



Channel Tunnel Act 1987

1987 CHAPTER 53

PART I

PRELIMINARY

1 Construction and operation of a tunnel rail link between the United Kingdom and France.

- (1) The primary purpose of this Act is to provide for the construction and operation of a tunnel rail link (together with associated works, facilities and installations) under the English Channel between the United Kingdom and France, in accordance with—
 - (a) the Treaty between the United Kingdom of Great Britain and Northern Ireland and the French Republic concerning the Construction and Operation by Private Concessionaires of a Channel Fixed Link, signed at Canterbury on 12th February 1986, together with its supplementary protocols and arrangements; and
 - (b) the Concession between Her Majesty's Government in the United Kingdom and the Government of the French Republic on the one hand and private Concessionaires on the other hand which, in accordance with Article 1 of that Treaty, regulates, together with that Treaty, the construction and operation of the Channel fixed link referred to in that Article.
- (2) In connection with the primary purpose mentioned in subsection (1) above, Part II of this Act also makes provision for enabling—
 - (a) the road network in the vicinity of Ashford, in Kent; and
 - (b) the rail network in South Eastern England;to be improved with a view to accommodating traffic using the tunnel rail link when it comes into operation.
- (3) Subject to section 3 of this Act, the expressions defined below in this section have the meanings there given for the purposes of this Act.

Status: Point in time view as at 01/02/1991.

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- (4) “The Treaty” means the Treaty mentioned in paragraph (a) of subsection (1) above, including its supplementary protocols and arrangements, and “the Concession” means the Concession mentioned in paragraph (b) of that subsection.
- (5) “Concession agreement” means any agreement or arrangement which for the time being constitutes, or is included among the agreements or arrangements which together for the time being constitute, the Concession.
- (6) “Concession lease” means any lease granted by the Secretary of State to the Concessionaires in pursuance of the Concession, and references to a Concession lease include any provisions of a Concession agreement providing for the grant of a lease of any land by the Secretary of State to the Concessionaires.
- (7) “The tunnel system” means the tunnel rail link, together with its associated works, facilities and installations, to be constructed in pursuance of the Treaty, and incorporating—
- (a) tunnels under the English Channel between Cheriton, Folkestone, in Kent and Fréthun in the Pas de Calais, comprising two main tunnels capable of carrying both road traffic on shuttle trains and rail traffic, and an associated service tunnel;
 - (b) two terminal areas, for controlling access to and egress from the tunnels, located at the portals of the tunnels in the vicinity of Cheriton, Folkestone and Fréthun respectively;
 - (c) a service and maintenance area at the Old Dover Colliery site;
 - (d) an inland clearance depot at Ashford, in Kent, for the accommodation, in connection with the application to them of customs and other controls, of freight vehicles which have been or are to be conveyed through the tunnels on shuttle services;
 - (e) necessary links with the road and rail networks of each country; and
 - (f) the fixed and movable equipment needed for the operation of the tunnels and the associated works, facilities and installations mentioned in paragraphs (b) to (e) above or for the operation of shuttle services using the tunnels.
- (8) “The Concessionaires” means the person or persons who, under the Concession, have for the time being the function of constructing and operating or (as the case may be) of operating the tunnel system.
- (9) “Shuttle train” means a train designed for the purpose of carrying road traffic between Cheriton, Folkestone and Fréthun by way of the tunnels and “shuttle service” means a service operated by means of a shuttle train.
- (10) Where the Concessionaires for the time being are two or more persons, any provision of this Act conferring or imposing upon them any right, power, liability or duty shall have effect (except where the context otherwise requires) so as to confer or impose it upon them jointly; but anything done by or in relation to any one of them which purports to be done by or in relation to both or all of them shall have effect for the purposes of this Act as if done by or in relation to them jointly.

Modifications etc. (not altering text)

C1 S. 1(7) applied (17.1.2000) by S.I. 1999/3443, arts. 10(3)(b), 11(b)

C2 S. 1(7)(b) applied (1.9.1994) by 1994 c. 23, ss. 30, 101(1), Sch. 8 Pt. II Group. 14

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2 No government funds or guarantees for the tunnel system.

- (1) Subject to subsection (2) below, no Minister of the Crown or Government department shall provide funds to the Concessionaires, or guarantees of a financial or commercial nature relating to the performance of any obligations of the Concessionaires, in respect of the construction or operation of the tunnel system or any part of it.
- (2) Subject to subsection (3) below, subsection (1) above shall not preclude the provision of funds to the Concessionaires, or the provision of guarantees relating to the performance of any of their obligations, if they are provided under any enactment conferring a power or imposing a duty on any such Minister or department to provide such funds or guarantees—
 - (a) to or for the benefit of persons of any class or description which includes the Concessionaires; or
 - (b) in respect of expenditure of any class or description which includes expenditure on the construction or operation of the tunnel system or any part of it.
- (3) Subsection (1) above shall preclude the making by the Secretary of State under section 56(1) of the ^{M1}Transport Act 1968 (grants towards capital expenditure on public passenger transport facilities) of grants towards expenditure incurred or to be incurred by the Concessionaires for the purpose of the provision, improvement or development of the tunnel system or any part of it.
- (4) Where anything in contravention of subsection (1) above is done or proposed by or on behalf of a Minister of the Crown or Government department, any person who has suffered, or may suffer, loss in consequence of it may bring an action against the Minister or department concerned.
- (5) In such an action the court may—
 - (a) grant a declaration that the thing done or proposed is or would be in contravention of that subsection; or
 - (b) subject to subsection (6) below, make an award of damages.
- (6) The court may only make an award of damages if the person bringing the action has suffered loss in consequence of something done and if, at the time when it was done, the Minister or Government department concerned knew—
 - (a) that it was in contravention of subsection (1) above; and
 - (b) that it would cause loss of the description suffered either to the person bringing the action or to persons of a class to which he belongs.
- (7) The ^{M2}Crown Proceedings Act 1947 shall have effect as if anything done in contravention of subsection (1) above were a tort committed by the Minister, or by the Minister in charge of the department, by whom or on whose behalf the thing was done.
- (8) Where in any proceedings a question arises as to the construction of subsection (1) above, the court shall have regard in determining the question to any construction of the corresponding provision in Article 1(1) of the Treaty for the time being adopted by the arbitral tribunal which appears to the court to be relevant.
- (9) The reference in subsection (8) above to the corresponding provision in Article 1(1) of the Treaty is a reference to the provision of Article 1(1) which requires the Channel fixed link referred to in that Article to be financed without recourse to government funds or to government guarantees of a financial or commercial nature.

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- (10) In this Act “the arbitral tribunal” means the arbitral tribunal constituted under the Treaty.

Marginal Citations

- M1 1968 c. 73.
M2 1947 c. 44.

3 Provision for further definition of the tunnel system and for applying this Act to a new Concession.

- (1) The Secretary of State may, from time to time, by order define (by reference to its boundaries or situation, the area it occupies or any other characteristics of any kind whatsoever) any element of the tunnel system.
- (2) The reference in subsection (1) above to an element of the tunnel system is a reference to any area, facility or work, and any description of equipment, incorporated in the tunnel system by virtue of section 1(7) of this Act.
- (3) Where on or following the expiry or termination of the original Concession, as defined by section 1(4) above, there is agreement on a new Concession, references in this Act (other than section 1(1)(b) and (4)) to the Concession shall be read, in relation to any matter occurring after the new Concession comes into operation, as references to the new Concession.
- (4) Subsection (3) above shall apply in relation to the expiry or termination of any such new Concession as it applies in relation to the expiry or termination of the original Concession.
- (5) In this Act—
 - (a) references to agreement on a new Concession are references to the conclusion of any agreements or arrangements between Her Majesty’s Government in the United Kingdom and the Government of the French Republic on the one hand and any other persons on the other hand for the operation (and, where it has not yet been completed, the construction) by those persons of the tunnel system; and
 - (b) references to a new Concession are references to any such agreements or arrangements.
- (6) The power to make an order under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

4 Notice with respect to operation, expiry or termination of the Concession.

- (1) The Secretary of State shall as soon as practicable after the coming into operation or (as the case may be) the expiry or termination of the Concession publish notice of that fact and of the date on which it came into operation or (as the case may be) expired or terminated; and any such notice shall specify in such manner as the Secretary of State thinks fit any Concession agreements.
- (2) A notice required by this section shall be published—

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- (a) in the London Gazette; and
 - (b) in such newspapers circulating in the City of Canterbury, the borough of Ashford and the districts of Dover, Shepway and Thanet, in the county of Kent, as the Secretary of State thinks fit.
- (3) For the purposes of this Act, the Concession shall be taken to have come into operation or (as the case may be) to have expired or terminated on the relevant date specified in any notice published under this section in relation to the Concession.

PART II

WORKS AND LAND FOR THE TUNNEL SYSTEM AND CONNECTED ROAD AND RAIL WORKS

5 Construction of the scheduled works.

- (1) The Concessionaires may, subject to and in accordance with the provisions of this Act, construct and maintain in the borough of Ashford and in the districts of Dover and Shepway in the county of Kent and under the English Channel the works specified in Part I of Schedule 1 to this Act.
- (2) The Kent County Council may, subject to and in accordance with the provisions of this Act, construct and maintain in the borough of Ashford the works specified in Part II of that Schedule.
- (3) The British Railways Board (referred to below in this Act as the Railways Board) may, subject to and in accordance with the provisions of this Act, construct and (in so far as they do not have power to do so apart from this Act) maintain and operate the works specified in Part III of that Schedule.
- (4) The works specified in Parts I, II and III of that Schedule are referred to below in this Act, where no distinction is drawn between them, as the scheduled works, and otherwise as the Concessionaires' scheduled works, the County Council's scheduled works or the Railways Board's scheduled works, as the case may require.
- (5) Subject to Part IV of that Schedule (which gives the limits of deviation for the works and also permits deviation from the levels shown on the deposited sections), the scheduled works shall be constructed in the lines or situations shown on the deposited plans and in accordance with the levels shown on the deposited sections.

