

---

STATUTORY INSTRUMENTS

---

**1999 No. 537**

**The Channel Tunnel Rail Link  
(Boarley Lane Diversion) Order 1999**

**PART I**

**PRELIMINARY**

**Citation and commencement**

**1.** This Order may be cited as the Channel Tunnel Rail Link (Boarley Lane Diversion) Order 1999 and shall come into force on 19th February 1999.

**Interpretation**

- 2.—(1)** In this Order, unless the context otherwise requires—
- “the 1965 Act” means the Compulsory Purchase Act 1965<sup>(1)</sup>;
  - “authorised works” means the scheduled work and any other works authorised by this Order;
  - “the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;
  - “deemed planning permission” means a planning permission which is deemed by a direction under section 90(2A) of the Town and Country Planning Act 1990<sup>(2)</sup> to be granted in relation to any authorised works;
  - “the deposited plan” means the plan certified by the Secretary of State as the deposited plan for the purposes of this Order;
  - “the deposited sections” means the sections certified by the Secretary of State as the deposited sections for the purposes of this Order;
  - “Eurostar” means Eurostar (U.K.) Limited;
  - “highway” has the same meaning as in the Highways Act 1980<sup>(3)</sup>;
  - “the limit of deviation” means the limit of deviation which is shown on the deposited plan (being the limit of deviation for the scheduled work);
  - “the limits of land to be acquired or used” means the limits of land to be acquired or used which are shown on the deposited plan (being limits designating certain land outside the limit of deviation which may be acquired or used under this Order);
  - “maintain” includes inspect, repair, adjust, alter, remove, reconstruct and replace and “maintenance” shall be construed accordingly;
  - “the Order limits” means any of the limits of land to be acquired or used or the limit of deviation;

---

<sup>(1)</sup> 1965 c. 56.

<sup>(2)</sup> 1990 c. 8. Subsection (2A) was inserted by section 16(1) of the Transport and Works Act 1992.

<sup>(3)</sup> 1980 c. 66.

“owner”, in relation to land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of land (whether in possession or reversion) and includes a person holding, or entitled to the rents and profits of, the land under a lease or tenancy having an unexpired term exceeding 3 years;

“the principal Act” means the Channel Tunnel Rail Link Act 1996(4);

“the scheduled work” means the work specified in Schedule 1 to this Order.

(2) Unless the context otherwise requires, other expressions used in this Order and in the principal Act have the same meaning as in that Act.

(3) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in or on land or in the air-space over its surface.

(4) All directions, distances, lengths and points stated in any description of works, powers or lands shall be construed as if the words “or thereabouts” were inserted after each such direction, distance, length and point.

(5) References in this Order to points identified by letters shall be construed as references to the points so marked on the deposited plan.

## **PART II**

### **WORKS**

#### **Construction and maintenance of scheduled work**

3.—(1) Eurostar may construct and maintain the scheduled work.

(2) Subject to paragraph (5) below, the scheduled work shall be constructed in the line or situation shown on the deposited plan and in accordance with the levels shown on the deposited sections.

(3) Eurostar may, for the purposes of or in connection with the scheduled work, do any of the following within the Order limits—

- (a) construct, provide and maintain all such embankments, aprons, abutments, retaining walls, wing walls, culverts and other works as may be necessary or convenient,
- (b) make junctions with any highway abutting on the scheduled work and make any ancillary alteration or adjustment of the highway for the purpose,
- (c) alter or remove any structure erected upon any highway or adjoining land,
- (d) alter the position of apparatus, including mains, sewers, drains and cables,
- (e) alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses, and
- (f) carry out and maintain such other works, of whatever description, as may be necessary or expedient.

(4) Eurostar may within the Order limits—

- (a) carry out and maintain landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of any of the other authorised works, and
- (b) carry out and maintain works for the benefit or protection of land affected by any of the other authorised works.

(5) In constructing or maintaining the scheduled work, Eurostar may—

---

(4) 1996 c. 61.

- (a) deviate laterally from the line or situation shown on the deposited plan within the limit of deviation;
- (b) deviate vertically from the levels shown on the deposited sections to any extent not exceeding 3 metres upwards or downwards.

#### **Stopping up of Boarley Lane**

4.—(1) Subject to paragraph (2) below Eurostar may stop up Boarley Lane, in the County of Kent, Borough of Maidstone, Parish of Boxley, between points A and B.

