



Transport Act 1962

1962 CHAPTER 46

PART III

TRANSPORT CHARGES AND FACILITIES

General

43 Charges and facilities: general provisions

(1) Subject to this Act.—

- (a) all charges schemes under Part V of the Transport Act, 1947, shall cease to have effect, and
- (b) no local enactment passed or made with respect to any particular undertaking so far as it limits the discretion of the persons carrying on that undertaking as to the charges to be made by them—
 - (i) for the carriage of passengers or goods,
 - (ii) for the use of any railway, or of any inland waterway by any ship or boat,
 - (iii) for services and facilities connected with the carriage of passengers or goods, or with the use of any railway, or of any inland waterway by any ship or boat, or
 - (iv) for services and facilities in or connected with a harbour,(whether by specifying, or providing for specifying, the charges to be made, or fixing, or providing for fixing, maximum charges, or otherwise) shall apply to the charges of the Boards.

(2) Paragraph (b) of the foregoing subsection shall not be read as exempting the Boards from any local enactment so far as it expressly provides for freedom from charges or otherwise prohibits the making of any charge.

(3) Subject to this Act and to any such enactment as is mentioned in the last foregoing subsection, the Boards shall have power to demand, take and recover such charges for

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their services and facilities, and to make the use of those services and facilities subject to such terms and conditions, as they think fit.

- (4) The Boards shall not be subject to the enactments listed in the Eighth Schedule to this Act (which—
- (a) impose a duty to afford reasonable services and facilities, and
 - (b) regulate liability for negligence in the carriage of goods, and
 - (c) authorise the revision of railway freight charges on complaint by competitors or traders).
- (5) No local enactment passed or made with respect to any particular undertaking so far as it imposes on the persons carrying on that undertaking—
- (a) a duty to connect, or afford facilities for the connection of, any siding to a railway, or
 - (b) a duty to permit privately owned railway wagons to be used on a railway owned or operated by them, or
 - (c) a duty (otherwise than to a named person, or to the successors of a named person, or for the benefit of specified lands) to provide or maintain any other railway services or facilities (including the provision of stations, sidings or carriages and of any services, facilities or amenities connected therewith),
- or so far as it otherwise makes provision corresponding to any of the enactments listed in the Eighth Schedule to this Act, shall apply to any of the Boards.
- (6) None of the Boards shall be regarded as common carriers by rail or inland waterway.
- (7) The Boards shall not carry passengers by rail on terms or conditions which—
- (a) purport, whether directly or indirectly, to exclude or limit their liability in respect of the death of, or bodily injury to, any passenger other than a passenger travelling on a free pass, or
 - (b) purport, whether directly or indirectly, to prescribe the time within which or the manner in which any such liability may be enforced,
- and any such terms or conditions shall be void and of no effect.
- (8) The services and facilities referred to in subsection (3) of this section include, in the case of the British Waterways Board, the use of any inland waterway owned or managed by them by any ship or boat.
- (9) Before the vesting date references in this section and in the following provisions of this Part of this Act to the Boards or to any of the Boards shall be construed, except so far as the context otherwise requires, as references to the Commission.

Passenger fares in London

44 Application of current passenger charges scheme in London

The Minister shall by order contained in a statutory instrument make such amendments in the charges scheme relating to passengers which is in operation under Part V of the Transport Act, 1947, immediately before the date on which this section comes into force as appear to him to be necessary for the purpose of limiting the application of the scheme—

- (a) to charges for the carriage of passengers by railway on journeys wholly within the London Passenger Transport Area, and

(b) to charges for the carriage of passengers by road on routes wholly or partly within the London special area,
including in each case any provision of the scheme as to the luggage which a passenger is entitled to take with him and the charges, if any, to be made in respect of that luggage ; and that scheme, as so amended, shall continue in force on and after that date and apply to the London Board and the Railways Board.

