



Channel Tunnel Rail Link Act 1996

1996 CHAPTER 61

PART I

THE CHANNEL TUNNEL RAIL LINK

Miscellaneous and general

34 Holder of functions of nominated undertaker

- (1) The Secretary of State may by order provide that a person specified in the order shall be the nominated undertaker for such purposes of such provisions of this Part of this Act as may be so specified.
- (2) Where, in the case of any provision of this Part of this Act which refers to the nominated undertaker, there is any purpose of the provision for which there is no one who is the nominated undertaker under subsection (1) above, any reference in the provision to the nominated undertaker shall be construed, in relation to that purpose, as a reference to the Secretary of State.
- (3) An agreement by the Secretary of State with respect to the exercise of his discretion under subsection (1) above shall be effective notwithstanding that it fetters his discretion.
- (4) An order under subsection (1) above may contain such supplementary, incidental, consequential or transitional provision as the Secretary of State considers necessary or expedient in connection with the order.
- (5) The Secretary of State may by order make such modifications of any provision of this Part of this Act referring to the Secretary of State, so far as applying for a purpose in relation to which subsection (2) above has effect, as appear to him to be necessary or expedient in consequence of his having functions by virtue of that subsection.
- (6) The power to make an order under this section shall be exercisable by statutory instrument.

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- (7) A statutory instrument containing an order under subsection (5) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

35 Transfer of functions relating to works

- (1) If the Secretary of State acquires any land for the purposes of this Part of this Act from a railway operator and there are situated on the land works authorised by statute, he may by order provide for the transfer of any statutory power or duty relating to the works previously exercisable by the railway operator—
- (a) to him, or
 - (b) to a person specified under section 34 above.
- (2) The Secretary of State may by order provide for the further transfer—
- (a) to him, or
 - (b) to a person specified under section 34 above,
- of a power or duty transferred under subsection (1) above or this subsection.
- (3) If a railway operator acquires from the Secretary of State any land on which there are situated works authorised by this Part of this Act, the Secretary of State may, with the consent of the railway operator, by order provide for the transfer to the railway operator of any duty under this Part of this Act relating to the works.
- (4) An order under this section may contain such supplementary, incidental, consequential or transitional provision as the Secretary of State considers necessary or expedient in connection with the order.
- (5) In subsections (1) and (3) above, references to a railway operator are to a person who has the management for the time being of any network, station or light maintenance depot.
- (6) In this section, “light maintenance depot”, “network” and “station” have the same meanings as in Part I of the Railways Act 1993.

36 Compensation for injurious affection

Section 10(1) of the Compulsory Purchase Act 1965 (compensation for injurious affection) shall have effect, in relation to land injuriously affected by the execution of works under this Part of this Act, with the substitution for “acquiring authority have” of “nominated undertaker has”.

37 Duty to co-operate

- (1) Where the nominated undertaker considers that a matter affects—
- (a) the construction, maintenance or operation of the rail link, and
 - (b) the construction, maintenance or operation of a railway asset which is not a rail link asset,
- it may by notice in writing require the operator of the asset to enter into an agreement with it about how the matter is to be dealt with.
- (2) Where the operator of a railway asset which is not a rail link asset considers that a matter affects—
- (a) the construction, maintenance or operation of the asset, and

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- (b) the construction, maintenance or operation of the rail link,
it may by notice in writing require the nominated undertaker to enter into an agreement with it about how the matter is to be dealt with.
- (3) The terms of an agreement under subsection (1) or (2) above shall be such as the nominated undertaker and the operator of the asset may agree or, in default of agreement, as may be determined by arbitration.
- (4) For the purposes of subsections (1) and (2) above a railway asset is a rail link asset if—
- (a) in the case of a railway asset consisting of any network, station or light maintenance depot, it is comprised in the rail link, and
 - (b) in the case of a railway asset consisting of any train being used on a network, the network is comprised in the rail link.
- (5) In this section—
- “light maintenance depot”, “network”, “railway asset” and “station” have the same meanings as in Part I of the Railways Act 1993; and
 - “operator”, in relation to a railway asset, means the person having the management of the asset for the time being.

