

**CHAPTER xciv.**

An Act to make further provision as to the tolls and charges leviable by the Company of Proprietors of the Stourbridge Navigation to authorise the transfer to the Company of part of the Stourbridge Extension Canal and for other purposes. A.D. 1935.

[2nd August 1935.]

WHEREAS by the Act 16 Geo. III. cap. 28 mentioned in the First Schedule to this Act the Company of Proprietors of the Stourbridge Navigation (hereinafter called "the Company") were incorporated and under the powers of that Act and the other Acts mentioned in that schedule the Company are the owners of a system of canals known as the Stourbridge Navigation and consisting of a main canal connecting the Staffordshire and Worcestershire Canal with Stourbridge and two branch canals one of which leads to The Fens on Pensnett Chase and forms a connection with the Stourbridge Extension Canal of the Great Western Railway Company :

And whereas the maximum tolls and charges leviable by the Company in respect of merchandise traffic on the Stourbridge Navigation are prescribed by the Canal Tolls and Charges No. 3 (Aberdare &c. Canals) Order 1894 confirmed by the Canal Tolls and Charges No. 3 (Aberdare &c. Canals) Order Confirmation Act 1894 as amended by the Stourbridge Navigation Act 1914 :

And whereas by directions given by the Minister of Transport in pursuance of section 3 of the Ministry of

A.D. 1935. — Transport Act 1919 and dated the second day of September nineteen hundred and twenty the Company were empowered during the period mentioned in that section to charge in respect of their undertaking the tolls dues and charges specified in the directions viz. the tolls dues and charges in operation on the thirty-first day of July nineteen hundred and twenty with an addition thereto of 150 per centum :

And whereas by the Canals (Continuance of Charging Powers) Acts 1922 and 1924 and certain Expiring Laws Acts and finally by the Expiring Laws Continuance Act 1934 the increased tolls dues and charges authorised by the said directions have been from time to time continued in force and will expire on the thirty-first day of December nineteen hundred and thirty-five unless further continued by Parliament :

And whereas in order to enable the Company after the said thirty-first day of December nineteen hundred and thirty-five to charge adequate tolls and charges in respect of the Stourbridge Navigation it is expedient that the said Order of 1894 be amended as by this Act provided :

And whereas it is expedient to extinguish the rights of navigation on part of the said branch canal leading to The Fens on Pensnett Chase and to authorise the transfer to the Company by the Great Western Railway Company of part of the said Stourbridge Extension Canal as by this Act provided and that the other provisions of this Act be enacted :

And whereas the purposes of this Act cannot be effected without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted and be it enacted by the King'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 :—

1.—(1) This Act may be cited as the Stourbridge Navigation Act 1935.

(2) The Stourbridge Navigation Acts 1776 to 1914 and this Act may be cited together as the Stourbridge Navigation Acts 1776 to 1935.

Short and
collective
titles.

2. In this Act unless the subject or context otherwise requires—

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Interpre-
tation.

“ The Company ” means the Company of Proprietors of the Stourbridge Navigation ;

“ The navigation ” means all of the canals constructed under the powers of the Acts mentioned in the First Schedule to this Act and belonging to the Company at the passing of this Act ;

“ The Charges Order ” means the Canal Tolls and Charges No. 3 (Aberdare &c. Canals) Order 1894 as amended by section 4 of the Stourbridge Navigation Act 1914 ;

“ The appointed day ” means the first day of January nineteen hundred and thirty-six ;

“ Authorised tolls ” means the tolls and charges which the Company are for the time being authorised to levy in pursuance of the Charges Order as amended by this Act ;

“ Hay Wharf Bridge ” means the bridge in the parish of Kingswinford in the urban district of Brierley Hill carrying the road between Brierley Hill and Pensnett known as Pensnett Road and Commonside over the branch canal of the Company leading to The Fens on Pensnett Chase and includes the abutments of the bridge ;

“ The Wide Waters section ” means the portion of the said branch canal which is situate between its north-eastern end and a point eighteen yards south-westwards of Hay Wharf Bridge and known as Wide Waters ;

“ The county council ” means the council of the administrative county of Stafford ;

“ The Minister ” means the Minister of Transport ;

“ The directors ” means the directors of the Company.

3.—(1) On and after the appointed day the Charges Order so far as it relates to the navigation shall (subject to the provisions of the next succeeding section of this Act) have effect as if—

Tolls and
charges.

(a) The maximum tolls and wharfage charges specified in the Second Schedule to this Act were substituted for the maximum tolls and

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wharfage charges specified in Part I of so much of Table A of the schedule to the Charges Order as relates to the navigation and the tolls specified in the first proviso following Part I of that portion of the said Table A; and

- (b) The sum of six shillings were substituted for the sum of three shillings in each place where the sum of three shillings is mentioned in special section (i) (Minimum toll per boat and toll for empty boat) of so much of the schedule to the Charges Order as relates to the navigation.

