



Channel Tunnel Rail Link Act 1996

1996 CHAPTER 61

PART I

THE CHANNEL TUNNEL RAIL LINK

Competition

23 Restrictive trade practices

- (1) The Restrictive Trade Practices Act 1976 (“the 1976 Act”) shall not apply to any development agreement and shall be deemed never to have applied to any such agreement.
- (2) Where two or more persons are specified under section 34 below as the nominated undertaker for the same purpose of the same provision, the Secretary of State may by order provide that the persons so specified 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 the 1976 Act in relation to any scheduled works agreement.
- (3) Section 24 of the 1976 Act (time limit for registering particulars of agreements subject to registration) shall apply in relation to an agreement which becomes subject to registration under that Act by virtue of the revocation of an order under subsection (2) above as it applies in relation to an agreement which becomes subject to registration under that Act by virtue of the expiry or revocation of an order under section 29 of that Act (power to exempt agreements of importance to the national economy from registration).
- (4) The Secretary of State may, in relation to a scheduled works agreement, make an order under section 29 of the 1976 Act after, as well as on or before, the conclusion of the agreement; and, on the coming into force of an order made by virtue of this subsection, that Act shall be deemed not to have applied to the agreement concerned.

- (5) Before making an order under section 29 of the 1976 Act in relation to a scheduled works agreement, the Secretary of State shall consult the Director General of Fair Trading.
- (6) Section 29(2) of the 1976 Act (conditions which the Secretary of State must be satisfied are met before approving an agreement) shall have effect, in relation to a scheduled works agreement, with the substitution for paragraph (b) of—
 - “(b) that its object or main object is the facilitation of the design, construction, financing, maintenance or operation of any of the scheduled works within the meaning of the Channel Tunnel Rail Link Act 1996;”.
- (7) Without prejudice to the powers of revocation conferred by subsection (5) of section 29 of the 1976 Act, the Secretary of State may at any time by order revoke an order made under that section in relation to a scheduled works agreement if—
 - (a) he is requested to do so by a party to the agreement, and
 - (b) he has given to each of the parties to the agreement at least 28 days' notice of his intention to make the order.
- (8) Where the Secretary of State approves a scheduled works agreement for the purposes of section 29 of the 1976 Act, he may by order provide that, in relation to any agreement made in pursuance of the approved agreement which is of a class specified in the order, such of the parties to the approved agreement as may be so specified 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 that Act.

24 Monopoly situations

- (1) Where two or more persons are specified under section 34 below as the nominated undertaker for the same purpose of the same provision, the Secretary of State may by order provide that the persons so specified 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 the relevant monopoly provisions of the Fair Trading Act 1973 (“the 1973 Act”).
- (2) Where the Secretary of State approves a scheduled works agreement for the purposes of section 29 of the Restrictive Trade Practices Act 1976, he may by order provide that, in relation to any relevant goods or services, such of the parties to the agreement as may be specified in the order and any body corporate which is a member of the same group as any of them shall be deemed for the purposes of the relevant monopoly provisions of the 1973 Act to be members of one and the same group of interconnected bodies corporate.
- (3) In subsection (2) above, the reference to any relevant goods or services is to any goods or services which are—
 - (a) supplied in connection with the design, construction, financing, maintenance or operation of any of the scheduled works, and
 - (b) of a description specified in the order.
- (4) For the purposes of subsections (1) and (2) above, the relevant monopoly provisions of the 1973 Act are sections 6(1)(b) (monopoly situation in relation to the supply of goods by or to members of one and the same group of interconnected companies) and 7(1)(b) (corresponding provision in relation to the supply of services).

25 Anti-competitive practices

- (1) Where two or more persons are specified under section 34 below as the nominated undertaker for the same purpose of the same provision, the Secretary of State may by order provide that the persons so specified 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 Competition Act 1980.
- (2) Where the Secretary of State approves a scheduled works agreement for the purposes of section 29 of the Restrictive Trade Practices Act 1976, he may by order provide that, in relation to any relevant course of conduct, such of the parties to the agreement as may be specified in the order 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 Competition Act 1980.
- (3) In subsection (2) above, the reference to any relevant course of conduct is to any course of conduct engaged in in connection with the design, construction, financing, maintenance or operation of any of the scheduled works.

26 Sections 23 to 25: supplementary provisions

- (1) Before exercising the power conferred by section 23(2) or (8), 24(1) or (2) or 25(1) or (2) above, the Secretary of State shall consult the Director General of Fair Trading.
- (2) An order under section 23(2) or (8), 24(1) or (2) or 25(1) or (2) 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.
- (3) Subsections (3) and (4) of section 93 of the Fair Trading Act 1973 (enforcement of directions) shall apply in relation to requirements imposed under subsection (2) above as they apply in relation to directions under section 90(7) of that Act.
- (4) Orders under section 23(2) or (8), 24 or 25 above, and orders made by virtue of section 23(4) above, shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In sections 23 to 25 above, “group” means a body corporate and all other bodies corporate which are its subsidiaries within the meaning of the Companies Act 1985.