45 Transport Tribunal's power to make orders

- (1) The Transport Tribunal shall, subject to and in accordance with the provisions of this Part of this Act, have power to make orders as respects the following charges of the London Board and the Railways Board, that is to say—
- (a) charges for the carriage of passengers by railway on journeys wholly within the London Passenger Transport Area, and
 - (b) charges for the carriage of passengers by road on routes wholly or partly within the London special area except—
 - (i) charges for any service or part of a service which is the subject of a road service licence, and
 - (ii) charges for carriage in contract carriages,
- and any such order may include provisions as to the luggage which a passenger is entitled to take with him and as to the charges, if any, to be made in respect of that luggage.
- (2) An order under this section may vary or revoke the charges scheme continued in force by the last foregoing section or any previous order under this section, and the said scheme and any orders for the time being in force under this section are hereinafter referred to as " the London fares orders".
- (3) Any order under this section shall comply with the following requirements, that is to say—
- (a) it shall fix maximum charges except in cases where it appears not to be reasonably practicable or to be undesirable so to do ;
 - (b) in cases in which no maximum charge is fixed it shall authorise the making of such charges as may be reasonable and provide for any questions as to the reasonableness of any such charge being determined, on the application either of the Board making the charge or of the person liable to be charged, by the Transport Tribunal, to the exclusion of any other court;
 - (c) it shall, save as aforesaid and subject to the provisions of this Act, secure that the charges to be made are left to the discretion of the Board concerned and that no limitations are imposed on that discretion ;
 - (d) it shall secure that the Board concerned have to publish maximum charges but do not have to publish any other charges.
- (4) In exercising their power to make orders under this section, the tribunal shall do nothing which will in the opinion of the tribunal prevent the London Board and the Railways Board from levying charges which make a proper contribution to the discharge of their financial duty, taking into account their present circumstances and future prospects and any directions given to them by the Minister under this Act.

In this subsection " financial duty " means the duty imposed by subsection (1) of section eighteen of this Act and includes, in the case of the Railways Board, the duty imposed by subsection (4) of section twenty-two of this Act.

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- (5) Where the tribunal make, or decline to make, an order under this section, they shall furnish a written statement of the reasons for their decision to the applicant and to every other person entitled to be heard on the application.
- (6) It shall be the duty of the said two Boards to give to the tribunal all such assistance as is necessary or as the tribunal may require for the purpose of exercising their power to make orders under this section.

46 Applications for orders

- (1) An application for an order under the last foregoing section may be made to the Transport Tribunal—
 - (a) by the London Board or by the Railways Board, or
 - (b) by any representative body,and shall be accompanied by a written case in support of the application.
- (2) The London Board and the Railways Board may make a joint application under this section.
- (3) The Transport Tribunal shall not entertain any application under this section by a representative body where in their opinion the application relates to a matter—
 - (a) which has been the subject of consideration by the tribunal within the twelve months preceding the making of the application, or
 - (b) which is of such magnitude that it should not be dealt with except as the result of such a review as is provided for by the next following section.
- (4) The London Board and the Railways Board shall make such applications under this section as appear to them to be necessary in order to secure that their charges subject to the London fares orders make a proper contribution to the discharge of their financial duty, taking into account their present circumstances and future prospects and any directions given to them by the Minister under this Act.

In this subsection " financial duty " has the same meaning as in subsection (4) of the last foregoing section.

- (5) Where an application is made under this section (not being an application which the tribunal refuse to entertain) the person making the application shall publish it in such manner as the tribunal may direct together with a notice stating where copies of the written case submitted in support of the application are available and specifying the time and manner (which shall be determined by the tribunal) in which objections to the application and other representations with respect thereto may be lodged with the tribunal by either of the Boards or by any representative body.
- (6) As soon as may be after the time for lodging objections and representations has elapsed, the tribunal shall hold a public inquiry and shall at that inquiry hear the applicant and (where they are not the applicant) the Boards, and any representative body which has duly lodged with the tribunal an objection or other representation with respect to the application.
- (7) The Transport Tribunal shall not vary any charge other than those to which the application relates unless the tribunal is satisfied that the Board concerned and such other persons as appear to the tribunal to have a substantial interest have had an opportunity of being heard thereon but, subject to that, the tribunal may on the application make such order, if any, as they think fit, and particulars of the order shall,

unless the tribunal determine that in all the circumstances publication is unnecessary, be published in such manner as the tribunal may specify.