(2) Nothing in this section shall affect the operation of the second proviso following Part I of the said portion of the said Table A or section 4 (Amendment of Order of 1894) of the *Stourbridge Navigation Act 1914*.

(3) On and after the appointed day the directions of the Minister given in pursuance of section 3 of the *Ministry of Transport Act 1919* with respect to the *Stourbridge Canal undertaking* dated the second day of September nineteen hundred and twenty shall cease to have effect.

Revision of
tolls and
charges.

4.—(1) If at any time after the expiration of one year from the appointed day it is represented by application in writing to the Minister—

- (a) by any chamber of commerce or shipping or any representative body of traders or any person who in the opinion of the Minister is a proper person for the purpose; or
(b) by the Company;

that in the circumstances then existing the authorised tolls or any of them should be revised the Minister if he thinks fit may make an order revising the authorised tolls referred to in the application or any of them and may fix the date as from which the order shall take effect and thenceforth the order shall remain in force until it expires or is revoked or modified by a further order of the Minister made in pursuance of this section.

(2) An application made to the Minister under this section shall be accompanied by such information and particulars as the Minister may consider relevant certified in such manner as he may require.

(3) Where upon an application for revision of the authorised tolls or any of them an order has been made or the Minister has decided not to make an order no further application for a revision of the tolls or toll to which the application related shall be made within twelve months from the date of such order or decision as the case may be.

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(4) Before making an order under subsection (1) of this section the Minister shall cause an inquiry to be held in reference thereto and subsections (2) to (5) of section 290 of the Local Government Act 1933 shall apply to such inquiry as if it were an inquiry held in pursuance of subsection (1) of that section and the Company were a local authority. Provided that the person appointed to hold the inquiry shall be the rates advisory committee constituted under the Ministry of Transport Act 1919 or any sub-committee thereof to which the said advisory committee may under section 2 of the Harbours Docks and Piers (Temporary Increase of Charges) Act 1920 have delegated their powers or if the said advisory committee cease to exist some persons with similar qualifications to be appointed for the purpose by the Minister.

5. All provisions in the Stourbridge Navigation Acts 1776 to 1914 requiring the approval of a resolution of a general meeting to or imposing any other condition or restriction on the exercise by the Company from time to time as they may think fit of any right or power to increase reduce or otherwise vary the amount of any tolls or charges levied by them are hereby repealed but nothing in this section shall authorise the Company to make demand or levy any toll or charge exceeding the amount thereof for the time being authorised by the Charges Order as for the time being amended by section 3 (Tolls and charges) of this Act or by an order made in pursuance of section 4 (Revision of tolls and charges) of this Act.

Repeal of
restrictions
on variation
of tolls.

6. As from the passing of this Act all rights of navigation of the Wide Waters section shall cease and be extinguished and the Company shall be released from all obligations imposed on them by the Stourbridge Navigation Acts 1776 to 1914 or any other Act to keep and maintain the Wide Waters section in working

Closing of
Wide
Waters for
navigation.

A.D. 1935. — condition and to construct or maintain any wharves landing places or other conveniences for navigation upon or in connection with the Wide Waters section.

Vesting of
Hay Wharf
Bridge in
Stafford-
shire
County
Council.

7.—(1) On the passing of this Act Hay Wharf Bridge and the approaches thereto and the site of the abutments thereof shall become and be by virtue of this Act vested in the county council without payment therefor and all liability of the Company to maintain or repair Hay Wharf Bridge or the roadway thereon or the approaches thereto or to contribute to the maintenance or repair of or otherwise relating to the said bridge roadway and approaches shall cease and determine.

(2) On and after the passing of this Act the county council shall be liable for the maintenance and repair of Hay Wharf Bridge and the roadway thereon and the approaches thereto and may subject to the provisions of subsection (3) of this section renew alter widen or improve the bridge or remove the bridge and substitute an embankment therefor and may alter the level of or widen or otherwise improve the roadway on Hay Wharf Bridge and the approaches thereto.

(3) The county council shall if so requested by the Company construct and maintain to the reasonable satisfaction of the Company such culvert or other work as the Company may reasonably require for the purpose of enabling water to flow from the Wide Waters section under the bridge or through any embankment which may be substituted therefor to the portion of the navigation situate to the south-westwards of the Wide Waters section Any dispute between the county council and the Company under this subsection shall be referred to and determined by a single arbitrator to be agreed between the Company and the county council or failing agreement to be appointed on the application of either party after notice in writing to the other of them by the Minister and subject thereto the provisions of the Arbitration Acts 1889 to 1934 shall apply to the reference.

