

## SCHEDULES

### SCHEDULE 14

Article 42

#### LEVEL OF TOLLS

#### PART 1

##### *Initial toll level*

1. On and from the appointed day the tolls chargeable in respect of any vehicle or class of vehicles shall be at such levels as subsist on the day prior to the appointed day and shall remain at that level until revised in accordance with the following provisions of this Schedule.

##### *Revision of toll levels between appointed day and the concession toll date*

2.—(1) The tolls payable in respect of any vehicle or class of vehicles set out in the 2001 Order may be revised by the undertaker between the appointed day and the day prior to the concession toll date provided that no more than one revision may be made in respect of any such vehicle or class of vehicles in any period of 12 months.

(2) No revision of tolls pursuant to this paragraph shall result in a toll which exceeds the specified limits.

(3) In this paragraph—

“2001 Order” means the Tyne Tunnel (Revision of Tolls and Traffic Classification) Order 2001(1);

“class 2 vehicle” means a vehicle comprised in Class 2 set out in the 2001 Order;

“non-class 2 vehicle” means any vehicle other than a Class 2 vehicle comprised in any class set out in the 2001 Order; and

“specified limits” means—

- (a) in respect of a class 2 vehicle a toll which is 80 pence higher than the toll payable in respect of such a class 2 vehicle under the 2001 Order at the appointed day; and
- (b) in respect of a non-class 2 vehicle at any time, a toll which is twice the amount payable in respect of such a class 2 vehicle.

3.—(1) Whenever the undertaker proposes to revise the amount of tolls that may be levied in respect of any vehicle or class of vehicles pursuant to paragraph 2 the undertaker shall publish in at least one local newspaper circulating in the area in which the tunnel crossing is situated, a notice substantially in the form set out in Part 2 of this Schedule.

(2) The undertaker may charge the tolls set out in a notice given under sub-paragraph (1) from the effective date.

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*Toll levels on and from the concession toll date*

- 4.—(1) The undertaker may at any time within a period of 7 years from the appointed day—
- (a) determine the level of tolls to be chargeable from the concession toll date in respect of any vehicle or class of vehicles; and
  - (b) determine the classification of vehicles or classes of vehicles in respect of which tolls may be charged from the concession toll date.
- (2) The undertaker shall publish in at least one local newspaper circulating in the area in which the tunnel is situated, a notice substantially in the form set out in Part 2 of this Schedule stating the level of tolls and any classification of vehicles or classes of vehicles determined in accordance with sub-paragraph (1).
- (3) The undertaker may charge the tolls set out in a notice given under sub-paragraph (2) in respect of the vehicles or classes of vehicles set out in that notice from the concession toll date.
5. The undertaker may exercise its powers under paragraph 4(1) on one occasion only.
- 6.—(1) The tolls chargeable in respect of any vehicle or class of vehicles following the concession toll date shall remain at the levels determined by the undertaker pursuant to paragraph 4 unless revised in accordance with paragraph 7 or 9 or section 13 of the 1976 Act as amended by this Order.
- (2) The classification of vehicles or classes of vehicles in respect of which tolls may be charged shall remain as determined by the undertaker pursuant to paragraph 4 unless revised in accordance with section 13 of the 1976 Act as amended by this Order.
- 7.—(1) Subject to sub-paragraph (2), the amount of tolls to be charged in respect of any vehicle or class of vehicles following the concession toll date may if the undertaker so determines be revised to an amount arrived at by increasing the amount chargeable in the case of that vehicle or class of vehicles at that time by the same percentage as the percentage increase referred to in paragraph 8.
- (2) Where a toll level is to be revised in accordance with sub-paragraph (1) the amount which shall be revised is the toll level which would have been chargeable following the last revision of such toll level but for the operation of paragraph 18.
- (3) Following the revision of the toll level pursuant to sub-paragraph (1) the amount shall be further revised in accordance with paragraph 18.
8. The percentage increase referred to in paragraph 7 shall be the percentage increase between—
- (a) the retail prices index for August 2001 or, following a revision in tolls in accordance with this Schedule or section 13 of the 1976 Act as amended by this Order, the month which is 2 months before the month in which falls the date upon which the last revision in tolls took effect; and
  - (b) the retail prices index for the month 2 months prior to the month in which the change in the level of tolls is to have effect, or if no such index is available, the most recent month in respect of which the retail prices index has been published.
9. Where a revision of the level of tolls pursuant to paragraph 7 would be insufficient for the purposes set out in this paragraph the amount of tolls chargeable in respect of any vehicle or class of vehicles may if the undertaker so determines be increased to an amount required—
- (a) to pay the costs and expenses incurred in designing, constructing, managing, operating and maintaining the tunnel crossing or any costs associated with financing any of the same;
  - (b) to provide such funds as are or are likely to be necessary to discharge the obligations of the undertaker pursuant to a concession agreement;