38 Disapplication and modification of miscellaneous controls

Schedule 10 to this Act (which makes provision for the disapplication and modification of miscellaneous statutory and other controls in relation to things done under this Part of this Act and otherwise for the purposes of this Part of this Act) shall have effect.

39 Burial grounds

- (1) Nothing in any enactment relating to burial grounds and no obligation or restriction imposed under ecclesiastical law or otherwise shall have effect to prohibit, restrict or impose any condition on the use of any land comprised in a burial ground for the purpose of constructing any of the works authorised by this Part of this Act.
- (2) Subsection (1) above shall not apply in relation to land in which human remains are interred unless—
- (a) the remains have been removed and reinterred or cremated in accordance with the provisions of Schedule 11 to this Act, and
 - (b) any monument to the deceased has been dealt with in accordance with those provisions,
- and the other requirements of that Schedule, so far as relating to the nominated undertaker, have been complied with.
- (3) Subsection (2) above shall not apply where the use of the land for the purpose mentioned in subsection (1) above does not involve disturbing the human remains which are interred in it.
- (4) In this section (and Schedule 11 to this Act)—
- “enactment” includes an enactment in any local or private Act of Parliament, and an order, rule, regulation, byelaw or scheme made under an Act of Parliament; and
 - “monument” includes a tombstone or other memorial;

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and references to a monument to any person are to a monument commemorating that person, whether or not also commemorating any other person.

40 Application of landlord and tenant law

- (1) 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 development agreement lease or a lease to which subsection (2) below applies—
 - (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.
- (2) This subsection applies to a lease if it is granted by the Secretary of State and—
 - (a) it is one on the grant of which a development agreement, or an agreement connected with such an agreement, is conditional, or
 - (b) it contains a statement to the effect that it is granted for purposes connected with the construction or operation of the rail link.
- (3) In this section, “development agreement lease” means a lease granted by the Secretary of State in pursuance of a development agreement, or an agreement connected with such an agreement, and references to a development agreement lease include any provisions of a development agreement, or an agreement connected with such an agreement, providing for the grant of a lease of any land by the Secretary of State.
- (4) For the purposes of this section, an agreement is connected with a development agreement if the development agreement is expressed to be conditional upon it being entered into.
- (5) This section shall be deemed to have come into force on 4th July 1995.

41 Variation of development agreement: disapplication of s.2 of Law of Property (Miscellaneous Provisions) Act 1989

- (1) Section 2(1) to (6) of the Law of Property (Miscellaneous Provisions) Act 1989 (under which a contract for the sale etc. of land can only be made by incorporating all the terms agreed in one document) shall not apply in relation to the variation of a development agreement.
- (2) This section shall be deemed to have come into force on 31st May 1996.

42 Related works: application of section 9 of the Transport and Works Act 1992

- (1) If an application under section 6 of the Transport and Works Act 1992 (application for an order under section 1 of that Act) is made by a relevant undertaker, section 9 of that Act (procedure where the Secretary of State considers an application relates to proposals of national significance) shall have effect in relation to the application with the insertion at the end of subsections (1) and (2) of “or relate to, or to matters ancillary

to, the construction of works which are related works for the purposes of section 31 of the Channel Tunnel Rail Link Act 1996”.

- (2) In subsection (1) above, the reference to a relevant undertaker is to a person who, under section 34 above, is the nominated undertaker for any purpose of section 1(1) above, so far as relating to the rail link.

43 Arbitration

- (1) Where under this Part of this Act any difference is to be referred to arbitration, 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.
- (2) The Secretary of State for the Environment and the Secretary of State for Transport acting jointly may by rules made by statutory instrument make provision about procedure in relation to arbitration under this Part of this Act.