



Channel Tunnel Act 1987

1987 CHAPTER 53

PART III

STATUS, OPERATION AND REGULATION OF THE TUNNEL SYSTEM

Status of the tunnel system

10 Incorporation of part of the tunnel system into the United Kingdom and general application of law.

- (1) The land comprising the tunnel system as far as the frontier, so far as not forming part of the United Kingdom before the passing of this Act, shall, as it becomes occupied by or on behalf of the Concessionaires working from England, together with so much of the surrounding subsoil as is necessary for the security of the part of the system so occupied, be incorporated into England and form part of the district of Dover in the county of Kent, and the law of England shall apply accordingly.
- (2) Subsections (3) and (4) below apply if any part of the tunnel system constructed by or on behalf of the Concessionaires working from England (“the English section”) extends beyond the frontier before it effectively joins the part of the tunnel system constructed by or on behalf of the Concessionaires working from France (“the French section”) and subsections (5) to (7) below apply if the converse case occurs.

Any land comprising any such part of the English or (as the case may be) of the French section is referred to in those subsections as a cross-frontier extension of that section.

- (3) Until the English section effectively joins the French section, any cross-frontier extension of the English section shall be treated as being in England and, except for rating purposes, as forming part of the county of Kent and the law of England shall apply there.
- (4) When the English section effectively joins the French section, the law of England shall continue to apply in relation to things done or omitted while the cross-frontier extension was treated by virtue of subsection (3) above as being in England and any proceedings may be brought or continued, any punishment may be imposed and

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carried out and any remedy may be granted and enforced in respect of such things accordingly.

- (5) Subject to subsection (6) below, until the English section effectively joins the French section, no part of the law of England that would otherwise apply in relation to things done or omitted in, over or under the bed of the sea above any cross-frontier extension of the French section shall apply in relation to anything done or omitted in that extension or in so much of the surrounding subsoil as is necessary for the security of that extension.
- (6) Subsection (5) above shall not exclude the application of any enactment or rule of law that applies irrespective of the country or territory in which any acts or omissions with which it is concerned take place.
- (7) On the date on which the English section effectively joins the French section, section 7 of this Act and subsection (1) above shall apply to the cross-frontier extension of the French section as if it had become occupied on that date by or on behalf of the Concessionaires working from England.
- (8) For the purposes of this section, the date on which the English section effectively joins the French section shall be taken to be such date as the Secretary of State may by order certify as being that date.

Modifications etc. (not altering text)

- C1** [S. 10\(8\)](#): the date certified as the date upon which the English section effectively joins the French section is 30.11.1992 by [S.I. 1991/1212](#), [art.2](#).

Application and enforcement of law

11 Regulation of the tunnel system: application and enforcement of law, etc.

- (1) The appropriate Minister may by order make such provision as appears to him to be necessary or expedient—
 - (a) for the purpose of implementing the international arrangements, or enabling those arrangements to be implemented;
 - (b) for the transfer to, and the vesting by virtue of the order in, any person or persons specified in the order (referred to below in this section as the transferee), on such terms (if any) as may be provided by the order—
 - (i) on any substitution of Concessionaires under the Concession or on the expiry or termination of the Concession, of the interest of the former Concessionaires in all movable property and intellectual property rights necessary for the construction or operation of the tunnel system;
 - (ii) on any such substitution, of all rights and liabilities of the former Concessionaires under the Concession or any Concession lease; and
 - (iii) on any such substitution which takes place in such circumstances as may be specified in the order, of liabilities of the former Concessionaires (other than liabilities within sub-paragraph (ii) above) of such description as may be so specified;
 and for securing effective possession or control by the transferee of any movable property or rights in which any interest transferred by the order subsists;

