Shard Bridge Act 1975

CHAPTER xxxvi

ARRANGEMENT OF SECTIONS

Section

ELIZABETH II

1975 CHAPTER xxxvi

An Act to amend and repeal certain provisions of the Shard Bridge Act 1862; to confer new powers on the Shard Bridge Company; and for other purposes.

[12th November 1975]

WHEREAS—

(1) By the Shard Bridge Act 1862 (in this Act called "the Act of 1862") the Shard Bridge Company (in this Act called "the Company") were incorporated and authorised to construct a bridge (in this Act called "the bridge") across the river Wyre (in this Act called "the river") with approach roads thereto and to levy tolls: 1862 c. lxi.

(2) The Act of 1862 contains (inter alia) provisions under which the Company may be required to provide an opening span in the bridge, prohibiting the Company from taking more than two full tolls for passing or repassing in any one day and requiring the Company to provide ferry boats in case of accident to the bridge:

(3) It is expedient that the said provisions should be repealed:

(4) It is expedient that the Company should be empowered to prohibit, restrict or regulate the use of the bridge by all traffic or any class or classes of traffic:

(5) It is expedient that the powers of the Company should be extended and that certain other provisions of the Act of 1862 should be amended or repealed and that the other provisions contained in this Act be enacted:

(6) The objects of this Act cannot be attained without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1.—(1) This Act may be cited as the Shard Bridge Act 1975.

1862 c. lxi.

(2) The Shard Bridge Act 1862 and this Act may be cited together as the Shard Bridge Acts 1862 and 1975.

Interpretation.

2.—(1) In this Act, unless the subject or context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:—

" the Act of 1862 " means the Shard Bridge Act 1862;

" the bridge " and " the roads " mean respectively the bridge and the roads authorised to be constructed by the Act of 1862 including any subsidiary works constructed in connection with such bridge or roads;

" the Company " means the Shard Bridge Company;

" the county " means the county of Lancashire;

" the county council " means the council of the county;

" enactment " means any enactment, whether public general or local, and includes any order, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

" the river " means the river Wyre.

(2) References in this Act to any other enactment shall be construed as references to that enactment as amended by any enactment including this Act.

Power to compound for the payment of tolls and issue prepaid tickets.

3.—(1) The Company may compound and agree with any person for his passage or for the passage of any other person or of any traffic over, along or upon the bridge and the roads or any of them, or any part thereof respectively, on such terms and for such period as may be agreed.

(2) If the Company enter into a composition agreement under this section, every other person using the bridge and the roads or any of them, or any part thereof respectively, in like manner and in like circumstances may compound for the tolls payable by him upon like terms to those contained in such agreement.

(3) The Company may, if and so required, in accordance with and subject to the provisions of section 4 (Issue of tickets at a discount) of this Act, shall issue prepaid tickets which shall state their nominal value and such tickets may be surrendered to the toll collector in payment of all or any part of a toll according to the nominal value of the tickets surrendered.

Issue of tickets at a discount.

4. The following provisions of this section shall, unless otherwise agreed in writing between the Company and the council, apply and have effect:—

(1) The Company on request being made to them by any person for either one hundred or a multiple of one hundred prepaid tickets shall issue to that person the number of such tickets requested on payment by that person to the Company of the nominal value of such tickets less such discount as shall be determined from time to time in accordance with the provisions of subsection (2) and subsection (3) of this section:

(2) (*a*) The discount referred to in subsection (1) of this section shall for the period of one year commencing with the date of the coming into operation of this section and thereafter until altered in accordance with the following provisions of this subsection or subsection (3) of this section be 20 per centum;

(*b*) At any time and from time to time after the expiration of the said period of one year—

(i) the Company may give notice in writing to the council that they consider the discount should be decreased and of the amount of the decrease they propose;

(ii) the council may give notice in writing to the Company that they consider the discount should be increased and the amount of the increase they propose:

Provided that no notice shall be given pursuant to this paragraph during the period of two years following the coming into effect of a modification of the discount made in accordance with the provisions of this subsection or subsection (3) of this section;