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- (c) to pay the interest on, and repay the principal of monies borrowed in respect of, the existing tunnels;
- (d) to make payment into any maintenance or reserve fund provided in respect of the tunnel crossing; and
- (e) to provide funds for, to meet expenses incurred in or the cost of securing any necessary authority or consent for, and in constructing or in securing, the construction, maintenance and operation of, the new tunnel.

**10.** The amount of tolls to be charged in respect of any vehicle or class of vehicles may not be revised pursuant to paragraph 7 or 9 more than once in any period of 12 months.

**11.** The provisions of paragraphs 13 to 15 shall apply to any such revision as is referred to in paragraph 9.

**12.—(1)** Whenever the undertaker proposes to make a determination that the amount of tolls to be charged in respect of any vehicle or class of vehicles pursuant to paragraph 7 or 9 should be revised the undertaker shall publish in at least one local newspaper circulating in the area in which the tunnel is situated, a notice substantially in the form set out in Part 2 of this Schedule.

(2) Where paragraph 7 applies to any revision of tolls or paragraph 9 applies and no objections are received in the manner prescribed in paragraph 13, the undertaker may charge the tolls set out in a notice given under sub-paragraph (1) from the effective date.

#### *Local Inquiries*

**13.** Where paragraph 9 applies to any proposed revision and an objection is made by any person in writing and received by the undertaker on or before the expiration of 28 days from the date of the notice published in accordance with paragraph 12(1) and the objection is not withdrawn, the undertaker may not determine to revise the amount of any tolls until it has complied with the provisions of paragraphs 14 and 15.

**14.—(1)** Where any objections have been made in accordance with paragraph 12 the undertaker shall cause a local inquiry to be held for the purpose of considering the objections.

(2) The local inquiry shall be held by a person appointed by the Secretary of State.

(3) Subsections (2) and (3) of section 250 of the Local Government Act 1972<sup>(2)</sup> (power to summon and examine witnesses) shall apply to an inquiry held under this paragraph as they apply to an inquiry held under that section.

(4) The Tribunals and Inquiries Act 1992<sup>(3)</sup> shall apply to a local inquiry held under this paragraph as it applies to a statutory inquiry held by the Minister but as if in section 10(1) of that Act (statement of reasons for decision) the reference to any decision taken by the Minister were a reference to a decision taken by the undertaker.

(5) A local inquiry need not be held under this paragraph if all persons who have made objections have withdrawn their objections or if the Secretary of State is satisfied that a local inquiry is not necessary in the special circumstances of the case.

**15.—(1)** Where the undertaker has caused a local inquiry to be held the undertaker must, after considering the report of the person holding the local inquiry, either—

- (a) determine that the amount of tolls shall be revised to a sum not exceeding that set out in the notice referred to in paragraph 12, or

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(2) 1972 c. 70.

(3) 1992 c. 53.

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- (b) determine not to revise the amount of tolls.
- (2) The undertaker may charge the tolls determined pursuant to sub-paragraph (1) from the effective date.

*Further provision in respect of tolls*

**16.** Section 13 of the 1976 Act as amended by this Order shall apply to revisions of tolls to which this Schedule applies.

**17.** For section 13 of the 1976 Act there shall be substituted the following—

“**13.**—(1) If at any time it is represented in writing to the Secretary of State by the county council that in the circumstances then existing or in prospect—

- (a) all or any of the tolls fixed by or by virtue of this Act or the River Tyne (Tunnels) Order 2005 should be increased by more than the maximum permissible under article 42 of, and paragraph 2, 7 or 9 of Schedule 14 to, that Order, or
- (b) any classification of traffic then in force for the purposes of the levying of tolls should be revised,

the Secretary of State may, if he thinks fit, make an order increasing all or any of the tolls by more than the increase authorised by that article or revising any such classification of traffic.