6 Supplementary provisions as to the scheduled works and other authorised works.

- (1) Part I of Schedule 2 to this Act shall have effect—
 - (a) for applying Part II of the ^{M3}Public Utilities Street Works Act 1950 to works for the construction or maintenance of certain of the Concessionaires' scheduled works; and
 - (b) for incorporating with this Act the ^{M4}Railways Clauses Consolidation Act 1845 and Part I of the ^{M5}Railways Clauses Act 1863, subject to modifications there specified.
- (2) Part II of that Schedule shall have effect—
 - (a) for regulating the manner in which the scheduled works and any installations connected with the scheduled works are to be constructed and maintained;

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- (b) for authorising or regulating the carrying out of subsidiary works; and
 - (c) for conferring or imposing, in connection with the construction or maintenance of those works and installations, certain supplementary powers and certain incidental duties.
- (3) Part III of that Schedule shall have effect—
- (a) for making in connection with the scheduled works and other works authorised by this Act provision in relation to highways and roads; and
 - (b) for making provision as to compensation for, and mitigation of, adverse effects of such works.
- (4) Any activities carried on by the Concessionaires for or in connection with the construction or maintenance of their scheduled works or any other works of theirs authorised by this Act shall be treated (if they would not be so treated apart from this subsection) as the carrying on by the Concessionaires of the railway undertaking they are authorised by virtue of section 19 of this Act to carry on.

Marginal Citations

- M3** 1950 c. 39.
- M4** 1845 c. 20.
- M5** 1863 c. 92.

7 Vesting of seaward section of tunnel system in Secretary of State, subject to Concession lease.

- (1) The land comprising the seaward section of the tunnel system shall, as it becomes occupied by or on behalf of the Concessionaires working from England, vest in the Secretary of State, together with so much of the surrounding subsoil as is necessary for the security of the part of the system so occupied.
- (2) Where the land agreed to be granted under a Concession lease consists of or includes the land and subsoil mentioned in subsection (1) above, the interest in that land and subsoil shall vest in the Concessionaires under the lease as that land becomes so occupied, as if granted by the Secretary of State immediately on the vesting in him of that land and subsoil by virtue of subsection (1) above.
- (3) The Secretary of State shall, at such time or times as may be agreed by him and the Crown Estate Commissioners, pay to those Commissioners, in respect of the vesting in him by virtue of subsection (1) above of any land of the Crown Estate, such an amount as those Commissioners would have obtained for it on a sale in accordance with section 3(1) of the ^{M6}Crown Estate Act 1961 (duty as to consideration).
- (4) In subsection (3) above “land of the Crown Estate” means land which, immediately before the vesting of that land in the Secretary of State by virtue of subsection (1) above, was vested in Her Majesty in right of the Crown.
- (5) References in this section to the seaward section of the tunnel system are references to that system, so far as lying under the foreshore and the bed of the sea as far as the frontier.

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Marginal Citations

M6 1961 c. 55.

8 Acquisition of land for the scheduled works and other authorised works.

- (1) The Secretary of State is authorised by this section to acquire compulsorily—
 - (a) so much of the land shown on the deposited plans within the limits of deviation for the Concessionaires' scheduled works as may be required for the construction and maintenance of those works and other works in connection with those works, or otherwise for any purposes of the construction or operation by the Concessionaires of the tunnel system; and
 - (b) so much of the land so shown within the limits of land to be acquired as may be so required;being in neither case land which falls to be vested in the Secretary of State by virtue of section 7 of this Act.
- (2) The Secretary of State is authorised by this section to acquire by agreement any land which he is not otherwise authorised to acquire and which is required for the construction and maintenance of the Concessionaires' scheduled works and other works in connection with those works, or otherwise for any purposes of the construction or operation by the Concessionaires of the tunnel system.
- (3) The Kent County Council are authorised by this section to acquire compulsorily—
 - (a) so much of the land shown on the deposited plans within the limits of deviation for their scheduled works as may be required for the construction of those works and other works in connection with those works; and
 - (b) so much of the land so shown within the limits of land to be acquired as may be so required.
- (4) The Railways Board are authorised by this section to acquire compulsorily—
 - (a) so much of the land shown on the deposited plans within the limits of deviation for their scheduled works as may be required for the construction and maintenance of those works and other works in connection with those works, or otherwise for the purposes of their undertaking; and
 - (b) so much of the land so shown within the limits of land to be acquired as may be so required.
- (5) The preceding provisions of this section are subject to section 37 of this Act.

9 Planning permission, etc.

- (1) Planning permission shall be deemed to have been granted under Part III of the Act of 1971 for the carrying out by the Concessionaires of such development as may be necessary or expedient for—
 - (a) the construction of their scheduled works within the limits of deviation for those works; and
 - (b) the construction of the works, the provision of the facilities and the carrying out of the operations mentioned in section A of Part I of Schedule 5 to this Act within the limits of the land to be acquired for those purposes;

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except to the extent that it consists of or includes the erection, construction, alteration or extension of any hotel or any building which is not required for or in connection with the movement through the tunnel system of passengers or of vehicles or other goods (including their handling, control or accommodation).

- (2) For the purposes of the ^{M7}Town and Country Planning General Development Order 1977 or any order replacing that order—
- (a) any development for which planning permission is deemed by subsection (1) above to have been granted shall be treated as not being development of a class for which planning permission is granted by the order; and
 - (b) any land which is the subject of a Concession lease shall be treated as operational land of the Concessionaires unless it is land required—
 - (i) for the purposes of or in connection with the inland clearance depot to be constructed at Ashford, in Kent; or
 - (ii) for purposes which do not include the Concessionaires' operation of the tunnel system.
- (3) Planning permission shall be deemed to have been granted under Part III of the Act of 1971 for the carrying out by the Kent County Council of such development as may be necessary or expedient for the construction of their scheduled works within the limits of deviation for those works.
- (4) The provisions of the ^{M8}Town and Country Planning General Development Order 1977 regarding development permitted by the order, or the equivalent provisions of any order replacing that order, shall apply in relation to the Railways Board's works as if this Act were a local or private Act.
- (5) Schedule 3 to this Act shall have effect in relation to planning permission deemed by subsection (1) or (3) above to have been granted or granted by virtue of subsection (4) above and, in particular, the requirements there set out with respect to any development to which such permission relates shall be conditions to which the permission is subject.
- (6) Nothing in section 41 of the Act of 1971 (limit on duration of planning permissions) shall apply to the planning permission deemed by subsection (1) or (3) above to have been granted under Part III of that Act.
- (7) Sections 28(5) and 29(3) of the ^{M9}Wildlife and Countryside Act 1981 (prohibitions of operations likely to be injurious to the flora, fauna or features of areas of special scientific interest) shall not apply in relation to any operation which is connected with the carrying out of any works authorised to be carried out by this Act and which is carried out within the limits of land to be acquired for any of those works.
- (8) In this section and in Schedule 3 to this Act—
- “the Act of 1971” means the ^{M10}Town and Country Planning Act 1971;
 - “building” includes any bridge, aqueduct, pier, mast or dam or fence, wall or other means of enclosure; and
 - “the Railways Board's works” means their scheduled works and any other works or operations which they are authorised to carry out by this Act.

Marginal Citations

M7 S.I. 1977/289.

M8 S.I. 1977/289.

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M9 1981 c. 69.

M10 1971 c. 78.

PART III

STATUS, OPERATION AND REGULATION OF THE TUNNEL SYSTEM

Status of the tunnel system

10 Incorporation of part of the tunnel system into the United Kingdom and general application of law.

(1) The land comprising the tunnel system as far as the frontier, so far as not forming part of the United Kingdom before the passing of this Act, shall, as it becomes occupied by or on behalf of the Concessionaires working from England, together with so much of the surrounding subsoil as is necessary for the security of the part of the system so occupied, be incorporated into England and form part of the district of Dover in the county of Kent, and the law of England shall apply accordingly.

(2) Subsections (3) and (4) below apply if any part of the tunnel system constructed by or on behalf of the Concessionaires working from England (“the English section”) extends beyond the frontier before it effectively joins the part of the tunnel system constructed by or on behalf of the Concessionaires working from France (“the French section”) and subsections (5) to (7) below apply if the converse case occurs.

Any land comprising any such part of the English or (as the case may be) of the French section is referred to in those subsections as a cross-frontier extension of that section.

(3) Until the English section effectively joins the French section, any cross-frontier extension of the English section shall be treated as being in England and, except for rating purposes, as forming part of the county of Kent and the law of England shall apply there.

(4) When the English section effectively joins the French section, the law of England shall continue to apply in relation to things done or omitted while the cross-frontier extension was treated by virtue of subsection (3) above as being in England and any proceedings may be brought or continued, any punishment may be imposed and carried out and any remedy may be granted and enforced in respect of such things accordingly.

(5) Subject to subsection (6) below, until the English section effectively joins the French section, no part of the law of England that would otherwise apply in relation to things done or omitted in, over or under the bed of the sea above any cross-frontier extension of the French section shall apply in relation to anything done or omitted in that extension or in so much of the surrounding subsoil as is necessary for the security of that extension.

(6) Subsection (5) above shall not exclude the application of any enactment or rule of law that applies irrespective of the country or territory in which any acts or omissions with which it is concerned take place.

(7) On the date on which the English section effectively joins the French section, section 7 of this Act and subsection (1) above shall apply to the cross-frontier extension of

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the French section as if it had become occupied on that date by or on behalf of the Concessionaires working from England.

- (8) For the purposes of this section, the date on which the English section effectively joins the French section shall be taken to be such date as the Secretary of State may by order certify as being that date.

Modifications etc. (not altering text)

- C3** [S. 10\(8\)](#): the date certified as the date upon which the English section effectively joins the French section is 30.11.1992 by [S.I. 1991/1212](#), [art.2](#).