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- (c) in relation to the construction, operation or use of the tunnel system or any part of the tunnel system, so far as relates to activities carried on, persons employed or engaged in work, things done or omitted or other matters arising anywhere within the system (whether in England or in France), including in particular (without prejudice to the generality of the preceding provision) provision with respect to controls in relation to persons or goods within the system;
 - (d) for the purpose of applying any provisions of the law of England (with or without modifications), or excluding or modifying any of those provisions, in relation to things done or omitted or other matters arising anywhere within the tunnel system (whether in England or in France);
 - (e) with respect to controls in relation to persons or goods—
 - (i) on trains engaged on international services; or
 - (ii) at authorised terminal control points for such services;
- outside the tunnel system (whether in the United Kingdom or elsewhere);
- (f) in relation to persons employed or engaged in work outside the tunnel system (whether in the United Kingdom or elsewhere)—
 - (i) on any train engaged on an international service, in or for the purposes of or in connection with the operation of that service; or
 - (ii) in or for the purposes of or in connection with the exercise, on any such train or at any authorised terminal control point for such services, of any controls in relation to persons or goods such as are mentioned in paragraph (e) above;
 - (g) for the purpose of dealing with any matters arising out of or connected with any provision within the powers conferred by any of paragraphs (a) to (f) above (whether or not those matters arise within the tunnel system, on any such train or at any such control point); or
 - (h) otherwise in relation to, or for regulating any matters arising out of or connected with, the tunnel system.
- (2) Subject to subsection (5) below—
- (a) the provision authorised by any of paragraphs (a) to (c) and (e) to (h) of subsection (1) above includes provision applying any provisions of the law of England (with or without modifications) or excluding or modifying the application of any of those provisions; and
 - (b) for the purposes of paragraph (a) above and paragraph (d) of that subsection—
 - (i) “modification” includes, in relation to an enactment, any amendment of it; and
 - (ii) provision excluding or modifying the application of any provision of the law of England includes, in relation to an enactment, provision amending or repealing it (in either case with or without savings).
- (3) Without prejudice to the generality of subsection (1) above, the kind of provision that may be made by an order under this section includes the following—
- (a) provision creating new criminal offences punishable as may be provided by the order or imposing penalties otherwise than in respect of criminal offences;
 - (b) provision imposing, or providing for the imposition of, fees or charges;
 - (c) provision conferring power on any Minister of the Crown or Government department to make orders, rules, regulations or other subordinate instruments of a legislative character;

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- (d) provision for, or authorising any such order, rule, regulation or other subordinate instrument to provide for, the delegation of any functions conferred or imposed by or in pursuance of any order under this section or by any enactment;
 - (e) provision, subject to subsection (4) below, for or in connection with the enforcement or execution outside the United Kingdom of any provision of the law of England or within the United Kingdom of any provision of the law of any other country, including in particular—
 - (i) provision conferring powers on any officer belonging to the United Kingdom to arrest and detain outside the United Kingdom persons suspected of having committed offences under the law of England and bring them to lawful custody in England;
 - (ii) provision conferring powers on any such officer to arrest and detain within the United Kingdom persons suspected of having committed offences under the law of any other country and surrender them to the custody of officers belonging to that country without the authority of any order of a court in any part of the United Kingdom; and
 - (iii) provision for or in connection with the exercise in the United Kingdom by officers belonging to any other country of powers corresponding to those mentioned in sub-paragraph (i) above; and
 - (f) provision conferring jurisdiction on courts or tribunals in any part of the United Kingdom or limiting the jurisdiction otherwise exercisable by any such courts or tribunals.
- (4) An order under this section may not make provision for or in connection with the exercise of powers by officers belonging to one country in any other country except—
- (a) within the tunnel system;
 - (b) on trains engaged on international services; or
 - (c) at authorised terminal control points for such services.
- (5) So far as relates to enactments contained in this Act, only the following may be amended or repealed by an order under this section, that is to say, sections 12, 14 to 18, 20 to 22, 31 and 43 and Schedule 6.
- (6) An order made by virtue of subsection (1)(b) above may provide for any interest or right transferred by the order—
- (a) to vest in the transferee free of any security to which it is subject immediately before the order comes into force, other than one created in accordance with the Concession; or
 - (b) to be treated on vesting in the transferee as subject to a security of such a description, held by such person or persons, as may be provided by or specified in the order.
- (7) An order so made may provide for applying any provisions of the order relating to the interest of the former Concessionaires in any movable property or intellectual property rights necessary for the construction or operation of the tunnel system, subject to any modifications specified in the order, in relation to—
- (a) any interest in any such property or rights of a liquidator of any company which is, or is included among, the former Concessionaires; or
 - (b) any interest of any such liquidator of any description specified in the order.

