

---

STATUTORY INSTRUMENTS

---

**1999 No. 537**

**TRANSPORT AND WORKS  
TRANSPORT**

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

*Made* - - - - - *12th February 1999*

*Coming into force* - - - - - *19th February 1999*

Whereas an application has been made to the Secretary of State for Transport, in accordance with the Transport and Works (Applications and Objections Procedure) Rules 1992(1) made under sections 6, 7 and 10 of the Transport and Works Act 1992(2) (“the 1992 Act”), for an Order under sections 1 and 5 of the 1992 Act;

And whereas the Secretary of State for the Environment, Transport and the Regions (“the Secretary of State”) has determined to make an Order giving effect to the proposals comprised in the application with modifications which in his opinion do not make any substantial change in the proposals;

And whereas notice of the Secretary of State’s determination was published in the London Gazette on 10th February 1999;

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 1 and 5 of, and paragraphs 1 to 5, 7, 8, 10, 11, and 15 to 17 of Schedule 1 to, the 1992 Act and of all other powers enabling him in that behalf, hereby makes the following Order:—

**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.

---

(1) S.I. 1992/2902.  
(2) 1992 c. 42.

## Interpretation

- 2.—(1) In this Order, unless the context otherwise requires—
- “the 1965 Act” means the Compulsory Purchase Act 1965<sup>(3)</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>(4)</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>(5)</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;
  - “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<sup>(6)</sup>;
  - “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.

---

(3) 1965 c. 56.

(4) 1990 c. 8. Subsection (2A) was inserted by section 16(1) of the Transport and Works Act 1992.

(5) 1980 c. 66.

(6) 1996 c. 61.

## **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—

- (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(7) 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(8) 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—

“(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—

---

(7) 1981 c. 67.  
(8) 1981 c. 66.

- (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<sup>(9)</sup>, a public gas transporter within the meaning of Part I of the Gas Act 1986<sup>(10)</sup>, a water undertaker within the meaning of the Water Industry Act 1991<sup>(11)</sup>, 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.

---

(9) 1989 c. 29.

(10) 1986 c. 44.

(11) 1991 c. 56.

### **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(12).

(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.

### **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.

(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

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

## SCHEDULES

### SCHEDULE 1

Articles 2(1) and 3

#### THE SCHEDULED WORK

The work which Eurostar is authorised by article 3(1) above to construct and maintain is the following—

In the County of Kent, Borough of Maidstone, Parish of Boxley, a new road, forming a diversion of Boarley Lane (D898), commencing in that road at a point 44 metres south-west of the building comprising Boarley Cottage, passing south-eastwards then south-westwards over the railway comprised in Work No. 13 authorised by the principal Act, then westwards, and terminating in Boarley Lane opposite the access to Boarley Oast.

### SCHEDULE 2

Article 7(2)(a)

#### MODIFICATIONS RELATING TO ACQUISITION OF NEW RIGHTS

1. The modifications referred to in article 7(2)(a) above are as follows.
2. For section 7 of the 1965 Act there shall be substituted—

**“7 Measure of compensation in case of purchase of new right.**

7. In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is purchased is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

3. In section 8 of that Act (provisions as to divided land) for subsection (1) there shall be substituted—

“(1) This subsection applies where—

- (a) a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”) has been served on a person under section 5 of this Act,
- (b) in consequence of the service of the notice, a question of disputed compensation in respect of the purchase of the right would, apart from this section, fall to be determined by the Lands Tribunal, and
- (c) before the Lands Tribunal have determined that question, the person on whom the notice has been served satisfies them that the relevant conditions are met.

(1A) The relevant conditions are—

- (a) that he has an interest which he is able and willing to sell in the whole of the relevant land;

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

- (b) where the relevant land consists of a house, building or manufactory, that it cannot be made subject to the right without material detriment to it; and
- (c) where the relevant land consists of a park or garden belonging to a house, that it cannot be made subject to the right without seriously affecting the amenity or convenience of the house.