Application and enforcement of law

11 Regulation of the tunnel system: application and enforcement of law, etc.

- (1) The appropriate Minister may by order make such provision as appears to him to be necessary or expedient—
- (a) for the purpose of implementing the international arrangements, or enabling those arrangements to be implemented;
 - (b) for the transfer to, and the vesting by virtue of the order in, any person or persons specified in the order (referred to below in this section as the transferee), on such terms (if any) as may be provided by the order—
 - (i) on any substitution of Concessionaires under the Concession or on the expiry or termination of the Concession, of the interest of the former Concessionaires in all movable property and intellectual property rights necessary for the construction or operation of the tunnel system;
 - (ii) on any such substitution, of all rights and liabilities of the former Concessionaires under the Concession or any Concession lease; and
 - (iii) on any such substitution which takes place in such circumstances as may be specified in the order, of liabilities of the former Concessionaires (other than liabilities within sub-paragraph (ii) above) of such description as may be so specified;
 and for securing effective possession or control by the transferee of any movable property or rights in which any interest transferred by the order subsists;
 - (c) in relation to the construction, operation or use of the tunnel system or any part of the tunnel system, so far as relates to activities carried on, persons employed or engaged in work, things done or omitted or other matters arising anywhere within the system (whether in England or in France), including in particular (without prejudice to the generality of the preceding provision) provision with respect to controls in relation to persons or goods within the system;
 - (d) for the purpose of applying any provisions of the law of England (with or without modifications), or excluding or modifying any of those provisions, in relation to things done or omitted or other matters arising anywhere within the tunnel system (whether in England or in France);
 - (e) with respect to controls in relation to persons or goods—
 - (i) on trains engaged on international services; or
 - (ii) at authorised terminal control points for such services;

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- outside the tunnel system (whether in the United Kingdom or elsewhere);
- (f) in relation to persons employed or engaged in work outside the tunnel system (whether in the United Kingdom or elsewhere)—
 - (i) on any train engaged on an international service, in or for the purposes of or in connection with the operation of that service; or
 - (ii) in or for the purposes of or in connection with the exercise, on any such train or at any authorised terminal control point for such services, of any controls in relation to persons or goods such as are mentioned in paragraph (e) above;
 - (g) for the purpose of dealing with any matters arising out of or connected with any provision within the powers conferred by any of paragraphs (a) to (f) above (whether or not those matters arise within the tunnel system, on any such train or at any such control point); or
 - (h) otherwise in relation to, or for regulating any matters arising out of or connected with, the tunnel system.
- (2) Subject to subsection (5) below—
- (a) the provision authorised by any of paragraphs (a) to (c) and (e) to (h) of subsection (1) above includes provision applying any provisions of the law of England (with or without modifications) or excluding or modifying the application of any of those provisions; and
 - (b) for the purposes of paragraph (a) above and paragraph (d) of that subsection—
 - (i) “modification” includes, in relation to an enactment, any amendment of it; and
 - (ii) provision excluding or modifying the application of any provision of the law of England includes, in relation to an enactment, provision amending or repealing it (in either case with or without savings).
- (3) Without prejudice to the generality of subsection (1) above, the kind of provision that may be made by an order under this section includes the following—
- (a) provision creating new criminal offences punishable as may be provided by the order or imposing penalties otherwise than in respect of criminal offences;
 - (b) provision imposing, or providing for the imposition of, fees or charges;
 - (c) provision conferring power on any Minister of the Crown or Government department to make orders, rules, regulations or other subordinate instruments of a legislative character;
 - (d) provision for, or authorising any such order, rule, regulation or other subordinate instrument to provide for, the delegation of any functions conferred or imposed by or in pursuance of any order under this section or by any enactment;
 - (e) provision, subject to subsection (4) below, for or in connection with the enforcement or execution outside the United Kingdom of any provision of the law of England or within the United Kingdom of any provision of the law of any other country, including in particular—
 - (i) provision conferring powers on any officer belonging to the United Kingdom to arrest and detain outside the United Kingdom persons suspected of having committed offences under the law of England and bring them to lawful custody in England;
 - (ii) provision conferring powers on any such officer to arrest and detain within the United Kingdom persons suspected of having committed

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- offences under the law of any other country and surrender them to the custody of officers belonging to that country without the authority of any order of a court in any part of the United Kingdom; and
- (iii) provision for or in connection with the exercise in the United Kingdom by officers belonging to any other country of powers corresponding to those mentioned in sub-paragraph (i) above; and
- (f) provision conferring jurisdiction on courts or tribunals in any part of the United Kingdom or limiting the jurisdiction otherwise exercisable by any such courts or tribunals.
- (4) An order under this section may not make provision for or in connection with the exercise of powers by officers belonging to one country in any other country except—
- (a) within the tunnel system;
 - (b) on trains engaged on international services; or
 - (c) at authorised terminal control points for such services.
- (5) So far as relates to enactments contained in this Act, only the following may be amended or repealed by an order under this section, that is to say, sections 12, 14 to 18, 20 to 22, 31 and 43 and Schedule 6.
- (6) An order made by virtue of subsection (1)(b) above may provide for any interest or right transferred by the order—
- (a) to vest in the transferee free of any security to which it is subject immediately before the order comes into force, other than one created in accordance with the Concession; or
 - (b) to be treated on vesting in the transferee as subject to a security of such a description, held by such person or persons, as may be provided by or specified in the order.
- (7) An order so made may provide for applying any provisions of the order relating to the interest of the former Concessionaires in any movable property or intellectual property rights necessary for the construction or operation of the tunnel system, subject to any modifications specified in the order, in relation to—
- (a) any interest in any such property or rights of a liquidator of any company which is, or is included among, the former Concessionaires; or
 - (b) any interest of any such liquidator of any description specified in the order.
- (8) No liquidator of, or other person exercising functions under insolvency law in relation to, any company which is, or is included among, the Concessionaires shall sell or otherwise dispose of any interest of the company in any such property or rights without the consent of the Secretary of State; and any sale or other disposal in contravention of this subsection shall be void.
- (9) Where in any proceedings a question arises as to what constitutes for the purposes of this section an interest in movable property or intellectual property rights necessary for the construction or operation of the tunnel system, the court shall have regard in determining the question to any construction of the corresponding references in the Concession for the time being adopted by the arbitral tribunal.
- (10) For the purposes of subsection (9) above, the corresponding references in the Concession are the references to the interest of the Concessionaires in all movable property and intellectual property rights necessary for the construction or operation of the Fixed Link.

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- (11) For the purposes of this section—
- (a) a substitution of Concessionaires under the Concession occurs at any time when any person or persons become the Concessionaires in substitution for any person or persons who were the Concessionaires immediately before that time;
 - (b) “the former Concessionaires” means, in relation to any such substitution or in relation to the expiry or termination of the Concession, the person or persons who cease to be the Concessionaires on that substitution or on that expiry or termination;
 - (c) “liabilities” includes duties and obligations;
 - (d) “company” means a British company or a French company;
 - (e) “British company” means a company formed and registered under the ^{M11}Companies Act 1985;
 - (f) “French company” means a body corporate incorporated under the law of France;
 - (g) “liquidator” means, in relation to a company, a person appointed as liquidator or provisional liquidator of the company under any provision of the ^{M12}Insolvency Act 1986 or exercising in relation to the company functions under the law of France corresponding to those of a person so appointed, and the reference in subsection (8) above to any person other than a liquidator exercising functions under insolvency law in relation to a company is a reference to—
 - (i) any person appointed as the administrator of the company under any provision of that Act;
 - (ii) an administrative receiver of the company within the meaning of Chapter I of Part III of that Act;
 - (iii) any person acting as supervisor of any voluntary arrangement (within the meaning of section 7 of that Act) relating to the company’s affairs; or
 - (iv) any person exercising in relation to the company functions under the law of France corresponding to those exercisable by any person of a description within any of sub-paragraphs (i) to (iii) above; and
 - (h) “security” means any mortgage, charge, lien or other security.

Marginal Citations

M11 1985 c. 6.

M12 1986 c. 45.

12 Controls on board trains engaged on international services.

- (1) It shall be the duty of the appropriate Minister to secure that, where this subsection applies, controls exercisable in relation to—
- (a) passengers carried on a train engaged on an international service on a journey beginning or intended to end at a place in Great Britain other than London or Cheriton, Folkestone or any place between those places; or
 - (b) things contained in the baggage of such passengers; shall be exercised on the train.

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- (2) Subject to subsection (3) below, subsection (1) above applies where—
- (a) the person operating the service has made a request to the appropriate Minister that the controls in question should be exercised on trains engaged on the service in question;
 - (b) the appropriate Minister has approved as satisfactory arrangements made by that person for the provision of facilities to enable the controls in question to be exercised on such trains;
 - (c) facilities enabling the exercise of the controls in question are provided on the train in question in accordance with such approved arrangements; and
 - (d) the controls are exercised by customs officers or immigration officers.
- (3) Subsection (1) above does not apply—
- (a) in the case of passengers carried on a particular train or part of a particular train, or things contained in the baggage of such passengers, if in the opinion of a customs officer or immigration officer exercising the controls it is not reasonably practicable effectively to exercise the controls in question on the train or part of a train; and
 - (b) in the case of any particular passenger or things contained in the baggage of any particular passenger, if in the opinion of any such officer it is not reasonably practicable effectively to exercise the controls in question in relation to the passenger or his baggage on the train.
- (4) An order under section 11 of this Act may include provision imposing, or providing for the imposition of, fees or charges on persons operating international services in respect of the exercise of controls in relation to passengers or things such as are mentioned in subsection (1) above on trains engaged on the services.
- (5) In this section—
- “customs officer” means an officer or other person acting under the authority of the Commissioners of Customs and Excise; and
- “immigration officer” means an immigration officer appointed for the purposes of the ^{M13}Immigration Act 1971.

Marginal Citations

M13 1971 c. 77.

13 Provisions supplementary to sections 11 and 12.

- (1) Subject to subsection (2) below, in sections 11 and 12 of this Act “the appropriate Minister” means, in relation to any matter, the Minister in charge of any Government department concerned with that matter or, where more than one such department is concerned with that matter, the Ministers in charge of those departments, acting jointly.
- (2) Where the Commissioners of Customs and Excise or the Forestry Commissioners are concerned with any matter (whether alone or together with any other Government department) subsection (1) above shall apply as if the references to the Minister or Ministers in charge of any Government department or departments concerned with that matter were or included references to those Commissioners.

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- (3) The validity of any order purporting to be made under section 11 of this Act shall not be affected by any question whether or not the order fell by virtue of subsection (1) above to be made by the Minister or department (or any of the Ministers or departments) purporting to make it.
- (4) In sections 11 and 12 of this Act “controls” means prohibitions, restrictions or requirements of any description, and any reference to the exercise of controls is a reference to the exercise or performance of any functions conferred or imposed by any enactment, or otherwise under any lawful authority, for or in connection with the enforcement of prohibitions, restrictions or requirements of any description.
- (5) For the purposes of those sections a train is engaged on an international service at any time when the whole or any part of the train is being used in the operation of such a service and a place is an authorised terminal control point for international services if it is designated as such in accordance with the international arrangements.
- (6) In those sections and this section—
 - “the international arrangements” includes any agreements or arrangements between Her Majesty’s Government in the United Kingdom and the Government of any country on the Continent of Europe other than France which for the time being apply for regulating any matters arising out of or connected with the operation of international services; and
 - “international service” means any service (including a shuttle service) for the carriage of passengers or goods by way of the tunnel system.

14 Arrangements for the policing of the tunnel system.

- (1) The policing of the tunnel system shall be undertaken by constables under the direction and control of the Chief Constable of the police force for the county of Kent.
- (2) The Railways Board may, on the application of the Chief Constable of the police force for the county of Kent, provide constables or other assistance for the policing of the tunnel system.
- (3) Any constable so provided shall, when he is engaged in the policing of the tunnel system, be under the direction and control of the Chief Constable of the police force for the county of Kent and have the same powers as a constable who is a member of that force.
- (4) The Concessionaires shall—
 - (a) make to the police committee for the county of Kent such payments in respect of the policing of the tunnel system; and
 - (b) provide for use in connection with the policing of the system such accommodation and facilities;as the Concessionaires and that committee may agree or as may, in default of agreement, be determined by the Secretary of State.
- (5) The police committee for the county of Kent shall make to the Railways Board such payments in respect of any assistance provided under subsection (2) above as the committee and the Board may agree or as may, in default of agreement, be determined by the Secretary of State.