(4) The Company and the county council may enter into and carry into effect agreements for and with respect to the vesting in the county council of Hay Wharf Bridge and the roadway thereon and the approaches thereto or any other provisions of this section.

8.—(1) The Company and the Great Western Railway Company may enter into and carry into effect an agreement for the transfer to the Company of so much of the Stourbridge Extension Canal of the Great Western Railway Company as lies between the navigation and Corbyns Hall Bridge and of the two branch canals connected with that canal known as the Standhills Arm and the Bromley Arm and of all lands buildings and works forming part of that portion of the Stourbridge Extension Canal and the two branch canals which portion of the Stourbridge Extension Canal and branch canals lands buildings and works are hereinafter together referred to as “the specified canal.”

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Transfer of
portion of
Stourbridge
Extension
Canal to
Company.

(2) As from the date fixed by the agreement for such transfer the specified canal shall by virtue of this Act and without any deed of conveyance or other assurance become and be vested in the Company together with all the powers rights and obligations of the Great Western Railway Company attaching thereto other than the obligations imposed on them with respect to the specified canal by or under section 30 (For securing the proper maintenance of the canals) of the local and personal Act 9 and 10 Vict. cap. cclxxviii and section 17 (Maintenance of canals by railway companies) of the Regulation of Railways Act 1873.

(3) Forthwith after the completion of the agreement for such transfer the Company shall give notice thereof by advertisement in the London Gazette and also in a newspaper published in the county of Stafford.

9. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 no person shall be disqualified from being a director of the Company by reason of his holding any office or place of trust or profit under the Company or by reason of his being interested in any contract with the Company nor shall any director be required to cease from voting or acting as a director by reason of his accepting any such office or place of trust or profit or becoming interested in any such contract :

As to
directors of
Company.

Provided that—

(a) If a director is or becomes interested in any contract with the Company (whether such interest shall arise before or after his appointment as a director) the nature of his interest

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in the contract shall be declared by him at the meeting of the directors at which the contract is determined on if his interest then exists or in any other case at the first meeting of the directors after the acquisition of his interest or after his appointment; and

- (b) No director shall as a director vote in respect of any such contract and if he does so vote his vote shall not be counted but this prohibition shall not apply to any contract by or on behalf of the Company to give to the directors or any of them any security by way of indemnity.

For the purposes of proviso (a) of this subsection a general notice given to the directors by one of them to the effect that he is a member of a specified company or firm and is to be regarded as interested in any contract which may after the date of the notice be made with that company or firm shall be deemed to be a sufficient declaration of interest in relation to any contract so made.

Accounts to
be sent to
Minister.

10. The Company shall in every year within three months after the close of their financial year or such later period as the Minister may allow send to the Minister a copy of the annual accounts of their undertaking.

Costs of
Act.

11. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

The SCHEDULES referred to in the
foregoing Act.

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FIRST SCHEDULE.

ACTS RELATING TO THE STOURBRIDGE NAVIGATION.

Session and chapter.	Title or short title.
16 Geo. III. c. 28	- An Act for making and maintaining a navigable Canal from or near the Town of Stourbridge in the County of Worcester to join the Staffordshire and Worcestershire Canal at or near Stourton in the County of Stafford and also Two collateral Cuts one from a place called The Fens, upon Pensnet Chase, to communicate with the intended Canal near the Junction of Wordesley Brook with the River Stour, and the other from a Place called Black Delph, upon the said Chase, to join the first-mentioned collateral Cut at or near certain Lands called The Lays in the Parish of Kingswinford in the said County of Stafford.
22 Geo. III. c. 14	- An Act to explain, amend, and render more effectual an Act made in the Sixteenth Year of the Reign of His present Majesty for making and maintaining a navigable Canal from or near the Town of Stourbridge in the County of Worcester to join the Staffordshire and Worcestershire Canal at or near Stourton in the County of Stafford, and also Two collateral Cuts therein mentioned.
28 Vict. c. lxxix	- The Stourbridge Canal Act 1865.
4 & 5 Geo. V. c. xci	- The Stourbridge Navigation Act 1914.

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SECOND SCHEDULE.

MAXIMUM TOLLS AND WHARFAGE CHARGES.

(1) In respect of merchandise comprised in Classes A B C 1 2 3 4 and 5 and conveyed in a boat without passing through any lock on the navigation—

Toll of 2*d.* per ton per mile.

(2) In respect of merchandise comprised in Classes A B C 1 2 3 4 and 5 and conveyed in a boat which passes through one or more locks on the navigation—

Toll of 8*d.* per ton.

(3) Wharfage Charges :	Per ton.
In respect of merchandise comprised—	<i>d.</i>
In Classes A and B	2
In Classes C and 1	3
In Classes 2 3 4 and 5	4

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