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- (8) No liquidator of, or other person exercising functions under insolvency law in relation to, any company which is, or is included among, the Concessionaires shall sell or otherwise dispose of any interest of the company in any such property or rights without the consent of the Secretary of State; and any sale or other disposal in contravention of this subsection shall be void.
- (9) Where in any proceedings a question arises as to what constitutes for the purposes of this section an interest in movable property or intellectual property rights necessary for the construction or operation of the tunnel system, the court shall have regard in determining the question to any construction of the corresponding references in the Concession for the time being adopted by the arbitral tribunal.
- (10) For the purposes of subsection (9) above, the corresponding references in the Concession are the references to the interest of the Concessionaires in all movable property and intellectual property rights necessary for the construction or operation of the Fixed Link.
- (11) For the purposes of this section—
- (a) a substitution of Concessionaires under the Concession occurs at any time when any person or persons become the Concessionaires in substitution for any person or persons who were the Concessionaires immediately before that time;
 - (b) “the former Concessionaires” means, in relation to any such substitution or in relation to the expiry or termination of the Concession, the person or persons who cease to be the Concessionaires on that substitution or on that expiry or termination;
 - (c) “liabilities” includes duties and obligations;
 - (d) “company” means a British company or a French company;
 - (e) “British company” means a company formed and registered under the ^{M1}Companies Act 1985;
 - (f) “French company” means a body corporate incorporated under the law of France;
 - (g) “liquidator” means, in relation to a company, a person appointed as liquidator or provisional liquidator of the company under any provision of the ^{M2}Insolvency Act 1986 or exercising in relation to the company functions under the law of France corresponding to those of a person so appointed, and the reference in subsection (8) above to any person other than a liquidator exercising functions under insolvency law in relation to a company is a reference to—
 - (i) any person appointed as the administrator of the company under any provision of that Act;
 - (ii) an administrative receiver of the company within the meaning of Chapter I of Part III of that Act;
 - (iii) any person acting as supervisor of any voluntary arrangement (within the meaning of section 7 of that Act) relating to the company’s affairs; or
 - (iv) any person exercising in relation to the company functions under the law of France corresponding to those exercisable by any person of a description within any of sub-paragraphs (i) to (iii) above; and
 - (h) “security” means any mortgage, charge, lien or other security.

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Marginal Citations

M1 1985 c. 6.

M2 1986 c. 45.

12 Controls on board trains engaged on international services.

- (1) It shall be the duty of the appropriate Minister to secure that, where this subsection applies, controls exercisable in relation to—
- (a) passengers carried on a train engaged on an international service on a journey beginning or intended to end at a place in Great Britain other than London or Cheriton, Folkestone or any place between those places; or
 - (b) things contained in the baggage of such passengers; shall be exercised on the train.
- (2) Subject to subsection (3) below, subsection (1) above applies where—
- (a) the person operating the service has made a request to the appropriate Minister that the controls in question should be exercised on trains engaged on the service in question;
 - (b) the appropriate Minister has approved as satisfactory arrangements made by that person for the provision of facilities to enable the controls in question to be exercised on such trains;
 - (c) facilities enabling the exercise of the controls in question are provided on the train in question in accordance with such approved arrangements; and
 - (d) the controls are exercised by customs officers or immigration officers.
- (3) Subsection (1) above does not apply—
- (a) in the case of passengers carried on a particular train or part of a particular train, or things contained in the baggage of such passengers, if in the opinion of a customs officer or immigration officer exercising the controls it is not reasonably practicable effectively to exercise the controls in question on the train or part of a train; and
 - (b) in the case of any particular passenger or things contained in the baggage of any particular passenger, if in the opinion of any such officer it is not reasonably practicable effectively to exercise the controls in question in relation to the passenger or his baggage on the train.
- (4) An order under section 11 of this Act may include provision imposing, or providing for the imposition of, fees or charges on persons operating international services in respect of the exercise of controls in relation to passengers or things such as are mentioned in subsection (1) above on trains engaged on the services.
- (5) In this section—
- “customs officer” means an officer or other person acting under the authority of the Commissioners of Customs and Excise; and
- “immigration officer” means an immigration officer appointed for the purposes of the ^{M3}Immigration Act 1971.

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Marginal Citations

M3 1971 c. 77.

13 Provisions supplementary to sections 11 and 12.

- (1) Subject to subsection (2) below, in sections 11 and 12 of this Act “the appropriate Minister” means, in relation to any matter, the Minister in charge of any Government department concerned with that matter or, where more than one such department is concerned with that matter, the Ministers in charge of those departments, acting jointly.
- (2) Where the Commissioners of Customs and Excise or the Forestry Commissioners are concerned with any matter (whether alone or together with any other Government department) subsection (1) above shall apply as if the references to the Minister or Ministers in charge of any Government department or departments concerned with that matter were or included references to those Commissioners.
- (3) The validity of any order purporting to be made under section 11 of this Act shall not be affected by any question whether or not the order fell by virtue of subsection (1) above to be made by the Minister or department (or any of the Ministers or departments) purporting to make it.
- (4) In sections 11 and 12 of this Act “controls” means prohibitions, restrictions or requirements of any description, and any reference to the exercise of controls is a reference to the exercise or performance of any functions conferred or imposed by any enactment, or otherwise under any lawful authority, for or in connection with the enforcement of prohibitions, restrictions or requirements of any description.
- (5) For the purposes of those sections a train is engaged on an international service at any time when the whole or any part of the train is being used in the operation of such a service and a place is an authorised terminal control point for international services if it is designated as such in accordance with the international arrangements.
- (6) In those sections and this section—

“the international arrangements” includes any agreements or arrangements between Her Majesty’s Government in the United Kingdom and the Government of any country on the Continent of Europe other than France which for the time being apply for regulating any matters arising out of or connected with the operation of international services; and

“international service” means any service (including a shuttle service) for the carriage of passengers or goods by way of the tunnel system.