(*c*) If within two months of the receipt of a notice under paragraph (*b*) of this subsection, the council or the

Company (as the case may be) do not signify their disapproval, they shall be deemed to have approved the proposed decrease or increase as the case may be and thereupon the discount as so decreased or increased shall be substituted for the discount referred to in subsection (1) of this section;

(*d*) If the council or the Company (as the case may be) signify their disapproval and do not withdraw the same the Company or the council (being the proponent of such decrease or increase) may refer to a single arbitrator the question whether such decrease or increase is reasonable and such arbitrator shall be appointed by agreement between the Company and the council or failing such agreement by the Secretary of State on the application of either of them after giving notice in writing to the other;

(*e*) The arbitrator, on a reference to him as aforesaid, shall if he considers that a decrease or increase in the discount would be reasonable determine the proper amount of such decrease or increase and the discount as modified in accordance with the arbitrator's determination shall, as from the date appointed by the arbitrator, be the discount for the purpose of the issue of tickets in accordance with the provisions of subsection (1) of this section:

(3) The Secretary of State on an application to him under section 6 of the Transport Charges, &c. (Miscellaneous Provisions) Act 1954 by the Company for a revision of the tolls which they are for the time being authorised to demand and take may, if he is satisfied that it would be proper to make an order increasing the tolls, modify the discount referred to in subsection (1) of this section either as part of or instead of such an order, and the discount as so modified shall as from such date as the Secretary of State determines, be the discount hereinbefore referred to:

1954 c. 64.

(4) The discount referred to in subsection (1) of this section shall not be altered under the provisions of subsection (2) or (3) of this section to an amount less than 10 per centum:

(5) This section shall not come into operation until the expiration of the period of two months beginning with the date on which this Act is passed:

(6) In this section the word " person " shall not include any body of persons whether corporate or unincorporate and the words " the council " mean the Wyre Borough Council.

5.—(1) Nothing in the Act of 1862 shall prejudice any existing right of Her Majesty including the exemptions and rights contained in section 184 of the Army Act 1955 and section 184 of the Air Force Act 1955. Exemption from tolls. 1955 c. 18. 1955 c. 19.

(2) Nothing in the Act of 1862 shall extend to authorise any tolls to be demanded or received from any person when on duty as a member of the naval forces of the Crown.

(3) The exemption conferred by this section shall also apply to—

(*a*) any animal or vehicle when being used in the service of the naval forces of the Crown or returning after being so used; and

(*b*) any other animal or vehicle when being used in the service of the Crown or of the authority in whose service the person is engaged (as the case may be) by a person to whom exemption is granted by the last foregoing subsection or returning after being so used.

(4) If any person with intent to defraud claims or takes the benefit of any exemption conferred by this section as aforesaid without being entitled thereto he shall be guilty of an offence.

6.—(1) If any person refuses or neglects to pay any toll or part thereof lawfully due from him, the persons appointed to be the toll collectors may refuse to permit the person so in default to pass through or by any toll gate or other place at which such toll might be paid and may, by themselves or with such assistance as they shall think necessary, stop and prevent the person so refusing or neglecting from passing through or by the same. Failure to pay tolls.

(2) If any person refuses or without reasonable excuse neglects to pay any toll when the same shall be demanded from him by virtue of the Act of 1862 or assaults or intentionally obstructs any person appointed to be a toll collector, he shall, without prejudice to any remedy of the Company for the recovery of such toll, be guilty of an offence.

7.—(1) The Company may by notice posted in accordance with subsection (2) of this section prohibit, restrict or regulate for not more than seven days from the date of such notice, the use of the bridge by all traffic or any specified class or classes of traffic where owing to the likelihood of danger to the public or of serious damage to the bridge, it appears to them necessary that such prohibition, restriction or regulation should come into force without delay. Power to restrict or close the bridge in an emergency.

(2) Any notice to be posted under subsection (1) of this section shall be displayed in a prominent position at each end of the bridge and the roads.