- (8) In this and the next following section the expression " representative body " means any body representative of, or of any section of, passengers travelling on journeys or routes the charges for which are subject to the London fares orders, and—
- (a) the London County Council, the council of any metropolitan borough and the Common Council of the City of London, and
 - (b) the council of any county or county borough outside the county of London but wholly or partly within the London Passenger Transport Area, and
 - (c) the council of any non-county borough or urban district wholly or partly within that Area and having a population of not less than fifty thousand according to the last census for the time being.

47 Review of London fares

- (1) The Minister may at any time require the Transport Tribunal to review the operation of the London fares orders.
- (2) The tribunal shall give notice of any such requirement to the London Board and the Railways Board, and shall require the London Board to publish notice thereof in such manner as the tribunal may specify, together with a notice specifying the time and manner (which shall be determined by the tribunal) in which representations may be lodged with the tribunal by any representative body.
- (3) As soon as may be after the time for lodging representations has elapsed, the tribunal shall hold a public inquiry and shall at that inquiry hear both the Boards and any representative body which has duly lodged a representation for the purposes of the review.
- (4) The tribunal may then under section forty-five of this Act make such order, if any, as they think fit and particulars of the order shall, unless the tribunal determine that in all the circumstances publication is unnecessary, be published in such manner as the tribunal may determine.

48 Special procedure for temporary authorisation of increased charges

- (1) If it appears to the London Board or the Railways Board that there has been or will be an increase in costs or a fall in revenue which will seriously affect their financial position unless met quickly by an increase in their charges subject to the London fares orders, they may by notice published in the London Gazette and in such other manner as may appear to them best adapted for informing persons affected, declare that all or any of their maximum charges fixed under the London fares orders are to be treated, as from a date specified in the notice, as increased by such amounts as may be so specified in relation to those maximum charges respectively; and the notice shall have effect notwithstanding anything contained in, or having effect under, the foregoing provisions of this Part of this Act.
- (2) A notice under this section shall contain a brief statement of the grounds on which it is given.
- (3) Neither of the Boards shall, by means of a notice or notices having effect at any one time under this section, make increases in charges which appear to them to bring about

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an increase in their revenue from charges subject to the London fares orders exceeding ten per cent.

- (4) Within one month, or such longer period as the Minister may allow, from the publication of a notice under this section in the London Gazette, the Board by whom the notice was given shall apply under section forty-six of this Act to the tribunal for the alteration of all or any of their fares subject to the London fares orders (whether or not all or any of those specified in the application were the fares affected by the notice).
- (5) The written case submitted in support of the application shall also set out the grounds on which the Board gave the notice.
- (6) The London Board and the Railways Board may give a joint notice under subsection (1) of this section.
- (7) When the Transport Tribunal determine any application in pursuance of this section they shall by order fix a date for the termination of the relevant notice under this section.

49 Transitional provisions

The transitional provisions in Part II of the Seventh Schedule to this Act shall have effect for the purposes of the foregoing provisions of this Part of this Act relating to passenger fares in London.

Charges and conditions at harbours

50 Port charges and conditions at harbours

- (1) The provisions of the Ninth Schedule to this Act shall have effect as regards the powers of the Boards to make port charges at the harbours specified in that Schedule.
- (2) Subsection (3) of section forty-three of this Act shall not authorise the Boards to make the use of their services and facilities at the said harbours subject to any term or condition which the Boards would not be able to impose apart from that subsection.
- (3) In this and the next following section, and in the Ninth Schedule to this Act—
 - " port charges" in relation to a harbour means ship, passenger and merchandise dues, and charges for any other services and facilities provided in, or in connection with, a harbour but does not include charges for the carriage of merchandise or passengers on any railway, charges for the use of any railway or charges in respect of railway wagons ;
 - " ship, passenger and merchandise dues " means charges for—
 - (a) any ship entering, using or leaving a harbour,
 - (b) any passengers embarking or disembarking at a harbour, and
 - (c) merchandise shipped or unshipped into or from a ship entering, using or leaving any harbour;
 - " charges for any ship entering, using or leaving a harbour " includes charges made on any such ship in respect of marking and lighting the harbour;
 - " merchandise " includes goods, fish, livestock and animals of all descriptions, and minerals.

