



Channel Tunnel Rail Link Act 1996

1996 CHAPTER 61

PART I

THE CHANNEL TUNNEL RAIL LINK

Functions of the Rail Regulator

21 Duties as to exercise of regulatory functions

- (1) The Rail Regulator shall have an overriding duty to exercise his regulatory functions in such a manner as not to impede the performance of any development agreement.
- (2) In exercising his regulatory functions in relation to the use by a rail link undertaker of any existing network—
 - (a) for trains used in connection with the construction of the rail link, or
 - (b) for trains used to provide international services,the Rail Regulator shall also be under a duty to have regard to the financial position of the rail link undertaker.
- (3) The Rail Regulator may by notice require a person to whose financial position he is required by subsection (2) above to have regard to furnish to him, in such form and manner as may be specified in the notice, such information relating to that person's financial position as may be so specified, being information which the Rail Regulator considers necessary for the purpose of facilitating the performance of his duty under that subsection.
- (4) If any person makes default in complying with a notice under subsection (3) above, the High Court may, on the application of the Rail Regulator, make such order as it thinks fit for requiring the default to be made good.
- (5) An order under subsection (4) above may provide that all the costs or expenses of and incidental to the application under that subsection shall be borne by the person in default or, in the case of a company or other association, by any of its officers who are responsible for its default.

(6) In this section—

“existing”, in relation to a network, means not comprised in the rail link;

“international services” means services involving travel through the Channel Tunnel;

“network” has the same meaning as in Part I of the Railways Act 1993; and references to the Rail Regulator’s regulatory functions are to the functions assigned or transferred to him under or by virtue of Part I of the Railways Act 1993.

22 Restriction of functions in relation to competition etc

- (1) The Rail Regulator shall not be entitled to exercise any functions under section 67(1) of the Railways Act 1993 (under which he may be required to exercise the Director General of Fair Trading’s consumer protection functions under Part III of the Fair Trading Act 1973, so far as relating to courses of conduct detrimental to consumers of railway services) in relation to a course of conduct persisted in by a rail link undertaker in relation to the supply of railway services, so far as relating to the rail link.
- (2) The functions of the Rail Regulator, so far as relating to monopoly situations which exist or may exist in relation to the supply of railway services, shall not be exercisable by him in relation to the supply by a rail link undertaker of railway services, so far as relating to the rail link.
- (3) The functions of the Rail Regulator, so far as relating to courses of conduct which have or are intended to have or are likely to have the effect of restricting, distorting or preventing competition in connection with the supply of railway services, shall not, in the case of a course of conduct pursued by a rail link undertaker, be exercisable by the Regulator by reference to the effect of the course of conduct on the supply of railway services, so far as relating to the rail link.
- (4) Section 67(4) of the Railways Act 1993 (duty of the Director General of Fair Trading to consult the Rail Regulator about the exercise of concurrent functions) shall not have effect to require the Director to consult the Regulator about the exercise of any function which the Regulator is prevented by subsection (2) or (3) above from exercising.
- (5) In this section, “railway services” has the same meaning as in the Railways Act 1993.