

CROSSRAIL ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Miscellaneous and general

Section 39: Holder of functions of nominated undertaker

105. *Section 39(1)* provides for the Secretary of State to nominate, by means of an order, one or more nominated undertakers for the purposes of the Act .
106. *Section 39(2)* provides that, in the absence of a named nominated undertaker for any provision of the Act , the Secretary of State is deemed to be the nominated undertaker for the purposes of that provision. This is to cover the situations that would arise should no nominated undertaker be appointed or where there is a delay between a nomination ceasing to have effect (for example because an agreement is terminated) and the Secretary of State's making another nomination in favour of some other person.
107. *Section 39(3)* allows the Secretary of State, by agreement with the Mayor of London or whoever is proposed to be named in a nomination order, to fetter his discretion as to the exercise of the power granted by subsection (1). This power is necessary to enable the Secretary of State to make contractual arrangements in respect of the nomination of a person or body as the nominated undertaker.
108. *Section 39(4) and (5)* require the Secretary of State to consult the Mayor of London before making certain nomination orders or entering into an agreement with anyone, other than the Mayor, under which the Secretary of State fetters his nomination power.
109. *Section 39(6)* allows the Secretary of State, by means of an order, to make any modifications to the provisions of the Act resulting from the Act that relate to the Secretary of State, where he has himself the functions of nominated undertaker.
110. *Section 39(7), (8) and (9)* provide that orders made under this section are to be made by statutory instrument and enable the Secretary of State to include in such orders supplementary, incidental, consequential and transitional provisions. Orders made under subsection (6) are subject to the negative resolution procedure.