(1B) Where subsection (1) above applies–

- (a) the compulsory purchase order shall, in relation to the person on whom the notice to treat has been served–
  - (i) cease to authorise the purchase of the right to which the notice relates, and
  - (ii) be deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of a park or garden belonging to a house, the house, and
- (b) the notice to treat shall be deemed to have been served in respect of that interest on such date as the Lands Tribunal direct.

(1C) Any question as to the extent of the land in which the compulsory purchase order is deemed to authorise the purchase of an interest by virtue of subsection (1B)(a)(ii) of this section shall be determined by the Lands Tribunal.

(1D) Where the Lands Tribunal determine that the person on whom a notice to treat has been served has satisfied them as mentioned in subsection (1)(c) of this section, the acquiring authority may withdraw the notice at any time within the period of six weeks beginning with the date of the determination.

(1E) Subsection (1D) of this section is without prejudice to any other power of the acquiring authority to withdraw the notice to treat.”

4. The following provisions of that Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land) namely–

- section 9(4) (failure of owners to convey),
- paragraph 10(3) of Schedule 1 (owners under incapacity),
- paragraph 2(3) of Schedule 2 (absent and untraced owners), and
- paragraphs 2(3) and 7(2) of Schedule 4 (common land),

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be purchased compulsorily is vested absolutely in the acquiring authority.

5. Section 11 of that Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on sheriff’s warrant in the event of obstruction) of that Act shall be modified correspondingly.

6. Section 20 of that Act (compensation for short term tenants) shall apply with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of the land but taking into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right in question.

7. Section 22 of that Act (protection of acquiring authority’s possession of land where interest accidentally omitted from purchase) shall be so modified as to enable the acquiring authority, in

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

circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

8. References in that Act to land are, in appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired, or
- (b) the land over which the right is, or is to be, exercisable.

9. In the Land Compensation Act 1973(13), for section 44 there shall be substituted—

**“Compensation for injurious affection.**

44.—(1) Where a right over land is purchased from any person for the purpose of works which are to be situated partly on that land and partly elsewhere, compensation for injurious affection of land retained by that person shall be assessed by reference to the whole of the works and not only the part situated on the land over which the right is exercisable.

(2) In this section “compensation for injurious affection” means compensation for injurious affection under section 7 or 20 of the Compulsory Purchase Act 1965 as applied by article 7(2) of the Channel Tunnel Rail Link (Boarley Lane Diversion) Order 1999.”.

10. For section 58 of that Act there shall be substituted—

**“58 Determination of material detriment where right over part of house etc. proposed for compulsory acquisition.**

58. In determining under section 8(1)(c) of the Compulsory Purchase Act 1965 as applied by article 7(2) of the Channel Tunnel Rail Link (Boarley Lane Diversion) Order 1999 whether—

- (a) a right over part of a house, building or manufactory can be taken without material detriment to the house, building or manufactory, or
- (b) a right over part of a park or garden belonging to a house can be taken without seriously affecting the amenity or convenience of the house,

the Lands Tribunal shall take into account not only the effect of the right on the whole of the house, building or manufactory or of the house and the park or garden but also the use to be made of the right proposed to be acquired and, in a case where the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use to be made of the other land.”.

**SCHEDULE 3**

Article 13(1)

**APPLICATION OF PROVISIONS OF PRINCIPAL ACT**

*Provisions of the principal Act applied*

1. The following provisions of the principal Act shall apply to the matters which are the subject of this Order on the general assumptions mentioned in paragraph 2 below and, where any special assumption is mentioned in paragraph 3 below for any such provision, on the special assumptions for it so mentioned—

---

(13) 1973 c. 26.

- (a) sections 7, 8, 27 to 30, 43 and 54;
- (b) paragraphs 9 and 10 of Schedule 2;
- (c) paragraphs 3(1)(a), (2) and (3) and 5 to 14 of Schedule 3;
- (d) paragraphs 11 to 13 and 16 of Schedule 4;
- (e) paragraphs 4 and 5 of Schedule 5;
- (f) paragraphs 1 and 2 of Schedule 9;
- (g) paragraphs 5 and 7 of Schedule 10;
- (h) Parts I to IV of Schedule 15.

