executive or a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]]; or
 - (d) an undertaking engaged in the maintenance of a bridge; or
 - (e) ^{F5}
 - (f) one of any other class of undertakings connected with transport which the Minister may from time to time by order declare to be a class of undertakings to which this section applies:

Provided that this section shall not apply to any undertaking in relation to any charge if the statutory provisions relating to that undertaking confer a power of revising that charge on [^{F6}the Secretary of State] and some other Minister acting together.

- (2) An application may be made to the Minister at any time—
- (a) by the undertakers; or
 - (b) by any person, or any body representative of persons, appearing to the Minister to have a substantial interest,

for the revision of any of the charges which the undertakers are for the time being authorised to demand and take in pursuance of any statutory provision; and if on any such application the Minister is satisfied that under the circumstances then existing it is proper so to do, he may, subject to the provisions of this section, make an order revising in such manner as he may think fit, with effect from such date as may be specified in the order, all or any of the said charges, whether or not the subject matter of the

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application, including any classification by reference to which the amount of any of those charges is to be determined; and any such order shall have effect notwithstanding anything in any statutory provision relating to the subject matter of the order:

Provided that—

- (i) the Minister shall not vary any charge other than those to which the application relates except after consultation with the undertakers and such other persons, or such bodies representative of other persons, appearing to him to have a substantial interest as may appear to him appropriate;
 - (ii) where on any application under this section for an increase or a decrease in any charge the Minister has made an order or has decided that it is not proper to make an order, the Minister shall not entertain an application for a further increase or, as the case may be, a further decrease in that charge, or for a further revision of any other charge revised by the order, if any, so made, if that application is made before the expiration of a period of twelve months from the date of the making of the order or, as the case may be, from the date when the Minister gave notice of his decision not to make an order;
 - (iii) where the statutory provisions in force with respect to any particular undertaking on the third day of September, nineteen hundred and thirty-nine, authorised a maximum for any charge and made no provision for its revision, an order under this subsection shall not revise that charge so as to make it lower than the maximum so authorised;
 - (iv) where immediately before the commencement of this Act, or, in the case of an undertaking such as is referred to in paragraph (f) of subsection (1) of this section, immediately before the coming into force of the order therein mentioned, the undertakers were required by any statutory provision then in force to keep charges levied according to classes of voyages or otherwise in definite proportions, the Minister shall not make an order revising any of those charges which does not maintain the same proportions.
- (3) In making any order on an application under this section, the Minister shall have regard to the financial position and future prospects of the undertaking and shall not make any revision of charges which in his opinion would be likely to result in the undertaking receiving an annual revenue either substantially less or substantially more than adequate to meet such expenditure on the working, management and maintenance of the undertaking and such other costs, charges and expenses of the undertaking as are properly chargeable to revenue, including reasonable contributions to any reserve, contingency or other fund and, where appropriate, a reasonable return upon the paid up share capital of the undertaking:
- Provided that where the Minister is satisfied that, in view of the financial position of the undertaking during such period immediately preceding the application as may appear to him appropriate, there are special circumstances affecting the undertaking, the Minister may make such revision of charges as he may consider just and reasonable in the light of those special circumstances, notwithstanding that it is in his opinion likely to result in the undertaking receiving an annual revenue substantially less than adequate for the purposes aforesaid.
- (4) Where an application is made under this section, the applicant and, where the application is made otherwise than by the undertakers, the undertakers shall furnish the Minister with such information and particulars, certified in such manner, as the Minister may require, and the applicant shall publish in such newspapers as the Minister may require a notice stating—
- (a) the general effect of the application; and

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- (b) that within a period of forty-two days from the date of the first publication of the notice any person having a substantial interest may object to the application by giving notice to the Minister accompanied by the grounds of his objection with a copy to the applicant.
- (5) Before making an order on an application under this section, the Minister shall, if required by the applicant or by any person who has objected to the application and has not withdrawn his objection or, where the order would vary any charge other than those to which the application relates, by any person or body with whom he has consulted in pursuance of paragraph (i) of the proviso to subsection (2) of this section, and in any other case may if he thinks fit, cause a local inquiry to be held by such person as he may appoint for the purpose; and where such an inquiry is held [^{F7}subsections (2) to (5) of section 250 of The ^{M2}Local Government Act 1972], or, where the inquiry is held in Scotland, [^{F8}subsections (2) to (8) of section 210 of the ^{M3}Local Government (Scotland) Act 1973], shall apply to that inquiry as if it were an inquiry held in pursuance of subsection (1) of that section and the undertakers were a local authority.
- (6) Any order under subsection (1) or subsection (2) of this section shall be made by statutory instrument, and an order made under the said subsection (2) may vary or revoke any previous order made under that subsection.
- (7) Nothing in this section shall apply to any charge which, by the statutory provisions authorising the charge, is left to the discretion of the undertakers without any restriction or subject only to a requirement that the charge shall be reasonable; and for the purposes of the promotion by any undertaking of a Bill, or of the making with respect to any undertaking of a Provisional Order, being a Bill or Order containing a provision revising any of the charges authorised to be demanded and taken by that undertaking, it shall be deemed, notwithstanding the passing of this section, that the objects of that provision cannot be attained except with new authority from Parliament.

Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

Textual Amendments

- F1** S. 6(1)(a) repealed by [Harbours Act 1964 \(c. 40\)](#), [Sch. 6](#)
- F2** Words repealed by [Transport Act 1962 \(c. 46\)](#), [Sch 12 Pt. I](#)
- F3** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 18 para. 25](#)
- F4** Words in s. 6(1)(c) substituted (1.4.1996) by 1994 c. 39, s. 180(1), [Sch. 13 para. 43](#); S.I. 1996/323, [art. 4](#)
- F5** S. 6(1)(e) repealed by [Harbours Act 1964 \(c. 40\)](#), [Sch. 6](#)
- F6** Words substituted by virtue of [S.I. 1959/1768](#) (1959 I, p. 1793), art. 3(2), 1970/1681, arts. 2, 6(3), 1976/1775, art. 2(1), 1979/571, arts. 2(1), 3(5) and 1981/238, arts. 2(2), 3(2)-(4)
- F7** Words substituted by virtue of [Local Government Act 1972 \(c. 70\)](#), [s. 272 \(2\)](#)
- F8** Words substituted by virtue of [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [s. 237\(2\)](#)

Modifications etc. (not altering text)

- C1** S. 6 amended (E.W.) by [Local Government Act 1972 \(c. 70\)](#), [s. 186\(6\)](#)
- C2** S. 6 excluded by 1980 c. x s. 92D (as substituted) (1.7.2004) by [Mersey Tunnels Act 2004 \(c. ii\)](#), [Sch. 1 para. 1](#)
- C3** S. 6(3) modified (5.7.1994) by 1994 c. viii, [s. 47](#).

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Marginal Citations**M1** 1919 c. 75.**M2** 1972 c. 70**M3** 1973 c. 65

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