51 Revision of harbour dues

- (1) An application may be made to the Minister—
 - (a) by the Docks Board, the Railways Board or the British Waterways Board, 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 limitations on ship, passenger and merchandise dues imposed in respect of any harbour by paragraph 1, paragraph 2 and sub-paragraph (2) of paragraph 3 of the Ninth Schedule to this Act.
- (2) On an application relating to dues at a harbour to which paragraph 3 of the said Schedule applies the Minister may take into review and regulate by order under this section any ship, passenger and merchandise dues which are subject to the limitation imposed by sub-paragraph (3) of that paragraph.
- (3) The Minister shall not under this section vary any charge other than those to which the application relates except after consultation with the Board concerned and such other persons, or such bodies representative of such other persons, appearing to him to have a substantial interest as may appear to him appropriate.
- (4) On an application under this section the applicant and, where the application is not made by the Board concerned, the Board 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
 - (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 may, if he thinks fit, cause an inquiry to be held and shall do so 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 subsection (3) of this section.
- (6) If on an application under this section the Minister is satisfied that in 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 ship, passenger and merchandise dues at the harbour in question, whether or not the subject-matter of the application, including any classification by reference to which the amount of any of those dues is to be determined.
- (7) In making any order on an application under this section, the Minister shall have regard to the financial position and future prospects of the Board concerned in respect of the harbour in question and shall not make any revision of the charges which, in his opinion, would be likely to result in the Board receiving an annual revenue from that harbour either substantially less or substantially more than adequate to meet the expenses and charges of the Board in respect of the harbour which are properly chargeable to revenue:

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Provided that the Minister may make an order which results in the Board receiving an annual revenue from the harbour which is substantially less than adequate to meet those expenses and charges if he is satisfied that, in view of the financial position of the Board with respect to the harbour during such period immediately preceding the application as may appear to him to be appropriate, there are special circumstances affecting the harbour.

- (8) Any order made under this section shall be made by statutory instrument and may vary or revoke any previous order so made.
- (9) The Minister may refuse to entertain an application under this section where the application relates to a matter which has been the subject of consideration by him under this section within the twelve months preceding the making of the application.
- (10) Subject to the last foregoing subsection an application may be made under this section at any time.
- (11) For the purposes of the promotion by any of the Boards of a Bill, or of the making of a Provisional Order, being a Bill or Order containing a provision revising any of the dues authorised for any harbour under this Act, it shall be deemed, notwithstanding this section, that the objects of that provision cannot be attained except with new authority from Parliament.

Miscellaneous

52 Independent railway and inland waterway undertakings

- (1) Sections three and four of the Transport Charges, &c. (Miscellaneous Provisions) Act, 1954 (under which charges schemes under the Transport Act, 1947, may be applied to independent undertakings), together with any orders under those sections, shall cease to have effect, and the enactments listed in the Eighth Schedule to this Act shall cease to have effect not only as regards the Boards but also as regards any other undertakings.
- (2) Paragraph (b) of subsection (1), and subsections (2), (3), (5) and (6) of section forty-three of this Act shall apply to any independent railway undertaking or independent inland waterway undertaking, subsection (7) of that section shall apply to any independent railway undertaking, and subsection (8) of that section shall apply to any independent inland waterway undertaking, as those subsections apply to the Boards.
- (3) Paragraph (b) of subsection (1) of section six of the Transport Charges &c. (Miscellaneous Provisions) Act, 1954 (which relates to the revision of charges), shall not apply to any inland waterway undertaking which is an independent inland waterway undertaking within the meaning of this section.
- (4) In this section—
 - " independent railway undertaking " means a railway undertaking not forming part of the undertaking of any of the Boards, being an undertaking the carrying on of which is authorised by, or by an order made under, an Act of Parliament;
 - " independent inland waterway undertaking " means an undertaking not forming part of the undertaking of any of the Boards, being an undertaking engaged in conserving, maintaining, improving or working a canal or other inland navigation or the navigation of a tidal water, but does not include—