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*Application of English law to Concession agreements
and leases to be subject to international arrangements*

15 Contract law and arbitration law.

- (1) Subject to subsection (3)(a) below, English law shall not apply for the determination of any question with respect to the formation, discharge, validity or effect of any Concession agreement except to the extent and in the circumstances (if any) provided by or determined under any provision of the international arrangements.
- (2) For the purposes of all legal proceedings—
 - (a) any Concession agreement specified in any notice published under section 4 of this Act with respect to the coming into operation of the Concession shall be taken to be valid and effective at any time on or after the date specified in that notice; and
 - (b) any Concession agreement other than one so specified shall be taken to be valid and effective at any time on or after the date on which it is expressed to take effect;

until any date specified in a notice so published as being the date on which the Concession expired or terminated.
- (3) Where any Concession agreement provides for the determination of a dispute by the arbitral tribunal—
 - (a) the provisions of Part I of the ^{M14}Arbitration Act 1950 and the ^{M15}Arbitration Act 1979 specified in subsection (4) below shall apply in relation to that agreement, or to the enforcement of an award on that agreement, subject to the modifications specified in that subsection and except so far as excluded by, and subject to any modifications contained in, the agreement or any provision of the international arrangements; but
 - (b) without prejudice to subsection (1) above, no other provision of Part I of the Act of 1950 or the Act of 1979 shall apply in relation to that agreement, or to the enforcement of an award on that agreement, except so far as applied by, and subject to any modifications contained in, that agreement or any provision of the international arrangements.
- (4) The provisions are—
 - (a) section 4(1) of the Act of 1950 (staying court proceedings on matters subject to arbitration) with the substitution of the words “shall make an order staying the proceedings” for the words from “ if satisfied ” to the end;
 - (b) section 26 of that Act (enforcement of arbitration award by court); and
 - (c) section 2 of the Act of 1979 (determination by court of preliminary point of law arising on arbitration) with—
 - (i) the omission of the words “Subject to subsection (2) and section 3 below,” in subsection (1) and of subsection (2); and
 - (ii) the substitution of the words “ with the consent of the arbitral tribunal ” for paragraphs (a) and (b) of subsection (1);

and any other provisions of Part I of the Act of 1950 or the Act of 1979 so far as affecting the operation of the provisions mentioned in any of paragraphs (a) to (c) of this subsection.
- (5) Subject to subsection (3)(a) above and except to the extent and in the circumstances (if any) provided by or determined under the agreement in question or any provision

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of the international arrangements, no court in any part of the United Kingdom shall have jurisdiction (whether by virtue of any enactment or at common law)—

- (a) to determine any matter over which the arbitral tribunal assumes jurisdiction;
 - (b) to set aside or remit an award made on any Concession agreement on the ground of errors of fact or law on the face of the award, excess of jurisdiction, procedural irregularities or on any other ground whatsoever; or
 - (c) to determine whether anything purporting to be such an award is a valid award;
- and in all legal proceedings anything purporting to be such an award shall be taken to be a valid award and shall not be questioned on any ground whatsoever.

Marginal Citations

M14 1950 c. 27.

M15 1979 c. 42.

16 Landlord and tenant law.

- (1) The purpose of this section is to secure that the application of English law to any Concession lease does not have effect so as to prejudice the operation of the international arrangements, so far as relates to the provision for use by the Concessionaires of the land required in England for the construction and operation of the tunnel system by the grant to the Concessionaires of a Concession lease on terms determined in pursuance of those arrangements.
- (2) No enactment or rule of law regulating the rights and obligations of landlords and tenants shall apply in relation to the rights and obligations of the parties to a Concession lease—
 - (a) so as to exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
 - (b) so as to confer or impose on either party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
 - (c) so as to restrict the enforcement (whether by action for damages or otherwise) by either party to the lease of any obligation of the other party under the lease.

Intergovernmental supervision of construction and operation

17 Supervision by Intergovernmental Commission and Safety Authority.

- (1) Any person authorised by a supervisory body to exercise the powers under this section for the purpose of the performance by that body of any of their functions under the Treaty (referred to below in this section as an authorised person) shall have the powers conferred by subsection (3) below, subject to any conditions or limitations in the instrument by which he is so authorised.
- (2) An authorised person shall, if so required when exercising or seeking to exercise any of the powers conferred by subsection (3) below, produce his instrument of authority or a duly authenticated copy of it.

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- (3) The powers of an authorised person under this subsection are the following—
- (a) at any reasonable time (or, in a situation which in his opinion is or may be dangerous, at any time) to enter the tunnel system or any premises, place or vehicle in the tunnel system for the purpose of carrying out any inspection, examination or investigation with respect to any matter concerning the construction or operation of that system;
 - (b) to take in connection with any such inspection, examination or investigation samples of any articles or substances found in any premises, place or vehicle in the tunnel system and of the atmosphere in or in the vicinity of any such premises, place or vehicle;
 - (c) in the case of any article or substance which is so found and which appears to him to have caused or be likely to cause danger to health or safety, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless this is in the circumstances necessary for the performance of any function under the Treaty of the supervisory body by whom he is authorised);
 - (d) in the case of any such article or substance, to take possession of it and detain it for so long as is necessary for all or any of the following purposes—
 - (i) to examine it and to do anything which he has the power to do under paragraph (c) above;
 - (ii) to ensure that it is not tampered with before his examination of it is completed;
 - (iii) to ensure that it is available for use as evidence in any legal proceedings;
 - (e) to require any person whom he has reasonable cause to believe to be able to give any information relevant to any inspection, examination or investigation with respect to any matter concerning the construction or operation of the tunnel system to answer such questions as the authorised person thinks fit to ask;
 - (f) to require the production of, inspect and take copies of any entry in, any books or documents which it is necessary for him to see for the purposes of any such inspection, examination or investigation; and
 - (g) to require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the authorised person to exercise any of the powers conferred on him by this section.
- (4) Without prejudice to subsection (3)(g) above, it shall be the duty of the Concessionaires or, where the Concessionaires for the time being are two or more persons, of each of them, and of their servants and agents, to afford to an authorised person such facilities and assistance as are necessary to enable him to exercise any of those powers.
- (5) For the purpose of the performance of any of their functions under the Treaty, a supervisory body may give directions to any person with respect to any matter concerning the construction or operation of the tunnel system.
- (6) Directions given by a supervisory body under subsection (5) above shall be given in writing.
- (7) It is an offence for any person, without reasonable excuse—

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- (a) to refuse or fail to comply with a requirement made by an authorised person under this section;
 - (b) to refuse or fail to afford to an authorised person any facilities or assistance that person is required to afford to the authorised person under subsection (4) above; or
 - (c) to refuse or fail to comply with a direction given by a supervisory body under subsection (5) above.
- (8) It is an offence for any person intentionally to obstruct an authorised person in the exercise of his powers under this section.
- (9) A person who commits an offence under this section shall be liable on summary conviction to a fine not exceeding the statutory maximum or, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (10) Proceedings for an offence under this section shall not be brought in England and Wales except by or with the consent of the Director of Public Prosecutions or in Northern Ireland except by or with the consent of the Director of Public Prosecutions for Northern Ireland.
- (11) References in this section to a supervisory body are references to the Intergovernmental Commission or the Safety Authority; but in relation to the powers of the Safety Authority and a person authorised by that authority references in this section to matters concerning the construction or operation of the tunnel system shall be read as limited to such matters so far as they affect health or safety.

18 Intergovernmental Commission and Safety Authority: supplementary.

- (1) For the purposes of all legal proceedings—
- (a) any instrument of authority, direction or certificate purporting to be issued by the Intergovernmental Commission or by the Safety Authority; and
 - (b) any other thing purporting to be done by or on behalf of that Commission or Authority;
- shall be taken as having been so issued or done without proof that the instrument, direction, certificate or other thing was validly issued or done in accordance with the Treaty or any procedure adopted by that Commission or Authority in pursuance of the Treaty.
- (2) For the purposes of all legal proceedings, anything purporting to be done on behalf of that Commission or Authority by a person authorised to do it by that Commission or Authority shall be taken as having been so done without proof of the authorisation of the person by whom it purports to be done.
- (3) Evidence of any direction or certificate issued by the Intergovernmental Commission or by the Safety Authority may be given in any legal proceedings by production of a copy—
- (a) which purports to be a copy of a direction or certificate so issued; and
 - (b) on which is endorsed a statement purporting to be signed by a person authorised to do so by that Commission or Authority that it is a copy of a direction or certificate so issued and that the copy is a true copy of that direction or certificate.
- (4) Any such statement, and any other document purporting to be signed by a person authorised to do so by that Commission or Authority, shall be taken for the purposes of

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all legal proceedings as having been signed by the person purporting to sign it without proof of that person's handwriting.

- (5) Any legal proceedings may be brought by and against that Commission or Authority under the name by which it was established by the Treaty.

Regulation of operation of the system

19 Operation by the Concessionaires.

- (1) Subject to the provisions of this Act, the Concessionaires are authorised by this section to manage, operate, maintain and develop the tunnel system.
- (2) The Concessionaires shall not be regarded as common carriers.
- (3) The Concessionaires shall make provision for the conveyance by means of shuttle trains of pedal bicycles and of motorcycles of which the cylinder capacity of the engine is less than 50 cubic centimetres.
- (4) The Concessionaires shall not convey any passengers by means of shuttle trains at any time when there is not in force a certificate issued by the Intergovernmental Commission stating—
 - (a) that the Commission are satisfied with a code of practice relating to the conveyance by means of shuttle trains of persons who are disabled which has for the time being been adopted by the Concessionaires; and
 - (b) that the code of practice has been published in a manner approved by the Commission.
- (5) Such a code of practice must contain—
 - (a) a statement of any description of such persons not intended to be conveyed by means of shuttle trains, with reasons;
 - (b) details of provision for ensuring the safety of such persons in the tunnel system, in particular the safety in the event of an emergency of such persons being conveyed by means of shuttle trains; and
 - (c) information relating to such other matters affecting the conveyance by means of shuttle trains of persons who are disabled as the Commission may specify.
- (6) Contravention of the restriction imposed by subsection (4) above may be restrained by an order of the High Court made on an application by the Intergovernmental Commission.