14 Arrangements for the policing of the tunnel system.

- (1) The policing of the tunnel system shall be undertaken by constables under the direction and control of the Chief Constable of the police force [^{F1}maintained for the Kent police area].
- (2) The Railways Board may, on the application of the Chief Constable of the police force [^{F1}maintained for the Kent police area], provide constables or other assistance for the policing of the tunnel system.

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- (3) Any constable so provided shall, when he is engaged in the policing of the tunnel system, be under the direction and control of the Chief Constable of the police force [F1maintained for the Kent police area] and have the same powers as a constable who is a member of that force.
- (4) The Concessionaires shall—
- (a) make to the [F2Kent Police Authority] such payments in respect of the policing of the tunnel system; and
 - (b) provide for use in connection with the policing of the system such accommodation and facilities;
- as the Concessionaires and that [F2Authority] may agree or as may, in default of agreement, be determined by the Secretary of State.
- (5) The [F2Kent Police Authority] shall make to the Railways Board such payments in respect of any assistance provided under subsection (2) above as the [F2Authority] and the Board may agree or as may, in default of agreement, be determined by the Secretary of State.

Textual Amendments

- F1** S: 14(1)-(3): the words “for the county of Kent” substituted (1.4.1995) by 1994 c. 29, s. 44, **Sch. 5 Pt. II para. 38(2)**; S.I. 1994/3262, art. 4, **Sch.** (with arts. 5-11)
- F2** Words in s. 14(4)(5) substituted (1.4.1995) by 1994 c. 29, s. 44, **Sch. 5 Pt. II para. 38(3)**; S.I. 1994/3262, art. 4, **Sch.** (with arts. 5-11)

*Application of English law to Concession agreements
 and leases to be subject to international arrangements*

15 Contract law and arbitration law.

- (1) Subject to subsection (3)(a) below, English law shall not apply for the determination of any question with respect to the formation, discharge, validity or effect of any Concession agreement except to the extent and in the circumstances (if any) provided by or determined under any provision of the international arrangements.
- (2) For the purposes of all legal proceedings—
- (a) any Concession agreement specified in any notice published under section 4 of this Act with respect to the coming into operation of the Concession shall be taken to be valid and effective at any time on or after the date specified in that notice; and
 - (b) any Concession agreement other than one so specified shall be taken to be valid and effective at any time on or after the date on which it is expressed to take effect;
- until any date specified in a notice so published as being the date on which the Concession expired or terminated.
- (3) Where any Concession agreement provides for the determination of a dispute by the arbitral tribunal—
- (a) the provisions of Part I of the ^{M4}Arbitration Act 1950 and the ^{M5}Arbitration Act 1979 specified in subsection (4) below shall apply in relation to that agreement, or to the enforcement of an award on that agreement, subject to the

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- modifications specified in that subsection and except so far as excluded by, and subject to any modifications contained in, the agreement or any provision of the international arrangements; but
- (b) without prejudice to subsection (1) above, no other provision of Part I of the Act of 1950 or the Act of 1979 shall apply in relation to that agreement, or to the enforcement of an award on that agreement, except so far as applied by, and subject to any modifications contained in, that agreement or any provision of the international arrangements.
- (4) The provisions are—
- (a) section 4(1) of the Act of 1950 (staying court proceedings on matters subject to arbitration) with the substitution of the words “shall make an order staying the proceedings” for the words from “ if satisfied ” to the end;
- (b) section 26 of that Act (enforcement of arbitration award by court); and
- (c) section 2 of the Act of 1979 (determination by court of preliminary point of law arising on arbitration) with—
- (i) the omission of the words “Subject to subsection (2) and section 3 below,” in subsection (1) and of subsection (2); and
- (ii) the substitution of the words “ with the consent of the arbitral tribunal ” for paragraphs (a) and (b) of subsection (1);
- and any other provisions of Part I of the Act of 1950 or the Act of 1979 so far as affecting the operation of the provisions mentioned in any of paragraphs (a) to (c) of this subsection.
- (5) Subject to subsection (3)(a) above and except to the extent and in the circumstances (if any) provided by or determined under the agreement in question or any provision of the international arrangements, no court in any part of the United Kingdom shall have jurisdiction (whether by virtue of any enactment or at common law)—
- (a) to determine any matter over which the arbitral tribunal assumes jurisdiction;
- (b) to set aside or remit an award made on any Concession agreement on the ground of errors of fact or law on the face of the award, excess of jurisdiction, procedural irregularities or on any other ground whatsoever; or
- (c) to determine whether anything purporting to be such an award is a valid award; and in all legal proceedings anything purporting to be such an award shall be taken to be a valid award and shall not be questioned on any ground whatsoever.