(3) (*a*) The Company shall—

(i) give as much notice as is reasonably possible in the circumstances to the county council and to the Lancashire Police Authority of their intention to exercise any of the powers conferred by subsection (1) of this section; or

(ii) where it is not practicable to give notice of their intention as aforesaid, give notice to the county council and to the said police authority of the exercise of any of their powers under the said subsection (1) as soon as reasonably practicable after the exercise of any such power but in any event not later than twenty-four hours after such exercise.

(*b*) Notice under paragraph (*a*) of this subsection may be given in writing or communicated orally and if communicated orally shall be communicated to such persons as are from time to time notified by the county council and the said police authority to the Company as being the proper persons to receive any such communication.

(4) A prohibition, restriction or regulation made by the Company under subsection (1) of this section shall not have effect whilst there is in force any notice or order given or made by the county council prohibiting, restricting or regulating to the like effect as the prohibition, restriction or regulation made by the Company, the use of the bridge by all or any class or classes of traffic.

(5) Nothing in this section shall relieve the Company from any obligation, whether statutory or otherwise, in respect of the maintenance or repair of the bridge.

Stopping up of highway over bridge.

8.—(1) Subject to the provisions of this section, the Secretary of State may, on an application made to him by the Company in accordance with the provisions of this section, by order authorise the stopping up of the highway carried by the bridge and such order shall take effect on a date to be determined by the Secretary of State and may contain such further provisions, including a provision directing the Company to remove the bridge, as the Secretary of State thinks fit.

(2) Before the Company shall make any application to the Secretary of State in pursuance of subsection (1) of this section they shall—

(*a*) consult with—

(i) the county council and the Fylde and Wyre Borough Councils; and

(ii) one or more organisations representing persons who use the bridge or are likely to be otherwise affected by the proposed stopping up of the highway unless it appears to the Company that there is no such organisation which can properly be consulted;

(*b*) publish in one or more local newspapers circulating in the county and in the boroughs of Fylde and Wyre a notice stating that—

(i) they propose to apply to the Secretary of State for an order stopping up the highway carried by the bridge;

(ii) within a period of twenty-eight days from the date of the first publication of the notice any person may by notice to the Secretary of State object to the proposal;

(*c*) publish a similar notice in the London Gazette;

(*d*) cause a copy of the said notice to be displayed in a prominent position at each end of the bridge and the roads.

(3) If objection to the proposed application is duly made to the Secretary of State and is not withdrawn the Secretary of State shall cause an inquiry to be held with respect thereto, unless he considers that it is unnecessary to hold any such inquiry having regard to the circumstances or the nature of the objection and subsections (2) to (5) of section 250 of the Local Government Act 1972 shall apply to any such inquiry as if it were an inquiry held in pursuance of subsection (1) of that section and the Company were a local authority. 1972 c. 70.

(4) The Secretary of State shall not make an order under subsection (1) of this section unless he is satisfied—

(*a*) that the requirements of paragraphs (*b*) to (*d*) of subsection (2) of this section have been fulfilled; and

(*b*) that either—

(i) the bridge by reason of its structural condition is unsafe for the passage of all traffic entitled to use it at the time of making the application under subsection (1) of this section and the Company are unable

to repair it so as to make it safe for the passage of all such traffic; or

(ii) suitable alternative means of crossing the river are available in place of the bridge.

(5) Subject to any directions given by the Secretary of State, the Company shall, as soon as may be after an order has been made pursuant to subsection (1) of this section, publish and post notices of the making and effect of such order in the newspapers and at the places mentioned in paragraphs (*b*) to (*d*) of subsection (2) of this section.

(6) For the purpose of determining what traffic is entitled to use the bridge at the time referred to in sub-paragraph (i) of paragraph (*b*) of subsection (4) of this section any temporary prohibition or restriction of traffic in force at that time shall be disregarded.

For protection of county council.