20 Byelaws of the Concessionaires.

- (1) The Concessionaires may make byelaws regulating the operation and use of the tunnel system (including the use of shuttle trains), the maintenance of order in the system and the conduct of all persons while using or otherwise in the system and, in particular, byelaws—
 - (a) with respect to interference with or obstruction of the operation of the tunnel system;
 - (b) with respect to the prevention of nuisances and of damage to property;
 - (c) prohibiting or restricting access to any premises, place or vehicle in the tunnel system;

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- (d) prohibiting the smoking of tobacco in any such premises, place or vehicle;
 - (e) prohibiting the admission of any description of vehicle specified in the byelaws to, or requiring the removal of any such description of vehicle from, the tunnel system or any premises, place or other vehicle in it;
 - (f) regulating the use or conveyance of vehicles and prohibiting or regulating the conveyance of goods other than vehicles, in particular dangerous goods;
 - (g) for requiring any person, if required by a constable or a person authorised for the purpose by the Concessionaires, to state his name and address and the purpose of his being in the tunnel system;
 - (h) for requiring any person, if required by a constable or a person so authorised, to leave the tunnel system or any premises, place or vehicle in it and to remove any goods which he has with him; and
 - (i) for securing the safe custody and redelivery of any property which, while not in proper custody, is found within the tunnel system, and in particular—
 - (i) for requiring charges to be paid in respect of any such property before it is redelivered; and
 - (ii) for authorising the disposal of any such property if it is not redelivered before the end of such period as may be specified in the byelaws.
- (2) Byelaws under this section may provide—
- (a) for the punishment on summary conviction of contraventions of any of the byelaws with a fine not exceeding a maximum fixed by the byelaws; and
 - (b) for any defence specified in the byelaws to be available in proceedings for a contravention of any byelaw, either generally or in circumstances so specified.
- (3) Different provision may be made by virtue of subsection (2)(a) or (b) above in relation to different byelaws; but the greatest maximum fine that may be fixed for contravention of any byelaw shall not exceed level 4 on the standard scale.
- (4) A constable or a person authorised for the purpose by the Concessionaires may remove from the tunnel system or any premises, place or vehicle in it any person whom he reasonably suspects to be contravening or to have contravened any byelaw made under this section and any goods which he has with him.
- (5) A person so authorised may take steps to remove or obviate any danger being caused or likely to be caused by the contravention of any byelaw made under this section.
- (6) Byelaws under this section shall not come into operation until they have been confirmed by the Secretary of State under section 21 of this Act.
- (7) When any byelaws under this section have been so confirmed—
- (a) a copy of the byelaws shall be printed and deposited at such place or places as may be specified in a direction given to the Concessionaires by the Secretary of State and shall at all reasonable hours be open to public inspection free of charge; and
 - (b) a copy of the byelaws, or any part of them, shall be supplied to any person on request on payment of such reasonable fee as the Concessionaires may determine.
- (8) The production of a printed copy of a byelaw purporting to be made by the Concessionaires on which is endorsed a certificate purporting to be signed by a person authorised to do so by the Concessionaires stating—
- (a) that the byelaw is made by the Concessionaires;

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- (b) that the copy is a true copy of the byelaw;
- (c) that on a specified date the byelaw was confirmed by the Secretary of State; and
- (d) the date, if any, fixed by the Secretary of State for the coming into operation of the byelaw;

shall be evidence of the facts stated in the certificate, without proof of the handwriting or authorisation of the person by whom it purports to be signed.

21 Confirmation of byelaws by Secretary of State.

- (1) At least one month before making an application for confirmation of any byelaws under section 20 of this Act the Concessionaires shall publish notice of their intention to apply for confirmation and of the place at which and the time during which a copy of the byelaws will be open for public inspection—
 - (a) in such newspapers circulating in the City of Canterbury, the borough of Ashford and the districts of Dover, Shepway and Thanet, in the county of Kent; and
 - (b) in such other manner;
 as may be approved by the Secretary of State.
- (2) Any person affected by any of the byelaws shall be entitled to make representations on the byelaws to the Secretary of State within a period of not less than one month which must be specified in the notice published under subsection (1) above.
- (3) For at least one month before the making of any such application a copy of the byelaws in question shall be deposited at such place or places as may be specified in a direction given to the Concessionaires by the Secretary of State and shall at all reasonable hours be open to public inspection free of charge.
- (4) A copy of those byelaws, or any part of them, shall be supplied to any person on request on payment of such reasonable fee as the Concessionaires may determine.
- (5) Subject to the following provisions of this section, the Secretary of State may confirm with or without modification, or refuse to confirm, any byelaws submitted to him for confirmation, and may fix the date on which a byelaw confirmed by him is to come into operation; and if no such date is so fixed the byelaw shall come into operation at the expiration of one month beginning with the date of its confirmation.
- (6) The Secretary of State shall not confirm any byelaw submitted to him for confirmation unless he has consulted the Kent County Council and the council of any district in which it appears to him that the byelaw would have effect.
- (7) Where the Secretary of State proposes to make a modification of any byelaws submitted to him for confirmation which appears to him to be substantial—
 - (a) he shall inform the Concessionaires and require them to take any steps he considers necessary for informing persons likely to be concerned with the modification; and
 - (b) he shall not confirm the byelaws until such period has elapsed as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Concessionaires and by other persons who have been informed of it.

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22 Application of Railways Board’s byelaws to their services in the tunnel system.

Byelaws made by the Railways Board under section 67 of the ^{M16}Transport Act 1962 (general power to make byelaws for their railways and premises) shall apply in relation to persons and goods being conveyed by the Railways Board on any railway of the Concessionaires as they apply in relation to persons and goods being conveyed on any railway of the Board.

Marginal Citations

M16 1962 c. 46.

23 Control of traffic within the tunnel system.

- (1) Subject to the following provisions of this section, the enactments relating to road traffic shall apply in relation to any tunnel system road to which the public does not have access as they apply in relation to a road to which the public does have access.
- (2) Those enactments shall apply in relation to any tunnel system road subject to such exceptions and modifications as the Secretary of State may by order specify.
- (3) An order under subsection (2) above may, in particular, confer on the Concessionaires functions exercisable under those enactments by a highway authority or a local authority.
- (4) The Secretary of State may by order provide that those enactments shall not apply in relation to any tunnel system road specified in the order and may require the Concessionaires to indicate any such road in a manner so specified.
- (5) Those enactments shall not, in the case of any tunnel system road, apply in relation to it until such date as the Secretary of State may by order specify.
- (6) Before making an order under this section, the Secretary of State shall consult the Concessionaires.
- (7) In this section, “tunnel system road” means any length of road comprised in the tunnel system.

24 Approval of trains.

Any train used for conveying passengers or goods through the tunnel system (including any shuttle train) shall be of such a description and conform to such specifications as may for the time being be approved by the Secretary of State.

Termination of construction or operation

25 Maintenance of the tunnel system on termination of construction by Concessionaires.

- (1) Subject to section 27 of this Act, on termination of the Concession at any time before the construction of the Concessionaires’ scheduled works is completed, the Secretary of State is authorised by this section to take such steps as appear to him to

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be appropriate for maintaining the tunnel system, so far as already constructed, in a safe and satisfactory condition.

- (2) During any period when this section has effect—
- (a) the Secretary of State is responsible, subject to subsection (1) above, for the exercise of any relevant functions of the Concessionaires under this Act in relation to the tunnel system; and
 - (b) references in provisions of this Act relating to those functions to the Concessionaires shall be read as references to the Secretary of State.

26 Operation of the tunnel system on a temporary basis where practicable on termination of the Concession.

- (1) Subject to section 27 of this Act and the following provisions of this section, if on the expiry or termination of the Concession the construction of the Concessionaires' scheduled works has been completed or has reached a stage so near completion that it is practicable to operate the tunnel system or any part of it, the Secretary of State is authorised by this section—
- (a) in collaboration with any Minister or department of the Government of the French Republic; and
 - (b) in accordance with any arrangements made, in pursuance of Article 17 of the Treaty, between that Government and Her Majesty's Government in the United Kingdom with respect to the continued operation of the tunnel system by those Governments;
- to manage, operate and maintain the tunnel system or (as the case may be) such part of it as it is practicable to operate.
- (2) The Secretary of State may not by virtue of this section continue to participate in the management, operation or maintenance of the tunnel system after the end of the period of three months beginning with the date of the expiry or termination of the Concession.
- (3) During any period when this section has effect—
- (a) the Secretary of State is responsible for the exercise of any relevant functions of the Concessionaires under this Act in relation to the tunnel system or (as the case may be) in relation to any part of it to which the arrangements mentioned in subsection (1)(b) above apply; and
 - (b) references in provisions of this Act relating to those functions to the Concessionaires shall be read as references to the Secretary of State.

27 Limitations on exercise of Secretary of State's powers under sections 25 and 26.

- (1) Section 25 or (as the case may be) section 26 of this Act only has effect—
- (a) if on the termination or (as the case may be) on the expiry or termination of the Concession the Secretary of State is satisfied that there is a reasonable prospect of agreement on a new Concession in the near future; and
 - (b) until either there is such agreement and the new Concession comes into operation or (as the case may be) he ceases to be so satisfied.
- (2) Where either of those sections ceases to have effect on the coming into operation of a new Concession, this section is without prejudice to the subsequent operation of either of those sections on the expiry or termination of the new Concession.

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28 Provisions supplementary to sections 25 to 27.

- (1) The Secretary of State may by order make such modifications of the provisions of this Act, as they apply during any period when section 25 or 26 of this Act has effect, as appear to him to be necessary or expedient for the purposes or in consequence of the exercise by him of any relevant functions of the Concessionaires under this Act.
- (2) References in sections 25 and 26 and in subsection (1) above to relevant functions of the Concessionaires under this Act are references—
 - (a) in relation to the exercise by the Secretary of State of his powers under section 25(1), to functions of the Concessionaires under Part II or V of this Act; and
 - (b) in relation to the exercise by the Secretary of State of his powers under section 26(1), to functions of the Concessionaires under this Part of this Act or under Part V of this Act.
- (3) Below in this section—
 - (a) references to an authority responsible for the tunnel system are references to the Secretary of State, in relation to any period during which section 25 or 26 of this Act has effect, and otherwise to the Concessionaires;
 - (b) “a transfer of responsibility” means the expiry or termination of the Concession or the coming into operation of a new Concession (as the case may be); and
 - (c) “relevant functions” means, in relation to any such transfer, functions conferred by or under this Act for the exercise of which by virtue of that transfer one such authority ceases to be, and another such authority becomes, responsible.
- (4) On any transfer of responsibility—
 - (a) all subsisting rights and duties conferred or imposed by any provision of this Act relating to any relevant functions on the person who ceases on that transfer to be the authority responsible for the tunnel system shall become rights and duties of the person who on that transfer becomes the authority so responsible; and
 - (b) anything done by any person before that transfer in the exercise of any of those functions which is in force, valid or subsisting immediately before the transfer shall continue in force and have effect as if done by the person who on that transfer becomes the authority responsible for the tunnel system.
- (5) In particular, but without prejudice to the generality of paragraph (b) of subsection (4) above, any byelaws or other instrument made by one authority responsible for the tunnel system in exercise of any of the relevant functions may by virtue of that paragraph be varied or revoked by another authority so responsible, notwithstanding that the procedure applicable in relation to the making, variation or revocation of those byelaws or that instrument may, by virtue of any order made under this section with respect to the exercise of those functions by the Secretary of State, vary from one such authority to another.