Marginal Citations

- M4** 1950 c. 27.
M5 1979 c. 42.

16 Landlord and tenant law.

- (1) The purpose of this section is to secure that the application of English law to any Concession lease does not have effect so as to prejudice the operation of the international arrangements, so far as relates to the provision for use by the Concessionaires of the land required in England for the construction and operation of the tunnel system by the grant to the Concessionaires of a Concession lease on terms determined in pursuance of those arrangements.

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- (2) No enactment or rule of law regulating the rights and obligations of landlords and tenants shall apply in relation to the rights and obligations of the parties to a Concession lease—
- (a) so as to exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
 - (b) so as to confer or impose on either party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
 - (c) so as to restrict the enforcement (whether by action for damages or otherwise) by either party to the lease of any obligation of the other party under the lease.

Intergovernmental supervision of construction and operation

17 Supervision by Intergovernmental Commission and Safety Authority.

- (1) Any person authorised by a supervisory body to exercise the powers under this section for the purpose of the performance by that body of any of their functions under the Treaty (referred to below in this section as an authorised person) shall have the powers conferred by subsection (3) below, subject to any conditions or limitations in the instrument by which he is so authorised.
- (2) An authorised person shall, if so required when exercising or seeking to exercise any of the powers conferred by subsection (3) below, produce his instrument of authority or a duly authenticated copy of it.
- (3) The powers of an authorised person under this subsection are the following—
 - (a) at any reasonable time (or, in a situation which in his opinion is or may be dangerous, at any time) to enter the tunnel system or any premises, place or vehicle in the tunnel system for the purpose of carrying out any inspection, examination or investigation with respect to any matter concerning the construction or operation of that system;
 - (b) to take in connection with any such inspection, examination or investigation samples of any articles or substances found in any premises, place or vehicle in the tunnel system and of the atmosphere in or in the vicinity of any such premises, place or vehicle;
 - (c) in the case of any article or substance which is so found and which appears to him to have caused or be likely to cause danger to health or safety, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless this is in the circumstances necessary for the performance of any function under the Treaty of the supervisory body by whom he is authorised);
 - (d) in the case of any such article or substance, to take possession of it and detain it for so long as is necessary for all or any of the following purposes—
 - (i) to examine it and to do anything which he has the power to do under paragraph (c) above;
 - (ii) to ensure that it is not tampered with before his examination of it is completed;

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- (iii) to ensure that it is available for use as evidence in any legal proceedings;
 - (e) to require any person whom he has reasonable cause to believe to be able to give any information relevant to any inspection, examination or investigation with respect to any matter concerning the construction or operation of the tunnel system to answer such questions as the authorised person thinks fit to ask;
 - (f) to require the production of, inspect and take copies of any entry in, any books or documents which it is necessary for him to see for the purposes of any such inspection, examination or investigation; and
 - (g) to require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the authorised person to exercise any of the powers conferred on him by this section.
- (4) Without prejudice to subsection (3)(g) above, it shall be the duty of the Concessionaires or, where the Concessionaires for the time being are two or more persons, of each of them, and of their servants and agents, to afford to an authorised person such facilities and assistance as are necessary to enable him to exercise any of those powers.
- (5) For the purpose of the performance of any of their functions under the Treaty, a supervisory body may give directions to any person with respect to any matter concerning the construction or operation of the tunnel system.
- (6) Directions given by a supervisory body under subsection (5) above shall be given in writing.
- (7) It is an offence for any person, without reasonable excuse—
- (a) to refuse or fail to comply with a requirement made by an authorised person under this section;
 - (b) to refuse or fail to afford to an authorised person any facilities or assistance that person is required to afford to the authorised person under subsection (4) above; or
 - (c) to refuse or fail to comply with a direction given by a supervisory body under subsection (5) above.
- (8) It is an offence for any person intentionally to obstruct an authorised person in the exercise of his powers under this section.
- (9) A person who commits an offence under this section shall be liable on summary conviction to a fine not exceeding the statutory maximum or, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (10) Proceedings for an offence under this section shall not be brought in England and Wales except by or with the consent of the Director of Public Prosecutions or in Northern Ireland except by or with the consent of the Director of Public Prosecutions for Northern Ireland.
- (11) References in this section to a supervisory body are references to the Intergovernmental Commission or the Safety Authority; but in relation to the powers of the Safety Authority and a person authorised by that authority references in this section to matters concerning the construction or operation of the tunnel system shall be read as limited to such matters so far as they affect health or safety.

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18 Intergovernmental Commission and Safety Authority: supplementary.