(2) The power conferred by paragraph (1) above shall not be exercised until the later of the date of practical completion of the scheduled work and the date on which the scheduled work is first open for public use, as determined for the purposes of paragraph 11(2) of Schedule 3 to the principal Act as applied by article 13 below.

## **PART III ACQUISITION OF LAND**

#### **Power to acquire land**

5. The Secretary of State may acquire compulsorily so much of the land shown on the deposited plan within the Order limits as may be required for or in connection with the authorised works.

#### **Application of Compulsory Purchase Act 1965 and Compulsory Purchase (Vesting Declarations) Act 1981**

6.—(1) Part I of the 1965 Act, so far as not inconsistent with this Order, shall apply to an acquisition of land under article 5 above as it applies to a compulsory purchase to which Schedule 1 to the Acquisition of Land Act 1981(5) applies and as if this Order were a compulsory purchase order under that Act.

(2) In its application by virtue of paragraph (1) above, the 1965 Act shall have effect with the following modifications—

- (a) section 4 (time limit for exercise of powers of compulsory purchase) shall be omitted;
- (b) section 11(1) (power to enter on and take possession of land the subject of a notice to treat after giving not less than 14 days' notice) shall have effect—
  - (i) in a case where the notice to treat relates only to the acquisition of subsoil or under-surface of land or an easement or other right over land, with the substitution for “fourteen days” of “one month's”, and
  - (ii) in any other case, with the substitution for “fourteen days” of “3 months”;
- (c) in Schedule 3 (alternative procedure for obtaining right of entry), paragraph 3(3) (requirement as to sureties in relation to bond for compensation) shall be omitted.

(3) The Compulsory Purchase (Vesting Declarations) Act 1981(6) shall apply as if this Order were a compulsory purchase order.

(4) In its application by virtue of paragraph (3) above, the Compulsory Purchase (Vesting Declarations) Act 1981 shall have effect with the following modifications—

- (a) in section 3 (preliminary notices) for subsection (1) there shall be substituted—

---

(5) 1981 c. 67.

(6) 1981 c. 66.

“(1) Before making a declaration under section 4 below with respect to any land which is subject to a compulsory purchase order the acquiring authority shall include the particulars specified in subsection (3) below in a notice which is–

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession), and
- (b) published in the London Gazette.”;
- (b) in that section, in subsection (2), for “(1)(b)” there shall be substituted “(1)”, and after “given” there shall be inserted “and published”;
- (c) in that section, subsections (5) and (6) shall be omitted and for those subsections there shall be substituted–
  - “(5) For the purposes of this section, a person has a relevant interest in land if–
    - (a) he is for the time being entitled to dispose of the fee simple of the land, whether in possession or reversion, or
    - (b) he holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”;
- (d) in section 5 (earliest date for execution of declaration)–
  - (i) in subsection (1), after “publication” there shall be inserted “in the London Gazette”, and
  - (ii) subsection (2) shall be omitted;
- (e) in section 7 (constructive notice to treat) in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” shall be omitted;
- (f) references to the Compulsory Purchase Act 1965 shall be construed as references to that Act as applied to the acquisition of land under article 5 above.

### **Acquisition of new rights**

7.—(1) The power conferred by article 5 above shall include, in relation to any land to which the power relates, power to create and acquire such easements or other rights over land as may be required as mentioned in that provision instead of acquiring the land itself.

(2) Part I of the 1965 Act as applied to the acquisition of land under article 5 above, and the enactments relating to compensation for the compulsory purchase of land, shall apply to a compulsory acquisition by virtue of paragraph (1) above–

- (a) with the modifications specified in Schedule 2 to this Order, and
- (b) with such other modifications as may be necessary.

(3) In relation to land to which this paragraph applies, article 5 above, so far as relating to acquisition by virtue of paragraph (1) above, shall be treated as also authorising acquisition by a statutory utility in any case where the Secretary of State gives his consent in writing to that acquisition.

(4) Paragraph (3) above applies to land within the Order limits which is or will be required for use in relocating any apparatus which it is expedient to divert or replace in consequence of the carrying out of the authorised works; and in that paragraph “statutory utility” means a licence holder within the meaning of Part I of the Electricity Act 1989(7), a public gas transporter within the meaning of Part I of the Gas Act 1986(8), a water undertaker within the meaning of the Water Industry Act

---

(7) 1989 c. 29.

