



Finance (No. 2) Act 1987

1987 CHAPTER 51

PART III

MISCELLANEOUS AND SUPPLEMENTARY

102 Government fees and charges.

- (1) This section applies where a Minister of the Crown or any other person has power under any enactment (whenever passed) to require the payment of, or to determine by subordinate legislation the amount of, any fee or charge (however described) which is payable to the Minister or to any other person who is required to pay the fee or charge into the Consolidated Fund (whether the obligation is so expressed or is expressed as a requirement to make the payment into the Exchequer).
- (2) In the following provisions of this section, a power falling within subsection (1) above is referred to as a “power to fix a fee” and, in relation to such a power,—
 - (a) “fee” includes charge;
 - (b) “the appropriate authority” means, if the power is exercisable by a Minister of the Crown or any Commissioners, that Minister or those Commissioners and, in any other case, such Minister of the Crown as the Treasury may determine ; and
 - (c) “the recipient” means the Minister or other person to whom the fee is payable.
- (3) In relation to any power to fix a fee, the appropriate authority or any Minister of the Crown with the consent of the appropriate authority may, by order made by statutory instrument, specify functions, whether of the recipient or any other person and whether arising under any enactment, by virtue of the [F¹EU] obligation or otherwise, the costs of which, in addition to any other matters already required to be taken into account, are to be taken into account in determining the amount of the fee.
- (4) In relation to any functions of the costs of which fall to be taken into account on the exercise of any power to fix a fee (whether by virtue of subsection (3) above or otherwise), the appropriate authority or any Minister of the Crown with the consent of the appropriate authority may, by order made by statutory instrument, specify matters which, in addition to any matters already required to be taken into account, are to

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1987, Section 102. (See end of Document for details)

be taken into account in determining the those costs, and, without prejudice to the generality of the power conferred by this subsection, those matters may include deficits incurred before as well as after the exercise of that power, a requirement to secure a return on an amount of capital and depreciation of assets.

- (5) No order shall be made under subsection (3) or subsection (4) above unless a draft of the order has been laid before, and approved by a resolution of, the House of Commons.
- (6) An order under subsection (3) or subsection (4) above has effect in relation to any exercise of the power to fix the fee concerned after the making of the order ; but no earlier exercise of that power shall be regarded as having been invalid if, had the order been made before that exercise of power, the exercise would have been validated by the order.
- (7) In this section—
- (a) “Minister of the Crown” has the same meaning as in the ^{M1}Ministers of the Crown Act 1975;
 - (b) “Commissioners” means the Commissioners of Customs and Excise or the Commissioners of Inland Revenue;
 - (c) “enactment” does not include Northern Ireland legislation, as defined in section 24(5) of the ^{M2}Interpretation Act 1978; and
 - (d) subject to paragraph (c) above, “subordinate legislation” has the same meaning as in the Interpretation Act 1978.
- (8) An Order in Council under paragraph 1(1)(b) of Schedule 1 to the ^{M3}Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which states that it only made for purposes corresponding to those of this section—
- (a) shall not be subject to sub-paragraphs (4) and (5) of paragraph 1 of that Schedule (affirmative resolution of both House of Parliament); but
 - (b) shall be subject to annulment in pursuance of a resolution of either House.

Subordinate Legislation Made

- P1** S. 102: s. 102 power exercised (22. 03. 1991) by [S.I.1991/811](#)
- P2** S. 102: for exercises of this power before 01. 02. 1991 see Index to Government Orders.
- P3** S. 102(4): s. 102(4) power exercised (08.05.1991) by [S.I.1991/1142](#)

Textual Amendments

- F1** Word in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with art. 3(2)(3), 4(2), 6(4)(5))

Modifications etc. (not altering text)

- C1** S. 102(3)(4) modified (30.6.1999) by [1999 c. 12, ss. 6\(2\), 9\(2\)](#)

Marginal Citations

- M1** 1975 c. 26.
- M2** 1978 c. 30.
- M3** 1974 c. 28.

Changes to legislation:

There are currently no known outstanding effects for the Finance (No. 2) Act 1987, Section 102.