9. For the protection of the county council, the following provisions, unless otherwise agreed in writing between the Company and the county council, shall apply and have effect:—

(1) The county council or their consulting engineers may inspect the bridge at any time and may use all such equipment, plant and machinery as they consider necessary for the purpose of making such inspection provided that they shall make good any damage caused to the bridge in making such inspection:

(2) (*a*) Not later than six months after the date of the passing of this Act, and thereafter at intervals of not more than twelve months, the Company and the county council shall confer concerning the structural condition of the bridge;

(*b*) At each such conference the Company and the county council shall, subject to paragraph (3) of this section, agree the details and programme of the works required to maintain and repair the bridge so that it may carry in safety all traffic entitled to use it at the time of such conference:

(3) (*a*) If the Company and the county council cannot agree the details and programme of the works referred to in paragraph (2) hereof either party after giving notice in writing to the other party may refer the question of such works to an independent engineer for determination as an expert and not as an arbitrator and such engineer shall be appointed by agreement between the parties or in default of agreement or appointment, by the President

of the Institution of Civil Engineers on the application of either party who shall give notice in writing to the other party of such application;

(*b*) Before making his determination such engineer shall notify the Company and the county council of the time and place at which he will consider in consultation with the Company and the county council (or such of them as may appear) what works are required and when they should be carried out by the Company;

(*c*) In any consultation with such engineer the Company and the county council may each be represented by such persons authorised by them in that behalf as may be permitted by such engineer;

(*d*) The details and programme of the works determined by such engineer as being required shall be deemed to have been agreed between the Company and the county council as the works required to maintain and repair the bridge to the standard referred to in sub-paragraph (*b*) of paragraph (2) hereof:

(4) Subject to section 31 of the Land Drainage Act 1961 the Company shall take such steps as are in all the circumstances reasonable to carry out such details and programme of works as may be agreed or deemed to have been agreed between the Company and the county council in accordance with the foregoing provisions of this section: 1961 c. 48.

(5) For the purpose of determining what traffic is entitled to use the bridge at the time referred to in sub-paragraph (*b*) of paragraph (2) of this section any temporary prohibition or restriction of traffic in force at that time shall be disregarded.

Penalty for driving, etc., on bridge.

10. Any person (other than a person in the employment of the Company in the execution of any act necessary to the proper performance of his duty as such employee) who shall without reasonable excuse drive any vehicle or walk on, over or across the bridge in contravention of the terms of any notice under subsection (1) of section 7 (Power to restrict or close the bridge in an emergency) of this Act or in contravention of any order made by the Secretary of State under subsection (1) of section 8 (Stopping up of highway over bridge) of this Act shall be guilty of an offence.

Removal of the bridge.

11.—(1) If the Secretary of State makes an order under subsection (1) of section 8 (Stopping up of highway over bridge) of this Act directing the Company to remove the bridge, the Company shall, unless the order otherwise provides, as soon as

reasonably practicable after the order has come into operation, in accordance with the following provisions of this section and the provisions of section 13 (For protection of North West Water Authority) of this Act, take down and remove the bridge.

(2) The Company shall take down and remove to the satisfaction of the Secretary of State for Trade the bridge including such of its foundations, abutments and protective works in the river as the Secretary of State for Trade may direct and shall ensure so far as reasonably practicable that such taking down and removal does not unnecessarily obstruct or otherwise interfere with or impede navigation or the flow of the river.

(3) The Company shall, at or near the bridge during the whole time of the removal thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Secretary of State for Trade shall from time to time direct.

(4) Subject to the provisions of section 12 (Defence to proceedings under section 11 of this Act or section 40 of the Act of 1862) of this Act, if the Company fail to comply in any respect with a direction given under this section, they shall be liable on summary conviction to a fine not exceeding one hundred pounds.

(5) The Company may sell the structure and materials of the bridge.

Defence to proceedings under section 11 of this Act or section 40 of the Act of 1862.

12.—(1) In any proceedings for an offence under section 11 (Removal of the bridge) of this Act or under section 40 (Company to burn Lights, if required) of the Act of 1862, it shall be a defence for the Company to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(2) If in any case the defence provided by subsection (1) of this section involves the allegation that the commission of the offence was due to the act or default of another person the Company shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, they have served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that person as was then in their possession.