(2) Where in accordance with paragraphs 2, 4, 7, 9 or 15 of Schedule 14 to the River Tyne (Tunnels) Order 2005 the county council determines that the level of tolls fixed by virtue of this Act or that Order should be revised, the county council shall submit to the Secretary of State—

- (a) notice of such determination;
- (b) evidence of compliance with the procedural requirements of Schedule 14 to the River Tyne (Tunnels) Order 2005; and
- (c) information illustrating how the revised toll has been calculated,

and the Secretary of State shall, before the expiration of 21 days from the receipt by him of such submissions which he considers to be satisfactory, and where he is also satisfied that the requirements imposed upon the county council by Schedule 14 to the River Tyne (Tunnels) Order 2005 have been complied with by the county council, make an order revising the tolls in accordance with the powers given to him by that schedule.

- (a) (3) An order made by the Secretary of State under subsection (1) or (2) shall come into effect 28 days from the date the order is made.
- (b) An order made by the Secretary of State under subsection (1) or (2) revising tolls or classifications of traffic shall cease to have effect on the coming into force of a subsequent order under subsection (1) or (2).
- (4) In the exercise of the powers conferred upon him by subsection (1), the Secretary of State shall have regard to—
  - (a) the financial position and future prospects of the tunnel crossing;
  - (b) the desirability of providing funds for and in meeting expenses incurred in securing any necessary authority or consent for, and in securing the construction and operation of, the new tunnel;
  - (c) such other matters of a transportation nature within the area as may be considered by the Secretary of State at that time to be relevant; and
  - (d) such other matters of an economic, environmental or social nature within that county as may be considered by the Secretary of State at that time to be relevant.

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(5) In the event of a representation being made to the Secretary of State under subsection (1) the county council shall furnish the Secretary of State with such information and particulars as the Secretary of State may require and shall publish in *The London Gazette* and in at least one local newspaper circulating in the area in which the tunnel crossing is situated, a notice stating—

- (a) the general effect of the representation;
- (b) the places at which copies of the representation may be inspected free of charge and copies thereof purchased and the price of such copies;
- (c) that within a period of 42 days from the date of the first publication of the notice, any person may object to the representation by giving notice to the Secretary of State accompanied by the grounds of his objection and sending a copy thereof to the county council; and
- (d) the Secretary of State's power to hold a local inquiry by virtue of section 63(1) of this Act.

(6) The power of the Secretary of State to hold a public inquiry under section 63(1) shall not apply in respect of orders to be made by the Secretary of State under subsection (2).

(7) The power of the Secretary of State to make an order under this section shall be exercisable by statutory instrument.”.

#### *General Provisions as to Tolls*

**18.** Any revision in tolls pursuant to the provisions of this Order or to the 1976 Act—

- (a) if it is neither a multiple of ten pence nor an amount which on division by ten produces a remainder of five pence shall be rounded to the nearest ten pence; and
- (b) if it is an amount which on division by ten produces a remainder of five pence shall be increased by five pence.

**19.—(1)** Subject to sub-paragraph (2), the references in this schedule to the retail prices index means the monthly United Kingdom index of Retail Prices (for all items) published by the Office of National Statistics.

(2) If that index is not published for any month these references shall be references to any substituted index or index figures published by that office for that month.

## PART 2

### THE RIVER TYNE (TUNNELS) ORDER 2005 (THE “ORDER”) NOTICE OF PROPOSED REVISION IN TOLLS

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The Tyne and Wear Passenger Transport Authority proposes to determine the tolls to be levied for use of the Tyne Tunnel Crossing in respect of the vehicles or classes of vehicles in column (a) of the table below to the amount set out in column (b) of that table.

(a) vehicle or class or vehicles	(b) toll

[Paragraph 2], [4], or [7] of Schedule 14 to the Order applies to the above revision in tolls. The revision in tolls will take effect 28 days after the Secretary of State has made an order varying tolls in accordance with section 13 of the Tyne and Wear Act 1976.] *or*

[Paragraph 9 of Schedule 14 to the Order applies to the above revision in tolls. Any objections to, or other representations about, the proposals should be sent to the Clerk, The Tyne and Wear Passenger Transport Authority, [address] on or before [expiry date for objections being 28 days after the date of the notice]. An objection or representation MUST (i) be received by the Clerk on or before [expiry date for objections], (ii) be made in writing, (iii) state the grounds of the objection or representation, (iv) indicate who is making the objection or representation, and (v) give an address to which correspondence relating to the objection or representation may be sent.

The Clerk may make objections and other representations public.]

Signed \_\_\_\_\_

Date \_\_\_\_\_

For and on behalf of the Tyne and Wear Passenger Transport Authority.