29 Scheme for land on abandonment of construction or operation.

- (1) Where on or at any time after the expiry or termination of the Concession it appears to the Secretary of State that the construction or operation of the tunnel system will not be resumed in the near future, the Secretary of State shall notify the district planning

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authority of that fact and, after consultation with them, shall make in relation to any land on which work has been done under this Act a scheme for putting it into such a condition as the scheme may provide and shall put it into such a condition in accordance with the scheme.

- (2) A scheme under this section may be revoked or varied by a subsequent scheme made under this section by the Secretary of State after consultation with the district planning authority.

Miscellaneous

[^{F1}30] **Rating.**

In Schedule 3 to the ^{M17}Local Government Act 1974 (hereditaments in relation to which a method for fixing or determining rateable value may be specified by the Secretary of State under section 19 of that Act), there shall be inserted at the end—

- “10 (1) Any hereditament consisting of channel tunnel premises occupied by the Concessionaires or by any subsidiary of theirs.
- (2) For the purposes of this paragraph—
- (a) “channel tunnel premises” means premises comprised in the tunnel system within the meaning of the Channel Tunnel Act 1987;
- (b) “Concessionaires” has the same meaning as in that Act; and
- (c) “subsidiary”, in relation to the Concessionaires—
- (i) means a body corporate which is a subsidiary of theirs or, where the Concessionaires are for the time being two or more persons, of any of them, within the meaning of the ^{M18}Companies Act 1985; and
- (ii) where the Concessionaires are for the time being two or more persons, includes a body corporate which would be a subsidiary of theirs within the meaning of that Act if the Concessionaires were a single body corporate.”]

Textual Amendments

F1 S. 30 repealed (E.W.S.) by S.I. 1990/1285, art. 3

Marginal Citations

M17 1974 c. 7.

M18 1985 c. 6.

31 Building regulations.

- (1) Nothing in Part I of the ^{M19}Building Act 1984 (building regulations), and nothing in any building regulations, shall apply in relation to any building comprised in the tunnel system unless the building is, within the meaning of that Act, a house or a hotel.

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- (2) Section 4 of that Act (exemption from building regulations of certain buildings, other than houses, which belong to statutory undertakers) shall not apply in relation to any building comprised in the tunnel system.

Marginal Citations

M19 1984 c. 55.

32 Exclusion of exercise of rights under telecommunications code in relation to tunnel system land under the sea.

Notwithstanding anything in section 10 of the ^{M20}Telecommunications Act 1984 (the telecommunications code) or in any licence granted by the Secretary of State under section 7 of that Act (licensing of telecommunication systems), no rights shall be exercisable by any person by virtue of the telecommunications code in relation to any land comprised in the tunnel system and lying in or under the bed of the sea.

Marginal Citations

M20 1984 c. 12.

33 Competition, etc.

- (1) The Act of 1976 shall not apply to any Concession agreement and shall be deemed never to have applied to any such agreement.
- (2) Where the Concessionaires are for the time being two or more persons, the Secretary of State may, after consultation with the Director General of Fair Trading, by order provide that—
- (a) the Concessionaires and any body corporate which is a member of the same group as any of them shall be deemed to be members of one and the same group of interconnected bodies corporate for the purposes of section 6(1)(b) (monopoly situation in relation to the supply of goods by or to members of one and the same group of interconnected bodies corporate) and 7(1)(b) (corresponding provision in relation to the supply of services) of the Act of 1973;
 - (b) the Concessionaires and any body corporate which is a member of the same group as any of them shall be deemed to be interconnected bodies corporate for the purposes of the Act of 1976 in relation to any specified channel tunnel agreement, any specified class of channel tunnel agreements or all such agreements; and
 - (c) the Concessionaires and any body corporate which is a member of the same group as any of them shall be deemed to be persons who are to be treated as associated for the purposes of section 2 of the Act of 1980 (anti-competitive practices).
- (3) In the case of any channel tunnel agreement—
- (a) the Secretary of State shall consult the Director General of Fair Trading before approving the agreement under section 29 of the Act of 1976 (exemption from registration under that Act of agreements which are of importance to the

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- national economy and approved by the Secretary of State for the purposes of that section); and
- (b) that section shall apply as if for the condition set out in subsection (2)(b) there were substituted a condition that the object or main object of the agreement is the facilitation of the construction or operation of the tunnel system.
- (4) In the case of any channel tunnel agreement made before, or within the period of six months beginning with, the date of passing of this Act, the Secretary of State may, before the expiration of that period, approve the agreement under section 29 by order made after it has been concluded; and, if he does so, the Act of 1976 shall be deemed not to have applied to the agreement at any time before that order comes into force.
- (5) In connection with the approval of any channel tunnel agreement for the purposes of section 29, the Secretary of State may, after consultation with the Director General of Fair Trading, by order provide that—
- (a) in relation to any specified description of goods or services supplied in connection with the construction or operation of the tunnel system, such of the parties to that agreement as he may specify and any body corporate which is a member of the same group as any of them shall be deemed to be members of one and the same group of interconnected bodies corporate for the purposes of sections 6(1)(b) and 7(1)(b) of the Act of 1973;
- (b) in relation to any specified class of agreement which is made in pursuance or furtherance of that agreement, such of the parties to that agreement as he may specify and any body corporate which is a member of the same group as any of them shall be deemed to be interconnected bodies corporate for the purposes of the Act of 1976; and
- (c) in relation to any course of conduct engaged in in connection with the construction or operation of the tunnel system, such of the parties to that agreement as he may specify and any body corporate which is a member of the same group as any of them shall be deemed to be persons who are to be treated as associated for the purposes of section 2 of the Act of 1980.
- (6) An order under subsection (2) or (5) above may impose, on any person to whom any provision made under that subsection relates, such requirements as the Secretary of State considers it expedient to impose in connection with that provision.
- (7) Section 93(3) and (4) of the Act of 1973 (which enables the Secretary of State to apply to the court for an order to enforce certain directions given by him under that Act and makes provision with respect to the expenses of such an application) shall apply in relation to requirements imposed by an order under subsection (2) or (5) above as it applies in relation to directions given under section 90(7) of that Act.
- (8) Where, before the expiration of the period mentioned in subsection (4) above, the Secretary of State makes such provision as is mentioned in subsection (5)(b) above in connection with the approval of any agreement for the purposes of section 29, the Act of 1976 shall be deemed not to have applied, at any time before the order making the provision comes into force, to any agreement made in pursuance or furtherance of that agreement if, by virtue of that provision, the agreement so made is one to which that Act does not apply on the coming into force of that order.
- (9) Where an order under subsection (2) or (5) above is revoked, section 24 of the Act of 1976 (time for registering particulars of agreements subject to registration) shall apply in relation to any agreement which becomes subject to registration under that Act by virtue of the revocation of that order as it applies in relation to any agreement which

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becomes subject to registration under that Act by virtue of the expiry or revocation of an order under section 29 of that Act.

- (10) In section 137(3) of the Act of 1973 (which defines “the supply of services” for the purposes of that Act and, by virtue of section 33(2) of the Act of 1980, for the purposes also of sections 2 to 24 of the latter Act) there shall be added after paragraph (d)—

“and

- (e) includes the making of arrangements permitting use of the tunnel system (within the meaning of the Channel Tunnel Act 1987) by a person operating services for the carriage of passengers or goods by rail.”

- (11) In paragraph 5 of Schedule 5 to the Act of 1973 (which lists the carriage of goods or passengers by rail as among the services in respect of which a reference to the Consumer Protection Advisory Committee or the Monopolies and Mergers Commission is excluded or subject to special restrictions) there shall be added at the end “otherwise than on shuttle services (within the meaning of the Channel Tunnel Act 1987).”

- (12) In this section—

“the Act of 1973” means the ^{M21}Fair Trading Act 1973;

“the Act of 1976” means the ^{M22}Restrictive Trade Practices Act 1976;

“the Act of 1980” means the ^{M23}Competition Act 1980;

“channel tunnel agreement” means any agreement connected with the construction or operation of the tunnel system;

“group” means a body corporate and all other bodies corporate which are its subsidiaries within the meaning of the ^{M24}Companies Act 1985; and

“specify” and “specified” mean specify and specified in an order.

Marginal Citations

M21 1973 c. 41.

M22 1976 c. 34.

M23 1980 c. 21.

M24 1985 c. 6.

34 Supplementary provisions with respect to orders under Part III.

- (1) Any power to make an order conferred on the Secretary of State or the appropriate Minister by any provision of this Part of this Act shall be exercisable by statutory instrument.
- (2) Subject to subsection (3) below, any statutory instrument containing an order made under any such provision shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Subsection (2) above—
- (a) shall not apply to a statutory instrument containing an order under section 10(8), 23(5) or 33 of this Act; and

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- (b) shall not apply to a statutory instrument containing an order made under section 11 of this Act if a draft of the instrument containing the order has been approved by resolution of each House of Parliament before the order is made.
- (4) Any order made by the Secretary of State or the appropriate Minister under this Part of this Act may make different provision for different cases or classes of case to which the order applies.
- (5) It is hereby declared that, notwithstanding that orders under section 11 of this Act may affect individuals or bodies corporate outside the United Kingdom, any provision made by any such order that does affect such individuals or bodies corporate applies whether or not those individuals are British subjects or those bodies corporate are incorporated in any part of the United Kingdom.