For protection of North West Water Authority. 1930 c. 44. 1961 c. 48.

13.—(1) The provisions of the Land Drainage Act 1930 and the Land Drainage Act 1961, and any restrictions or powers imposed or conferred by or under those Acts, shall apply and may be exercised in relation to the bridge and the lands occupied by the Company through which the river flows in the same manner

and to the same extent as they would have applied or been exercisable in relation thereto if this Act had not passed into law.

(2) For the purposes of sections 8 and 11 of this Act, section 31 of the Land Drainage Act 1961 shall have effect as if— 1961 c. 48.

(*a*) in subsection (2) after the word " alteration " there were inserted the word " removal ";

(*b*) in subsection (3) after the word " erect " there were inserted the word " remove "; and

(*c*) in subsection (5) after the words " the work " there were inserted the words " or take such other action as is required to secure that the work so executed complies with any consent or approval given under this section ".

(3) (*a*) Before the Company take down and remove the bridge they shall obtain such consent or approval to the works necessary for that purpose as may be required under the said section 31, as having effect in accordance with subsection (2) of this section, or, in the event of any question arising whether any such consent or approval is unreasonably withheld or whether any condition imposed is reasonable, a determination under that section with respect to that matter, and if the Secretary of State for Trade makes any requirement, or gives any direction, with respect to those works under section 11 (Removal of the bridge) of this Act which is inconsistent with any consent or approval given, or deemed to be given, under the said section 31, or any condition imposed under that section (or any such consent, approval or condition determined under that section, as the case may be) the Company shall, not less than two months before commencing the works, inform the North West Water Authority of the requirement or direction so made or given by the said Secretary of State.

(*b*) Subject to compliance with paragraph (*a*) of this subsection, if there shall be any inconsistency between any consent or approval given, or deemed to be given, under the said section 31, or any condition imposed under that section (or any such consent, approval or condition determined under that section, as the case may be) and any requirement or direction made or given by the said Secretary of State under the said section 11, the works to which such consent, approval or condition relate shall be carried out in accordance with the requirement or direction so made or given.

14. The Company may by ordinary resolution subdivide the existing shares, or any of them, into shares of smaller amounts. Subdivision of shares.

Service of notices, etc.

15. Subject to the provisions of this Act any notice, demand or other document which is required or authorised by or under this Act or the Act of 1862 to be given to or served on any person may be given or served either—

(*a*) by delivering it to that person; or

(*b*) by leaving it or sending it in a prepaid letter addressed to him, at his usual or last known residence; or

(*c*) in the case of an incorporated company or body, by delivering it to their secretary or clerk at their registered or principal office, or by sending it in a prepaid letter addressed to him at that office.

Penalties.

16.—(1) Any person who commits an offence against any of the provisions of this Act shall be liable on summary conviction to a fine not exceeding one hundred pounds.

(2) This section shall not apply to offences under section 11 (Removal of the bridge) of this Act.

Saving for highway authority.

17. Nothing in this Act shall derogate from the powers and duties conferred or imposed by any enactment on the highway authority in whose area the bridge is situate.

Amendment and repeal.

18.—(1) (*a*) Part I of Schedule 1 to this Act shall have effect for the purpose of making general amendments to the Act of 1862.

(*b*) The provisions of the Act of 1862 specified in column (1) of Part II of Schedule 1 to this Act are hereby amended as specified in column (2) of that Part.

(2) The provisions of the Act of 1862 specified in column (1) of Schedule 2 to this Act are hereby repealed to the extent specified in column (2) of that Schedule.

Costs of Act.

19. All costs, charges and expenses preliminary to and of and incidental to the applying for and the preparing, obtaining and passing of, this Act shall be paid by the Company.

SCHEDULES

SCHEDULE 1

Section 18.

PART I

GENERAL AMENDMENTS TO THE ACT OF 1862

For the words " carriage " and " carriages " wherever they occur there shall be substituted the words " vehicle " and " vehicles " respectively.

