

Title: The Crossrail (Nomination) Order 2008 PIR No: DfTPIR0093 Original IA/RPC No: Click here to enter text. Lead department or agency: DfT Other departments or agencies: Click here to enter text. Contact for enquiries: Rachel Bain	Post Implementation Review
	Date: 16/03/2024
	Type of regulation: Domestic
	Type of review: Statutory
	Date measure came into force: 23/07/2008
	Recommendation: Keep
RPC Opinion: Choose an item.	

1. What were the policy objectives of the measure?

The completion of Crossrail construction and the opening of the Elizabeth line is being evaluated in the following two ways:

- Infrastructure and Projects Authority (IPA) Stage Gate Reviews:
 - Gate 4 review focussing on readiness to commence passenger services from the central section onto Network Rail’s infrastructure from November 2022
 - Gate 5 review focussing on readiness to proceed to close out and transition to business as usual following the final delivery milestone in June 2023
- A post-opening study to evaluate the benefits delivered by the Elizabeth line to be undertaken in two stages:
 - Phase 1 – evaluation of the transport impacts (commissioned in 2022)
 - Phase 2 – evaluation of the wider economic impacts, including regeneration and property (expected to be commissioned in 2025)

This review is solely focussed on the Nomination Order made under the Crossrail Act 2008. The conclusion we have reached is to retain this order as the Nominated Undertaker will, through its agents, continue to undertake work on the railway to maintain it now that it is operational. The powers provided by the Nomination Order continue to be needed unless or until a new body is nominated, in which case the Order would be revoked and replaced with a new Order. It is possible that in the future these powers would be extended to include Network Rail as a Nominated Undertaker to enable them to maintain their parts of the railway to the east and west of the central section.

The Crossrail (Nomination) Order 2008 (2008/2036) (“the Order”) was made under the power in section 39(1) of the Crossrail Act 2008 (“the Act”). The main purpose of the Act was to secure the powers necessary to build the railway now known as the Elizabeth line. The Crossrail project involved the construction of new rail tunnels running west – east through central London connecting directly with existing surface rail routes to Reading and Heathrow in the west and Shenfield and Abbey Wood in the east. The existing surface rail infrastructure was subject to a number of improvement works carried out by Network Rail known as the On-Network Works. The Elizabeth line now connects the main London rail terminals of Paddington and Liverpool Street via a number of new and existing, but expanded and enhanced stations.

The Act powers to construct Crossrail are provided in the Act to the nominated undertaker. This approach was set by the Channel Tunnel Rail Link. To not appoint a Nominated Undertaker would have resulted in the Secretary of State discharging all of the duties contained within this Act which would have proven extremely time consuming for the Department for Transport. Nominated undertakers have the requisite skills and expertise to construct Crossrail, now operational as the Elizabeth line. Therefore, the Act contains provisions for the nominated undertaker to construct and maintain Crossrail, to set out the limits within which those works can take place, to remove or realign streetworks and other utilities. It also contains powers for the nominated undertaker to stop up or divert highways.

Crossrail Ltd, a wholly owned subsidiary of TfL, was incorporated to be a single purpose delivery body and the nominated undertaker on Crossrail. London Underground is also a nominated undertaker but only for the purposes of works to Bond Street station and Tottenham Court Road station.

The Order was made on 24 July 2008, immediately after the Act received Royal Assent on 22 July. The objective of the order was therefore for the Minister to formally nominate Crossrail Ltd and London Underground Ltd, as the nominated undertaker to enable it to use the powers granted to the nominated undertaker in the Act.

2. What evidence has informed the PIR?

As the Order affects only the two nominated undertakers, there is no regulatory effect on any other business and the Order does not impose burdens as such on those two bodies, but rather provides powers to them. Therefore, there was no necessity to initiate detailed evidence for this PIR as the completion of Crossrail itself provides that. We worked collaboratively with TfL (London Underground and Crossrail Ltd being wholly owned subsidiaries of TfL) on this PIR. In the years that the Regulation has been in place the Crossrail Sponsorship team received no negative stakeholder feedback, nor evidence of unintended consequences and there were no opportunities to reduce the burdens placed on industry identified. We have considered the absence of any of the above when drafting this PIR.

3. To what extent have the policy objectives been achieved?

The policy intent of the Order was to ensure that the body chosen to deliver the Crossrail project possessed the powers in the Act vested in the nominated undertaker and, as the project is now complete, the order has fully met those objectives.

As the Elizabeth line is now open to passengers, the focus has shifted to maintenance and operation of the railway rather than its construction. Crossrail Ltd ceased operations on 26 May 2023 following delivery of the final opening stage of the Elizabeth line but remains as a subsidiary of TfL

Up to the end of May 2023, the Department was facilitating negotiations between Network Rail and TfL regarding the nominated undertaker status for the on-network sections of the Elizabeth line, to ensure both parties can continue to access and maintain their assets.

This facilitation role ceased due to both a lack of progress and resource constraints within the Department, therefore, Crossrail Ltd remains the nominated undertaker with Rail for London (Infrastructure) Ltd (RfL(I)), for the central tunnel sections of the railway, and Network Rail, for the on-network sections, respectively, maintaining the railway on behalf of the nominated undertaker.

The Department remains willing and able to facilitate a new nomination order if a formal request to nominate Network Rail for the on-network sections is received.

Sign-off for Post Implementation Review: Chief economist/Head of Analysis and Minister

I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed: **Jenna O'Byrne**

Date: 05/04/2024

Further information sheet

Please provide additional evidence in subsequent sheets, as required.

4. What were the original assumptions?

No impact assessment was prepared for this legislation and the costs to business were nil. Therefore, no analytical assumptions were utilised in the development of this legislation and accordingly we cannot provide a relevant response to this question

5. Were there any unintended consequences?

There have been no unintended consequences as a result of the Crossrail (Nomination) Order 2008.

6. Has the evidence identified any opportunities for reducing the burden on business?

There is no impact on business as a result of The Crossrail (Nomination) Order 2008 and therefore nothing in this review would or has identified any opportunity to reduce any impact on business.

7. How does the UK approach compare with the implementation of similar measures internationally, including how EU member states implemented EU requirements that are comparable or now form part of retained EU law, or how other countries have implemented international agreements?

A detailed answer to this question is beyond the scope of this specific PIR, as it would require disproportionate amounts of research. The Order has no relationship and does not derive from EU law, though the operation of train networks do currently derive from EU law.