PART IV

CONSTRUCTION AND IMPROVEMENT OF ROADS NEAR FOLKESTONE

35 The A20 improvement works.

- (1) The Secretary of State may, subject to and in accordance with the provisions of this Act, construct the works specified in Part I of Schedule 4 to this Act (referred to below in this Act as the A20 improvement works).
- (2) Part II of that Schedule shall have effect for conferring on the Secretary of State powers in relation to—
 - (a) the stopping up of highways and the extinguishment of rights of way over them; and
 - (b) temporary interference with highways;
 for the purpose of or in connection with the construction of any of the A20 improvement works.
- (3) Part III of that Schedule shall have effect—
 - (a) for treating highways constructed by the Secretary of State in pursuance of that Schedule as highways of the descriptions there specified;
 - (b) for transferring such of those highways as do not become trunk roads to the Kent County Council;
 - (c) for treating the construction of highways and other things done in pursuance of that Schedule as authorised under the provisions of the ^{M25}Highways Act 1980 there specified;
 - (d) for treating certain provisions of that Schedule as provisions of instruments made under that Act of the descriptions there specified; and
 - (e) for enabling traffic on any highway constructed in pursuance of that Schedule to be subject to regulation under the ^{M26}Road Traffic Regulation Act 1984 as soon as it is open for public use.
- (4) Subject to paragraph 2 of that Schedule (which gives the limits of deviation for the works and also permits deviation from the levels shown on the deposited sections), the A20 improvement works shall be constructed in the lines or situations shown on the deposited plans and in accordance with the levels shown on the deposited sections.

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Marginal Citations

M25 1980 c. 66.

M26 1984 c. 27.

36 Acquisition of land for the A20 improvement works.

Subject to section 37 of this Act, the Secretary of State is authorised by this section to acquire compulsorily—

- (a) so much of the land shown on the deposited plans within the limits of deviation for the A20 improvement works as may be required for the construction of those works and other works in connection with those works; and
- (b) so much of the land so shown within the limits of land to be acquired as may be so required.

PART V

MISCELLANEOUS AND GENERAL

37 Supplementary provisions with respect to acquisition of land.

- (1) The purposes for which land may be acquired under section 8 of this Act include, in the case of any land specified in columns 1 and 2 of section A or B of Part I of Schedule 5 to this Act, the purpose specified in relation to that land in column 3 of section A or B as one for which that land may be acquired or used.
- (2) The purposes for which land may be acquired under section 36 of this Act include, in the case of any land specified in columns 1 and 2 of Part II of that Schedule, the purpose specified in relation to that land in column 3 of that Schedule as one for which that land may be acquired or used.
- (3) Part III of that Schedule shall have effect for supplementing sections 8 and 36 of this Act and for regulating or (in certain circumstances) restricting the exercise of the powers conferred by those sections.
- (4) Subject to Part III of that Schedule and to subsection (5) below, Part I of the ^{M27}Compulsory Purchase Act 1965 (except sections 4 and 27 and paragraph 3(3) of Schedule 3), in so far as it is applicable for the purposes of this Act and is not inconsistent with the provisions of this Act, shall apply to the acquisition of land under section 8 or 36 of this Act as it applies to a compulsory purchase to which Part II of the ^{M28}Acquisition of Land Act 1981, or Schedule 1 to that Act, applies and as if this Act were a compulsory purchase order under the latter Act.
- (5) Section 11(1) of the Compulsory Purchase Act 1965 (power to enter on and take possession of land the subject of a notice to treat after giving not less than fourteen days' notice) shall have effect—
 - (a) in its application by virtue of subsection (4) above to any of the land specified in the table in paragraph 2(3) of Part III of Schedule 5 to this Act, as if for the words “fourteen days” there were substituted the words “one month”; and
 - (b) in its application by virtue of that subsection to any other land, as if for the words “fourteen days” there were substituted the words “three months”.

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- (6) The ^{M29}Lands Clauses Consolidation Act 1845 shall not apply to the acquisition of land under section 8 or 36 of this Act.

Marginal Citations

M27 1965 c. 56.

M28 1981 c. 67.

M29 1845 c. 18.

38 Time within which powers of compulsory acquisition may be exercised.

- (1) Subject to subsection (3) below, a notice to treat under the ^{M30}Compulsory Purchase Act 1965 (as applied by section 37 of this Act and whether or not as extended by Part III of Schedule 5 to this Act) for the purpose of acquiring any land under section 8 or 36 of this Act shall not be served after 31st December 1992 or such later date as may for the time being be authorised by an order made by the Secretary of State.
- (2) An order under subsection (1) above shall be subject to special Parliamentary procedure.
- (3) Where the Secretary of State has issued a certificate under the following provisions of this section, a notice to treat under the Act of 1965 (as so applied and whether or not as so extended) for the purpose of acquiring under section 8(1) of this Act the land specified in the certificate may be served at any time before the date specified in the certificate.
- (4) The Concessionaires may in relation to any land which they require for purposes of safety in connection with any railway or siding comprised in the tunnel system apply to the Secretary of State for an extension of the time allowed under subsection (1) above for serving a notice to treat for the purpose of acquiring the land under section 8(1) of this Act.
- (5) Before making such an application, the Concessionaires shall serve on every owner, lessee and occupier (except tenants for a month or less than a month) of the land in relation to which they propose to seek the extension a notice in a form approved by the Secretary of State—
- (a) stating that they propose to make an application under subsection (4) above in relation to the land;
 - (b) stating what the effect will be if their application is granted; and
 - (c) specifying the time, which shall not be less than fourteen days from service of the notice, within which and the manner in which representations about the application can be made.
- (6) Where the Secretary of State is satisfied—
- (a) that the Concessionaires have complied with the requirements of subsection (5) above; and
 - (b) that all or some part of the land to which the application relates is required for purposes of safety in connection with any railway or siding comprised in the tunnel system;

he may, after taking into consideration any representations about the application duly made by the recipient of a notice under that subsection, issue a certificate specifying

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which of the land to which the application relates is in his opinion required for those purposes.

- (7) The Secretary of State shall specify in any certificate which he issues under this section such date as he thinks fit as the date before which any notice to treat for the purpose of acquiring the land specified in the certificate must be served.

Marginal Citations

M30 1965 c. 56.

39 Extension of Railways Board’s powers in connection with through services.

- (1) In section 3(3) of the ^{M31}Transport Act 1962 (powers of the Railways Board) there shall be substituted for paragraph (a) (power to carry goods and passengers within Great Britain)—

- “(a) to carry goods and passengers by rail within, to or from Great Britain,
(aa) to carry goods and passengers by rail between places outside Great Britain in so far as they consider it expedient to do so in connection with the exercise of their powers under paragraph (a) above.”;

and there shall be added at the end—

- “(g) to do anything which appears to the Board to be expedient for the purposes of or in connection with the provision by the Board of railway services outside Great Britain.”

- (2) It is within the power of the Railways Board to enter into a contract with any person operating railway services through the tunnel system for the passage of any train of any such person over or along any railway of the Board; and this section gives any person with whom the Board have entered into such a contract authority to use any railway of the Board in accordance with that contract in so far as such authority is not given by any other enactment.
- (3) The assumption by the Railways Board, under any contract with the Concessionaires under which the Board are permitted to use the tunnel system, of any obligations with respect to the exercise of any of their powers, shall not be regarded (if it would be so regarded apart from this provision) as incompatible with the proper exercise of those or any other of their powers.

Marginal Citations

M31 1962 c. 46.

40 Railways Board’s plan for international through services.

- (1) It shall be the duty of the Railways Board to prepare a plan stating measures which the Board propose to take, and any proposals as to measures which the Board consider ought to be taken by any person in the United Kingdom or France, with the aim of securing—
- (a) the provision or improvement of international through services serving various parts of the United Kingdom; and

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- (b) an increase in the proportion of the passengers and goods carried between places in the United Kingdom and places outside the United Kingdom that is carried by international through services.
- (2) The measures referred to in subsection (1) above are—
- (a) measures relating to the operation of international through services;
 - (b) measures relating to the carrying out of works or other development connected with international through services (including collection and distribution centres for goods and inland clearance depots); and
 - (c) measures relating to the provision or improvement of facilities or other services connected with international through services.
- (3) The Railways Board—
- (a) shall prepare the plan under this section not later than 31st December 1989;
 - (b) shall keep the plan under review and from time to time revise it; and
 - (c) shall cause the plan and any revisions of it to be published in such manner as they think fit.
- (4) In preparing the plan and any revisions of it the Railways Board shall have regard to the financial resources likely to be available to them and to any restrictions likely to be imposed on them with respect to the application of such resources.
- (5) The duties imposed by this section shall not apply at any time when the original Concession, as defined by section 1(4) of this Act, has expired or terminated and no new Concession is in operation.
- (6) In this section “international through services” means services for the carriage of passengers or goods by rail by way of the tunnel system, other than shuttle services.

41 Railway services: consultative committees and closures.

- (1) The duty—
- (a) of the Central Transport Consultative Committee for Great Britain and each of the Area Transport Users Consultative Committees under section 56(4) of the ^{M32}Transport Act 1962; and
 - (b) of the London Regional Passengers’ Committee under section 40(4) of the ^{M33}London Regional Transport Act 1984;
- to consider and, where it appears to them to be desirable, make recommendations with respect to any matter affecting the services and facilities there mentioned shall apply in relation to services and facilities within this subsection as it applies in relation to services and facilities provided by the Railways Board or any subsidiary of theirs.
- (2) The services and facilities within subsection (1) above are—
- (a) international railway passenger services which are provided otherwise than by the Concessionaires or the Railways Board or any subsidiary of theirs; and
 - (b) facilities so provided which are intended for use primarily in connection with such services.
- (3) In relation to any services or facilities to which by virtue of subsection (1) above the duty under section 56(4) or 40(4) applies—
- (a) section 56(4) shall have effect as if references in it to a Board or to the Board concerned were references to the person providing those services and facilities; and

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- (b) section 40(5) to (7) and (9) and section 41(3) and (5) to (7) of the Act of 1984 shall have effect as if references in any of those provisions to the Railways Board or to the Railways Board or any subsidiary of theirs were references to that person.
- (4) The reference to services and facilities in section 56(4) shall not include railway services and facilities provided by the Railways Board or any subsidiary of theirs so far as they are provided outside Great Britain.
- (5) The references to railway passenger services in section 56(7) of the Act of 1962 (procedure in case of proposal to discontinue all railway passenger services from a station or on a line) shall not include international railway passenger services.
- (6) In this section “international railway passenger services” means services provided in Great Britain for the carriage of passengers by rail between any place in Great Britain and any place outside Great Britain by way of the tunnel system.

Marginal Citations

M32 1962 c. 46.

M33 1984 c. 32.