(8) 1986 c. 44.

1991(9), a sewerage undertaker within Part II of that Act and any local authority which is a relevant authority for the purposes of section 97 of that Act.

### **Compensation for injurious affection**

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

### **Acquisition and use of subsoil of highway**

9. Eurostar may enter upon, take and use for the purposes of the authorised works so much of the subsoil of any highway within the Order limits as shall be required for the purpose of the construction or maintenance of those works, without being required to acquire that subsoil or any interest therein.

### **Temporary occupation of certain land**

10.—(1) Eurostar may, in connection with the diversion or alteration of Boxley 132kV overhead electric cable (PN) in the County of Kent, Borough of Maidstone, Parish of Boxley, pursuant to paragraph 1(1) or 3 of Schedule 2 to the principal Act, enter upon and take possession of the land in that Parish within the limit of land to be temporarily occupied shown on the deposited plan in order to provide working space and to enable the temporary lowering or disconnection of the cable and other operations to facilitate the diversion or alteration.

(2) Not less than 28 days before entering upon and taking possession of land under this article, Eurostar shall give notice to the owners and occupiers of the land of its intention to do so.

(3) Eurostar may not remain in possession of any land under this article after the end of the period of one month beginning with the date of completion of the diversion or alteration work unless the owners of the land agree otherwise.

(4) All private rights of way over land of which Eurostar takes possession under this article shall be suspended and unenforceable for as long as it remains in lawful possession of the land.

(5) Eurostar shall pay compensation to the owners and occupiers of land of which possession is taken under paragraph (1) above for any loss which they may suffer by reason of the exercise in relation to the land of the powers conferred by that paragraph, and to any person who suffers loss by the suspension of a right under paragraph (4) above.

(6) Any dispute as to a person’s entitlement to compensation under paragraph (5) above, or as to the amount of compensation, shall be determined under and in accordance with Part I of the Land Compensation Act 1961(10).

(7) Nothing in this article shall affect any liability to pay compensation under section 10(2) of the 1965 Act, as applied to the acquisition of land under article 5 above or section 4(1) of the principal Act, or under any other enactment, otherwise than for loss for which compensation is payable under paragraph (5) above.

(8) If a licence holder within the meaning of Part I of the Electricity Act 1989 carries out the diversion or alteration of the said overhead electric cable in connection with or to facilitate the construction of the works authorised by the principal Act and the Secretary of State consents in writing, that licence holder may exercise the powers exercisable by Eurostar under this article; and if the licence holder does so exercise those powers, paragraphs (2) to (7) above shall apply to the licence holder accordingly.

---

(9) 1991 c. 56.

(10) 1961 c. 33.

### **Time limit for powers of compulsory acquisition**

11. After the end of the period of 5 years beginning with the day on which this Order is made—
- (a) no notice to treat shall be served under Part I of the 1965 Act, as applied to the acquisition of land under article 5 above;
  - (b) no declaration shall be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981, as applied by article 6(3) above.

## **PART IV**

### **MISCELLANEOUS AND GENERAL**

#### **Certification of plans etc.**

12. Eurostar shall, as soon as practicable after the making of this Order, submit one or more copies of the book of reference, the deposited sections and the deposited plan to the Secretary of State for certification that they are true copies of, respectively, the book of reference, the deposited sections and the deposited plan referred to in this Order; and a document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

#### **Application of provisions of principal Act**

13.—(1) Schedule 3, which amongst other matters applies provisions of the principal Act not applied by the preceding provisions of this Order, shall have effect.

(2) So far as consistent with the provisions of this Order and the Transport and Works Act 1992 and so far as any person exercising the powers conferred by this Order is a nominated undertaker for the purposes of any provisions of Part I of the principal Act, this Order shall be construed as one with the principal Act.

(3) Without prejudice to the generality of paragraph (2) above, in determining any application or request by Eurostar to any body for an approval or consent under the provisions of the principal Act (including those provisions as applied by this Order), it shall be competent for that body to have regard (so far as relevant) to the combined effect of the works authorised by this Order and the works authorised by the principal Act for the purposes of the construction of which Eurostar is the nominated undertaker.