- (a) an undertaking none of the charges of which has been the subject of a Provisional Order made, and confirmed by Parliament, in pursuance of sections twenty-four and thirty-six of the Railway and Canal Traffic Act, 1888, or
 - (b) an undertaking forming part of a harbour undertaking if the inland waterway is situated wholly within the limits of the harbour, or
 - (c) an undertaking all or any of the charges of which are, under the statutory provisions relating to that undertaking, subject to revision by the Minister and some other Minister acting together ;
 - " railway " does not include—
 - (a) a light railway laid wholly or mainly along a public carriageway and used wholly or mainly for the carriage of passengers, or
 - (b) a railway which, under the statutory provisions relating thereto, is to be treated as forming part of a tramway, or
 - (c) a railway laid wholly or mainly over a beach or wholly along a pier, or
 - (d) a railway of the nature of a lift providing communication between the top and bottom of a cliff;
 - " undertaking " means an undertaking carried on in Great Britain.
- (5) This section shall apply to an independent railway undertaking or independent inland waterway undertaking whether or not the undertaking is also engaged in other activities, but shall not apply in respect of any such other activities.

53 Coastal shipping

- (1) If at any time a complaint is made to the Minister by any body appearing to him to be representative of the interests of persons engaged in coastal shipping as to—
- (a) the charges for the carriage of goods by rail made by the Railways Board in competition with coastal shipping, or
 - (b) the charges made by the Railways Board for the carriage by rail to or from any harbour of goods which are to be or have been carried by coastal shipping,
- the Minister may give directions to the Board with regard to the charges which are the subject of the complaint.
- (2) The Minister shall not give a direction under this section with regard to any such charges as are mentioned in paragraph (a) of the foregoing subsection unless it appears to him—
- (a) that the charges in question are inadequate having regard to the full cost of affording the service or services in respect of which they are made, and
 - (b) that a grant out of money provided by Parliament has been or is likely to be made under this Act to the Railways Board to meet a deficit on revenue account for the year in which those charges are made.
- (3) The Minister shall not give a direction under this section with regard to any such charges as are mentioned in paragraph (b) of subsection (1) of this section unless it appears to him—
- (a) that the charges in question are excessive having regard to the full cost of affording the service or services in respect of which they are made, and
 - (b) that the goods in question cannot reasonably be carried by coastal shipping unless they are carried by rail to or from the harbour specified in the complaint.

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- (4) If it appears to the Minister that a body making a complaint under subsection (1) of this section has a reasonable case to make in support of the complaint, he shall refer the complaint for investigation to a person appearing to him to have suitable qualifications for that purpose, and the Minister shall consider the report of that person before giving a direction upon the complaint under this section:

Provided that this subsection shall not apply to a complaint if it appears to the Minister that he has no power to give a direction upon the complaint by reason of paragraph (b) of subsection (2), or paragraph (b) of subsection (3), of this section.

- (5) If it appears to the Minister on a complaint by any such body as is mentioned in subsection (1) of this section—
- (a) that the Railways Board have refused to quote a charge for the carriage by rail to or from any harbour of goods which are to be or have been carried by coastal shipping, and
 - (b) that the goods in question cannot reasonably be carried by coastal shipping unless they are carried by rail to or from the harbour specified in the complaint,
- the Minister may give directions to the Board requiring them to quote a charge for the carriage in question.
- (6) The procedure on any complaint under this section (including any reference of the complaint for investigation) shall be such as the Minister may determine.
- (7) In this section, references to a charge made by the Railways Board for the carriage of any goods include references to a charge at which the Board hold themselves out as willing to carry any goods.
- (8) The Coastal Shipping Advisory Committee established under section seventy-one of the Transport Act, 1947, is hereby abolished.

54 Advance information about railway and shipping closures

- (1) With a view to giving the public advance notice of plans for the discontinuance of—
- (a) railway passenger or goods services provided by the Railways Board or the London Board, and
 - (b) shipping services provided by the Railways Board,
- the Railways Board or the London Board, as the case may be, shall from time to time publish in such manner and in such places in the United Kingdom as the Minister may direct such information as to their plans as the Minister may determine.
- (2) For the purposes of this section, any shipping service provided by the Caledonian Steam Packet Company Limited or the Caledonian Steam Packet Company (Irish Services) Limited shall, so long as the company providing the service is a subsidiary of the Railways Board, be deemed to be a service provided by that Board.