- (1) For the purposes of all legal proceedings—
- (a) any instrument of authority, direction or certificate purporting to be issued by the Intergovernmental Commission or by the Safety Authority; and
 - (b) any other thing purporting to be done by or on behalf of that Commission or Authority;
- shall be taken as having been so issued or done without proof that the instrument, direction, certificate or other thing was validly issued or done in accordance with the Treaty or any procedure adopted by that Commission or Authority in pursuance of the Treaty.
- (2) For the purposes of all legal proceedings, anything purporting to be done on behalf of that Commission or Authority by a person authorised to do it by that Commission or Authority shall be taken as having been so done without proof of the authorisation of the person by whom it purports to be done.
- (3) Evidence of any direction or certificate issued by the Intergovernmental Commission or by the Safety Authority may be given in any legal proceedings by production of a copy—
- (a) which purports to be a copy of a direction or certificate so issued; and
 - (b) on which is endorsed a statement purporting to be signed by a person authorised to do so by that Commission or Authority that it is a copy of a direction or certificate so issued and that the copy is a true copy of that direction or certificate.
- (4) Any such statement, and any other document purporting to be signed by a person authorised to do so by that Commission or Authority, shall be taken for the purposes of all legal proceedings as having been signed by the person purporting to sign it without proof of that person's handwriting.
- (5) Any legal proceedings may be brought by and against that Commission or Authority under the name by which it was established by the Treaty.

Regulation of operation of the system

19 Operation by the Concessionaires.

- (1) Subject to the provisions of this Act, the Concessionaires are authorised by this section to manage, operate, maintain and develop the tunnel system.
- (2) The Concessionaires shall not be regarded as common carriers.
- (3) The Concessionaires shall make provision for the conveyance by means of shuttle trains of pedal bicycles and of motorcycles of which the cylinder capacity of the engine is less than 50 cubic centimetres.
- (4) The Concessionaires shall not convey any passengers by means of shuttle trains at any time when there is not in force a certificate issued by the Intergovernmental Commission stating—
 - (a) that the Commission are satisfied with a code of practice relating to the conveyance by means of shuttle trains of persons who are disabled which has for the time being been adopted by the Concessionaires; and

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- (b) that the code of practice has been published in a manner approved by the Commission.
- (5) Such a code of practice must contain—
- (a) a statement of any description of such persons not intended to be conveyed by means of shuttle trains, with reasons;
 - (b) details of provision for ensuring the safety of such persons in the tunnel system, in particular the safety in the event of an emergency of such persons being conveyed by means of shuttle trains; and
 - (c) information relating to such other matters affecting the conveyance by means of shuttle trains of persons who are disabled as the Commission may specify.
- (6) Contravention of the restriction imposed by subsection (4) above may be restrained by an order of the High Court made on an application by the Intergovernmental Commission.

20 Byelaws of the Concessionaires.

- (1) The Concessionaires may make byelaws regulating the operation and use of the tunnel system (including the use of shuttle trains), the maintenance of order in the system and the conduct of all persons while using or otherwise in the system and, in particular, byelaws—
- (a) with respect to interference with or obstruction of the operation of the tunnel system;
 - (b) with respect to the prevention of nuisances and of damage to property;
 - (c) prohibiting or restricting access to any premises, place or vehicle in the tunnel system;
 - (d) prohibiting the smoking of tobacco in any such premises, place or vehicle;
 - (e) prohibiting the admission of any description of vehicle specified in the byelaws to, or requiring the removal of any such description of vehicle from, the tunnel system or any premises, place or other vehicle in it;
 - (f) regulating the use or conveyance of vehicles and prohibiting or regulating the conveyance of goods other than vehicles, in particular dangerous goods;
 - (g) for requiring any person, if required by a constable or a person authorised for the purpose by the Concessionaires, to state his name and address and the purpose of his being in the tunnel system;
 - (h) for requiring any person, if required by a constable or a person so authorised, to leave the tunnel system or any premises, place or vehicle in it and to remove any goods which he has with him; and
 - (i) for securing the safe custody and redelivery of any property which, while not in proper custody, is found within the tunnel system, and in particular—
 - (i) for requiring charges to be paid in respect of any such property before it is redelivered; and
 - (ii) for authorising the disposal of any such property if it is not redelivered before the end of such period as may be specified in the byelaws.
- (2) Byelaws under this section may provide—
- (a) for the punishment on summary conviction of contraventions of any of the byelaws with a fine not exceeding a maximum fixed by the byelaws; and
 - (b) for any defence specified in the byelaws to be available in proceedings for a contravention of any byelaw, either generally or in circumstances so specified.