#### **Transfer of functions under Order**

14.—(1) Subject to paragraphs (2) and (3) below, Eurostar may enter into an agreement with any person (“the transferee”) for the transfer of all or any of its undertaking under this Order, including all or any of the functions, powers or duties of Eurostar under this Order,—

- (a) either permanently or for such period as is specified in or determined under the agreement, and
- (b) either unconditionally or subject to such conditions or upon the happening of such events as may be specified in the agreement.

(2) The terms of any agreement made by virtue of paragraph (1) above shall, unless the transferee is the Secretary of State or a nominated undertaker for any purposes of any provisions of Part I of the principal Act, be subject to the approval of the Secretary of State.

(3) Any agreement or undertaking entered into by Eurostar in connection with the promotion of this Order shall, so far as relevant to any functions, powers or duties under this Order exercisable

by the transferee under an agreement made by virtue of paragraph (1) above, be binding on the transferee.

(4) Where an agreement is made by virtue of paragraph (1) above, references to Eurostar in this Order (including references inserted or substituted by this Order in the principal Act or any other enactment) shall, to such extent and for such purposes as the agreement so provides, have effect as references to the transferee.

(5) Paragraphs (6) and (7) below apply if at any time after the making of this Order a relevant nomination order is made and if at the time that order is made no agreement pursuant to paragraph (1) above, other than an agreement with UR (South), has been made by Eurostar.

(6) Subject to paragraph (7) below, where this paragraph applies—

- (a) references in this Order to Eurostar are to be treated for all purposes of this Order (including paragraphs (1) to (4) above) as references to UR (South);
- (b) anything done by or to Eurostar under or pursuant to this Order or (so far as relevant to this Order) under or pursuant to any provision of an enactment applied by or incorporated with this Order, shall have effect as if done by or to (as the case may be) UR (South);
- (c) any consent or approval given to Eurostar in relation to the works or other matters authorised by this Order, shall have effect as if given to UR (South);
- (d) any request made for such a consent or approval shall have effect as if made by UR (South); and
- (e) any agreement or undertaking entered into by Eurostar in connection with the promotion of this Order shall be enforceable against UR (South) to the same extent that it would, in the absence of this paragraph, have been enforceable against Eurostar.

(7) Nothing in paragraph (6) above shall have the effect, as between Eurostar and UR (South), of overriding any agreement made between them (whether before or after this Order comes into force) concerning the apportionment of responsibility for liabilities arising under or the exercise of rights conferred by this Order, including any agreement as to the making of payments or the indemnification of one by the other.

(8) In this article—

“relevant nomination order” means an order made under section 34 of the principal Act which specifies UR (South) as the nominated undertaker for any purposes connected with the construction of Work No. 13 (Strood to Detling) authorised by the principal Act; and

“UR (South)” means Union Railways (South) Limited.

### **Termination of development agreement**

**15.—**(1) This article applies where the Secretary of State has entered into a development agreement for purposes connected with the construction or operation of the Channel Tunnel Rail Link, and that agreement has been terminated under provisions contained therein.

(2) Where this article applies, the Secretary of State may by notice in writing transfer to himself or to a nominated undertaker within the meaning of section 34 of the principal Act any of the powers, functions, duties or liabilities of Eurostar under this Order, or of any person to whom Eurostar has transferred them.

(3) Where he has transferred such a power, function, duty or liability to himself the Secretary of State may subsequently transfer it to such a nominated undertaker.

(4) In exercising his powers under paragraphs (2) and (3) above, the Secretary of State may deal differently in respect of different parts of the authorised works.

---

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

---

(5) Any notice under paragraph (2) above shall be given by the Secretary of State to Eurostar or to any person to whom Eurostar has transferred any of the powers, functions, duties or liabilities of Eurostar under this Order.

**Cessation of certain powers under principal Act**

**16.** The power conferred by section 1 of the principal Act for the construction of Work No. 13G authorised by that Act, and by paragraph 1 of Schedule 3 to that Act for the stopping up of part of Boarley Lane, in the County of Kent, Borough of Maidstone, Parish of Boxley, shall cease upon commencement of construction of the scheduled work.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

12th February 1999

*A S D Whybrow*  
Head of Charging and Local Transport Division,  
Department of the Environment, Transport and  
the Regions