42 No government grants to Railways Board in respect of international railway services.

- (1) No obligation with respect to international railway services shall be imposed on the Railways Board under section 3 of the ^{M34}Railways Act 1974 (imposition of obligations in connection with certain Community regulations giving rise to payments by way of compensation).
- (2) In ascertaining any relevant deficit of the Railways Board’s railway undertaking for the purposes of section I of the ^{M35}Transport (Financial Provisions) Act 1977 (power of Secretary of State to make grants in respect of such a deficit) there shall be disregarded so much of the revenue and expenditure properly attributable to revenue account as is referable to the provision of international railway services.
- (3) No grants shall be made by the Secretary of State under section 56(1) of the ^{M36}Transport Act 1968 (grants towards capital expenditure on public passenger transport facilities) towards expenditure incurred or to be incurred by the Railways Board for the purpose of the provision, improvement or development of international railway services.
- (4) In this section “international railway services” means services for the carriage of passengers or goods by way of the tunnel system.

Marginal Citations

M34 1974 c. 48

M35 1977 c. 20

M36 1968 c. 73>

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43 Application of railway regulation enactments.

Schedule 6 to this Act shall have effect for making miscellaneous provisions about the application of railway regulation enactments in relation to the tunnel system, the Concessionaires and certain other persons operating services by way of the tunnel system.

44 Modification of enactments relating to coast protection, safety of navigation and the powers of harbour authorities.

- (1) Section 16(1) of the ^{M37}Coast Protection Act 1949 (consent of coast protection authority required for carrying out coast protection work) shall not apply to the carrying out of any work by the Concessionaires for the construction or protection of any part of the tunnel system, but section 17(2) to (9) of that Act (restrictions imposed on the carrying out of work excluded from section 16(1) by section 17(1) of that Act) shall apply to any such work of the Concessionaires as it applies to work so excluded by section 17(1)(d) of that Act (work carried out by certain bodies for the protection of a railway).
- (2) Section 18 of that Act (prohibition of excavation or removal of materials from the seashore) shall not apply to any excavation or removal by the Concessionaires in the course of constructing, maintaining or altering the tunnel system of any materials on, under or forming part of any portion of the seashore within the limits of deviation for their scheduled works.
- (3) Section 34(1) of that Act (restriction of works detrimental to navigation) shall not apply in relation to anything done in the course of carrying out any work which the Concessionaires are authorised by this Act to carry out.
- (4) Nothing in that Act or any order under that Act shall authorise or require any person to carry out any work within 150 metres of the centre line of the tunnel system, so far as lying under the foreshore or the bed of the sea, without the consent of the Concessionaires.
- (5) Subject to subsection (6) below, any power conferred on the Dover Harbour Board by any enactment to raise or destroy wrecks, dredge or deepen the foreshore or the bed of the sea or carry out any blasting operations shall not without the consent of the Concessionaires be exercised—
 - (a) in the case of any operation involving the use of explosives having an explosive force greater than that of 100 pounds of trinitrotoluene (TNT), within 1,000 metres;
 - (b) in the case of any other operation involving the use of any explosives, within 500 metres; and
 - (c) in any other case, within 150 metres;
 of the centre line of the tunnel system, so far as lying under the foreshore or the bed of the sea.
- (6) Subsection (5) above shall not apply in relation to the exercise by the Dover Harbour Board in, or within 200 metres of any entrance to, Dover Harbour of any power to carry out blasting operations if the Board—
 - (a) have given to the Concessionaires such notice of their intention to carry out the operations as is reasonably practicable; and
 - (b) have consulted the Concessionaires with a view to agreeing the time at which and the manner in which the operations are carried out.

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- (7) The Concessionaires shall not unreasonably withhold their consent in any case where it is required under subsection (4) or (5) above.
- (8) Any difference arising between the Concessionaires and any person seeking their consent under subsection (4) or (5) above shall be determined by arbitration.

Marginal Citations

M37 1949 c. 74

45 Protection of interests.

Schedule 7 to this Act shall have effect for protecting the interests of the bodies and persons specified in that Schedule (being bodies and persons who may be affected by other provisions of this Act).

46 Determination of questions referred to arbitration under this Act.

Where under this Act any difference (other than a difference which falls to be determined by the Lands Tribunal) is to be determined by arbitration, then, subject to any other provision of this Act, the difference shall be referred to, and settled by, a single arbitrator to be agreed between the parties or, in default of agreement, to be appointed on the application of either party, after notice in writing to the other, by the President of the Institution of Civil Engineers.

47 Offences by bodies corporate

- (1) Where a body corporate is guilty of an offence under this Act or of an offence created by an order made under section 11 of this Act and the offence is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, this section shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

48 Financial provisions

- (1) Any expenditure incurred by the Secretary of State—
 - (a) in making payments for land vested in or acquired by him under this Act;
 - (b) for the purpose of or in connection with the discharge by the intergovernmental Commission or the Safety Authority of their functions under the Treaty;
 - (c) by virtue of section 25 or 26 of this Act;
 - (d) in making payments for the purpose of restoring any land in pursuance of this Act;

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- (e) in making any payments of compensation that fall under any provision of this Act to be made by him; and
- (f) in meeting any obligations or exercising any rights to which he is or from time to time becomes subject or entitled in pursuance of the Treaty or the Concession, being obligations or rights arising in connection with the tunnel system;

shall be met out of money provided by Parliament.

(2) Any increase attributable to this Act—

- (a) in the sums payable out of money so provided under any other enactment; and
- (b) in the administrative expenses of any government department;

shall be met out of money so provided.

(3) Any sums received by the Secretary of State—

- (a) in reimbursement of any expenditure mentioned in subsection (1)(a), (d) or (e) above;
- (b) in consideration of the disposal by him of any land acquired under this Act or otherwise in connection with the construction of the tunnel system;
- (c) by way of receipts arising from the operation of the tunnel system or any part of it under section 26 of this Act; or
- (d) in pursuance of the Treaty or the Concession;

shall be paid by him into the Consolidated Fund.

49 Interpretation

(1) In this Act, except where the context otherwise requires—

“A20 improvement works” has the meaning given by section 35;

“the appropriate authority” means—

- (a) in relation to the acquisition of land required for the Concessionaires’ scheduled works and other works in connection with those works, or for any purpose of Part IV of this Act, the Secretary of State;
- (b) in relation to, any other matter concerning the Concessionaires’ scheduled works or such other works, the Concessionaires;
- (c) in relation to the County Council’s scheduled works and other works in connection with those works, that Council; and
- (d) in relation to the Railways Board’s scheduled works and other works in connection with those works, the Railways Board;

“the arbitral tribunal” has the meaning given by section 2(10);

“bridleway” has the same meaning as in the ^{M38}Highways Act 1980;

“the Concession”, “Concession agreement”, “Concession lease” and “the Concessionaires” have the meanings given by the relevant provisions of section I (read with section 3(3));

“deposited plans” and “deposited sections” mean respectively the plans and sections shown on Sheets Nos. I to 15 and 21 to 34 of the plans and sections deposited in connection with the Channel Tunnel Bill in the Office of the Clerk of the Parliaments and the Private Bill Office of the House of Commons in April 1986 and the plans and sections so deposited in July 1986;

“Dover Harbour” has the same meaning “harbour” has in the ^{M39}Dover Harbour Consolidation Act 1954;

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“enactment” includes an enactment contained in this Act or in any Act passed on or after the date on which this Act is passed, and any subordinate legislation within the meaning of the ^{M40}Interpretation Act 1978;

“footpath” has the same meaning as in the ^{M41}Highways Act 1980;

“frontier” means the frontier between the United Kingdom and France fixed by the Treaty;

“functions” includes powers, duties and obligations;

“goods” includes vehicles (notwithstanding that they may be being used for the carriage of other goods or of persons), animals, plants and any other creature, substance or thing capable of being transported;

“the Intergovernmental Commission” means the Inter-governmental Commission established by the Treaty;

“the international arrangements” means—

- (a) the Treaty and the Concession; and
- (b) any other agreements or arrangements between Her Majesty’s Government in the United Kingdom and the Government of the French Republic which for the time being apply for regulating any matters arising out of or connected with the tunnel system;

“land” includes buildings and other structures, land covered with water, and any estate, interest, easement, servitude or right in or over land;

“limits of deviation” means the limits of deviation shown on the deposited plans and “limits of land to be acquired” means the limits of land to be acquired so shown;

“modification” includes addition, omission and alteration, and related expressions shall be construed accordingly;

“nature conservation” means the conservation of flora, fauna or geological or geographical features;

“the Railways Board” has the meaning given by section 5(3);

“the Safety Authority” means the Safety Authority established by the Treaty;

“shuttle service” and “shuttle train” have the meanings given by section 1(9);

“substance” means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour;

“train” includes any locomotive and railway rolling stock of any description;

“the Treaty” has the meaning given by section 1(4);

“the tunnel system” has the meaning given by section 1(7); and

“vehicle” includes a railway vehicle.

(2) References in this Act to—

- (a) the scheduled works;
- (b) the Concessionaires’ scheduled works;
- (c) the County Council’s scheduled works; and
- (d) the Railways Board’s scheduled works;

shall be read in accordance with section 5(4) of this Act.

(3) References in this Act to the expiry of the Concession are references to the expiry of the maximum period for which, in accordance with its terms, the Concession would

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remain in force in default of earlier termination under any of its provisions providing for premature termination of that maximum period.

- (4) References in this Act to the termination of the Concession are references to the termination of the Concession before the end of that maximum period.
- (5) References in this Act to agreement on a new Concession, and to a new Concession, shall be read in accordance with section 3(5) of this Act.
- (6) In this Act—
 - (a) references to the M20 are references to the special road so designated; and
 - (b) references to specified distances or lengths shall be construed as if the words “or thereabouts” were inserted after each such distance or length, distances between points on a road or railway being measured along the centre line of the road or railway.
- (7) Unless the context otherwise requires, a reference in this Act to a work identified by a number shall be read as a reference to the scheduled work or (as the case may be) the A20 improvement work of that number.
- (8) In this Act—
 - (a) any reference specifying any land or point shown on the deposited plans shall be taken as a reference to the land or point identified on those plans by the numbers or letters or the numbers and letters so specified;
 - (b) unless the context otherwise requires, any reference to any land specifying a range of consecutive numbers shall include a reference to any land identified on the deposited plans by a number within the range of numbers so specified whether or not a letter is added to that number for the purpose of identification; and
 - (c) any reference to any land specifying a single number with the addition of a range of alphabetically consecutive letters shall include a reference to any land identified on the deposited plans by that number with the addition of any letter within the range of letters so specified.
- (9) Any reference in this Act to Part I or II of the ^{M42}Land Compensation Act 1973 or any provision of either Part shall include a reference to that Part or provision as modified by section 84(1) of that Act.

Marginal Citations

M38 1980 c. 66

M39 1954 c. iv

M40 1978 c. 30.

M41 1980 c. 66.

M42 1973 c. 26.

50 Short title and extent.

- (1) This Act may be cited as the Channel Tunnel Act 1987.
- (2) This Act extends to Northern Ireland.

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