PART II

PROVISIONS OF THE ACT OF 1862 AMENDED

Provision (1)	Amendment (2)
Section 7 (Power to borrow on Mortgage)	For the words " Two thousand Pounds " there shall be substituted " £10,000 "; At the end there shall be added the following subsections:— " (2) In addition to the power to borrow money on mortgage conferred on the Company by subsection (1) of this section the Company may borrow by way of temporary loans or overdrafts from banks or otherwise any sums which they may temporarily require: Provided that the aggregate amount outstanding at any time of the moneys borrowed under this subsection shall not exceed £50,000. (3) The directors of the Company may exercise all the powers of the Company to borrow money under subsections (1) and (2) of this section and subject to subsection (4) of this section, sections 38 and 39 and 41 to 55 (which relate to the borrowing of money by a company on mortgage or bond) of the Act of 1845 shall apply in relation to any borrowing by the directors in exercise of the power conferred by subsection (1) of this section. (4) (*a*) In their application to any borrowing by the directors as aforesaid sections 38 and 39 of the Act of 1845 shall have effect as if there were omitted from the said section 38 the words from " such sums " to " Act " and from the said section 39 the words from " but such " to the end of the section. (*b*) Section 40 of the Act of 1845 shall not apply to the Company. (5) In this section "the Act of 1845" means the Companies Clauses Consolidation Act 1845.". 1845 c. 16.

SCH. 1 —*cont.*

Provision (1)	Amendment (2)
Section 10 (Number and Qualification of Directors)	For the word " be " where it first occurs there shall be substituted the words " not exceed ". For the words " Ten Shares " there shall be substituted the words " one share ".
Section 37 (Period for Completion of Works)	After the word " improve " there shall be inserted the words " widen, alter,".
Section 62 (Toll Collector to place his Name on Toll House)	The words from " and if " to the end of the section shall be omitted.
Section 68 (Penalty for damaging Bridge, &c. and other Offences)	For the words " Forty Shillings " there shall be substituted the words " one hundred pounds ". The paragraphs commencing with the words " First ", " Fourthly " and " Fifthly " respectively shall be omitted. In the paragraphs commencing with the words " Secondly " and " Seventhly " respectively there shall be inserted after the word " if " the words " without reasonable excuse ". For the word " wilfully " in the paragraph commencing with the word " Thirdly " there shall be substituted the words " intentionally and without lawful authority."
Section 73 (Recovery and Application of Penalties, &c.)	The words from " and all such " to the end of the section shall be omitted.

SCHEDULE 2

Section 18.

PROVISIONS OF THE ACT OF 1862 REPEALED

Provision	Extent of repeal
(1)	(2)
Section 7 (Power to borrow on Mortgage)	The words from " provided that the Company " to the end of the section.
Section 10 (Number and Qualification of Directors)	The words from " to " to the end of the section.
Section 42 (As to Opening Span)	The whole section.
Section 43 (Company not to detain any Vessels, &c.)	The whole section.
Section 46 (Company to provide Ferry Boats in case of Accident to Bridge)	The whole section.
Section 50 (Payment of Tolls)	The words from " provided that " in the second place where those words occur to the end of the section.
Section 52 (Power to vary the Tolls)	The whole section.
Section 53 (Tolls to be charged equally)	The whole section.
Section 56 (Exemptions from Tolls)	The whole section.
Section 57 (Seizures and Distresses of Horses, &c., for Tolls)	The whole section.
Section 58 (Sale of Distress for Toll and Charges of Distress, &c.)	The whole section.
Section 59 (For settling Disputes concerning Tolls and Distresses)	The whole section.
Section 66 (Penalty for evading Tolls)	The whole section.
Section 67 (Penalty for fraudulently passing Bridge, &c.)	The whole section.
Section 69 (Penalty for destroying Bridge, &c.)	The whole section.
Section 70 (Penalty for Offences by Toll Collector)	The whole section.
Section 74 (Service of Notices by Company)	The whole section.

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