#### *The General Assumptions*

2. The general assumptions are that references in the principal Act in whatever form (including references inserted or substituted by any provision of that Act in any other enactment)–
- (a) to that Act or to Part I or III of that Act were references to this Order;
  - (b) to the nominated undertaker were references to Eurostar;
  - (c) to the deposited plans, the deposited sections and the book of reference were references to the deposited plan, the deposited sections and the book of reference respectively as defined in article 2(1) above;
  - (d) to the scheduled works, or to the limits of deviation for the scheduled works and the limits of land to be acquired or used, were references to the scheduled work or, as the case may be, the Order limits as defined in article 2(1) above;
  - (e) to particular provisions of that Act were a reference to those provisions as applied by paragraph 1 above.

#### *The Special Assumptions*

- 3.—(1) In paragraph 3(1) of Schedule 3 to the principal Act, the reference to paragraph 1 of that Schedule shall be treated as a reference to article 4 above.
- (2) In paragraph 5 of Schedule 3 to the principal Act, the reference to paragraph 1 or 4 of Schedule 2 to that Act shall be treated as a reference to article 3(3) or (4) above.
- (3) In paragraph 6(3) of Schedule 3 to the principal Act, the reference to paragraph 1(1) of that Schedule shall be treated as a reference to article 4(1) above.
- (4) In paragraph 14 of Schedule 3 to the principal Act, the reference to that Schedule shall be treated as a reference to this Order.
- (5) In paragraphs 11 and 13 of Schedule 4 and paragraph 4 of Schedule 5 to the principal Act, references to section 4(1) of that Act shall be treated as references to article 5 above.
- (6) In paragraph 3(4) of Part I of Schedule 15 to the principal Act, the reference to deemed planning permission shall be treated as a reference to that expression as defined in article 2(1) above.
- (7) In paragraph 4 of Part IV of Schedule 15 to the principal Act, references to paragraph 1 of Schedule 3 to that Act shall be treated as references to article 4(1) above.

#### *Ancillary Matters*

- 4.—(1) Regulations made under section 29(4) of the principal Act shall have effect in relation to appeals referred to arbitration under subsection (7A) of section 60 or 61 of the Control of Pollution

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

Act 1974(14), as inserted by section 29(3) of the principal Act and applied by paragraph 1 above, as they have effect for appeals referred to arbitration under that subsection in relation to works carried out in exercise of the powers conferred by Part I of the principal Act.

(2) Rules made under section 43(2) of the principal Act shall apply to an arbitration under this Order as they apply to an arbitration under Part I of the principal Act.

5. Paragraph 9 of Schedule 2 to the principal Act and Schedule 9 to that Act, as they are applied by paragraph 1 above, shall only have effect (so far as concerns entry on land) so as to allow entry on land within the Order limits.

6. Without prejudice to the generality of the general assumptions in paragraph 2 above, the references in section 7(1) of the principal Act to the coming into force of that Act shall be treated (so far as concerns the matters which are the subject of this Order) as references to the coming into force of this Order.

7. Paragraph 10(2) of Schedule 3 to the principal Act, as applied by paragraph 1 above, shall have effect subject to the matters approved in any deemed planning permission.

8. Paragraph 1 of Schedule 9 to the principal Act, as applied by paragraph 1 above, shall have effect as if section 16 of the Railways Clauses Consolidation Act 1845(15) were excluded from incorporation with this Order.

---

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes provision for the diversion of Boarley Lane, Boxley, Kent to a different line and level from those authorised by the Channel Tunnel Rail Link Act 1996, so as to give effect to the wishes of the Lords' Select Committee into the Bill for that Act for the lowering of the alignment of the rail link in the Boxley Valley. It also makes supplementary provision for the temporary occupation of certain land not provided for in that Act in connection with the diversion of an overhead line near Boarley Lane under that Act.

Copies of the deposited plan, sections and book of reference referred to in the Order may be inspected on weekdays during ordinary office hours at the Technical Library, Union Railways Limited, Floor 1, 106 Tottenham Court Road, London W1P 9HF.

---

(14) 1974 c. 40.

(15) 1845 c. 20.