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- (3) Different provision may be made by virtue of subsection (2)(a) or (b) above in relation to different byelaws; but the greatest maximum fine that may be fixed for contravention of any byelaw shall not exceed level 4 on the standard scale.
- (4) A constable or a person authorised for the purpose by the Concessionaires may remove from the tunnel system or any premises, place or vehicle in it any person whom he reasonably suspects to be contravening or to have contravened any byelaw made under this section and any goods which he has with him.
- (5) A person so authorised may take steps to remove or obviate any danger being caused or likely to be caused by the contravention of any byelaw made under this section.
- (6) Byelaws under this section shall not come into operation until they have been confirmed by the Secretary of State under section 21 of this Act.
- (7) When any byelaws under this section have been so confirmed—
 - (a) a copy of the byelaws shall be printed and deposited at such place or places as may be specified in a direction given to the Concessionaires by the Secretary of State and shall at all reasonable hours be open to public inspection free of charge; and
 - (b) a copy of the byelaws, or any part of them, shall be supplied to any person on request on payment of such reasonable fee as the Concessionaires may determine.
- (8) The production of a printed copy of a byelaw purporting to be made by the Concessionaires on which is endorsed a certificate purporting to be signed by a person authorised to do so by the Concessionaires stating—
 - (a) that the byelaw is made by the Concessionaires;
 - (b) that the copy is a true copy of the byelaw;
 - (c) that on a specified date the byelaw was confirmed by the Secretary of State; and
 - (d) the date, if any, fixed by the Secretary of State for the coming into operation of the byelaw;
 shall be evidence of the facts stated in the certificate, without proof of the handwriting or authorisation of the person by whom it purports to be signed.

21 Confirmation of byelaws by Secretary of State.

- (1) At least one month before making an application for confirmation of any byelaws under section 20 of this Act the Concessionaires shall publish notice of their intention to apply for confirmation and of the place at which and the time during which a copy of the byelaws will be open for public inspection—
 - (a) in such newspapers circulating in the City of Canterbury, the borough of Ashford and the districts of Dover, Shepway and Thanet, in the county of Kent; and
 - (b) in such other manner;
 as may be approved by the Secretary of State.
- (2) Any person affected by any of the byelaws shall be entitled to make representations on the byelaws to the Secretary of State within a period of not less than one month which must be specified in the notice published under subsection (1) above.

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- (3) For at least one month before the making of any such application a copy of the byelaws in question shall be deposited at such place or places as may be specified in a direction given to the Concessionaires by the Secretary of State and shall at all reasonable hours be open to public inspection free of charge.
- (4) A copy of those byelaws, or any part of them, shall be supplied to any person on request on payment of such reasonable fee as the Concessionaires may determine.
- (5) Subject to the following provisions of this section, the Secretary of State may confirm with or without modification, or refuse to confirm, any byelaws submitted to him for confirmation, and may fix the date on which a byelaw confirmed by him is to come into operation; and if no such date is so fixed the byelaw shall come into operation at the expiration of one month beginning with the date of its confirmation.
- (6) The Secretary of State shall not confirm any byelaw submitted to him for confirmation unless he has consulted the Kent County Council and the council of any district in which it appears to him that the byelaw would have effect.
- (7) Where the Secretary of State proposes to make a modification of any byelaws submitted to him for confirmation which appears to him to be substantial—
 - (a) he shall inform the Concessionaires and require them to take any steps he considers necessary for informing persons likely to be concerned with the modification; and
 - (b) he shall not confirm the byelaws until such period has elapsed as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Concessionaires and by other persons who have been informed of it.

22 Application of Railways Board’s byelaws to their services in the tunnel system.

Byelaws made by the Railways Board under section 67 of the ^{M6}Transport Act 1962 (general power to make byelaws for their railways and premises) shall apply in relation to persons and goods being conveyed by the Railways Board on any railway of the Concessionaires as they apply in relation to persons and goods being conveyed on any railway of the Board.

Marginal Citations

M6 1962 c. 46.

23 Control of traffic within the tunnel system.

- (1) Subject to the following provisions of this section, the enactments relating to road traffic shall apply in relation to any tunnel system road to which the public does not have access as they apply in relation to a road to which the public does have access.
- (2) Those enactments shall apply in relation to any tunnel system road subject to such exceptions and modifications as the Secretary of State may by order specify.
- (3) An order under subsection (2) above may, in particular, confer on the Concessionaires functions exercisable under those enactments by a highway authority or a local authority.

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- (4) The Secretary of State may by order provide that those enactments shall not apply in relation to any tunnel system road specified in the order and may require the Concessionaires to indicate any such road in a manner so specified.
- (5) Those enactments shall not, in the case of any tunnel system road, apply in relation to it until such date as the Secretary of State may by order specify.
- (6) Before making an order under this section, the Secretary of State shall consult the Concessionaires.
- (7) In this section, “tunnel system road” means any length of road comprised in the tunnel system.

24 Approval of trains.

Any train used for conveying passengers or goods through the tunnel system (including any shuttle train) shall be of such a description and conform to such specifications as may for the time being be approved by the Secretary of State.

Termination of construction or operation

25 Maintenance of the tunnel system on termination of construction by Concessionaires.

- (1) Subject to section 27 of this Act, on termination of the Concession at any time before the construction of the Concessionaires’ scheduled works is completed, the Secretary of State is authorised by this section to take such steps as appear to him to be appropriate for maintaining the tunnel system, so far as already constructed, in a safe and satisfactory condition.
- (2) During any period when this section has effect—
 - (a) the Secretary of State is responsible, subject to subsection (1) above, for the exercise of any relevant functions of the Concessionaires under this Act in relation to the tunnel system; and
 - (b) references in provisions of this Act relating to those functions to the Concessionaires shall be read as references to the Secretary of State.

26 Operation of the tunnel system on a temporary basis where practicable on termination of the Concession.

- (1) Subject to section 27 of this Act and the following provisions of this section, if on the expiry or termination of the Concession the construction of the Concessionaires’ scheduled works has been completed or has reached a stage so near completion that it is practicable to operate the tunnel system or any part of it, the Secretary of State is authorised by this section—
 - (a) in collaboration with any Minister or department of the Government of the French Republic; and
 - (b) in accordance with any arrangements made, in pursuance of Article 17 of the Treaty, between that Government and Her Majesty’s Government in the United Kingdom with respect to the continued operation of the tunnel system by those Governments;

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to manage, operate and maintain the tunnel system or (as the case may be) such part of it as it is practicable to operate.

- (2) The Secretary of State may not by virtue of this section continue to participate in the management, operation or maintenance of the tunnel system after the end of the period of three months beginning with the date of the expiry or termination of the Concession.
- (3) During any period when this section has effect—
 - (a) the Secretary of State is responsible for the exercise of any relevant functions of the Concessionaires under this Act in relation to the tunnel system or (as the case may be) in relation to any part of it to which the arrangements mentioned in subsection (1)(b) above apply; and
 - (b) references in provisions of this Act relating to those functions to the Concessionaires shall be read as references to the Secretary of State.

27 Limitations on exercise of Secretary of State’s powers under sections 25 and 26.

- (1) Section 25 or (as the case may be) section 26 of this Act only has effect—
 - (a) if on the termination or (as the case may be) on the expiry or termination of the Concession the Secretary of State is satisfied that there is a reasonable prospect of agreement on a new Concession in the near future; and
 - (b) until either there is such agreement and the new Concession comes into operation or (as the case may be) he ceases to be so satisfied.
- (2) Where either of those sections ceases to have effect on the coming into operation of a new Concession, this section is without prejudice to the subsequent operation of either of those sections on the expiry or termination of the new Concession.

28 Provisions supplementary to sections 25 to 27.

- (1) The Secretary of State may by order make such modifications of the provisions of this Act, as they apply during any period when section 25 or 26 of this Act has effect, as appear to him to be necessary or expedient for the purposes or in consequence of the exercise by him of any relevant functions of the Concessionaires under this Act.
- (2) References in sections 25 and 26 and in subsection (1) above to relevant functions of the Concessionaires under this Act are references—
 - (a) in relation to the exercise by the Secretary of State of his powers under section 25(1), to functions of the Concessionaires under Part II or V of this Act; and
 - (b) in relation to the exercise by the Secretary of State of his powers under section 26(1), to functions of the Concessionaires under this Part of this Act or under Part V of this Act.
- (3) Below in this section—
 - (a) references to an authority responsible for the tunnel system are references to the Secretary of State, in relation to any period during which section 25 or 26 of this Act has effect, and otherwise to the Concessionaires;
 - (b) “a transfer of responsibility” means the expiry or termination of the Concession or the coming into operation of a new Concession (as the case may be); and

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- (c) “relevant functions” means, in relation to any such transfer, functions conferred by or under this Act for the exercise of which by virtue of that transfer one such authority ceases to be, and another such authority becomes, responsible.
- (4) On any transfer of responsibility—
- (a) all subsisting rights and duties conferred or imposed by any provision of this Act relating to any relevant functions on the person who ceases on that transfer to be the authority responsible for the tunnel system shall become rights and duties of the person who on that transfer becomes the authority so responsible; and
- (b) anything done by any person before that transfer in the exercise of any of those functions which is in force, valid or subsisting immediately before the transfer shall continue in force and have effect as if done by the person who on that transfer becomes the authority responsible for the tunnel system.
- (5) In particular, but without prejudice to the generality of paragraph (b) of subsection (4) above, any byelaws or other instrument made by one authority responsible for the tunnel system in exercise of any of the relevant functions may by virtue of that paragraph be varied or revoked by another authority so responsible, notwithstanding that the procedure applicable in relation to the making, variation or revocation of those byelaws or that instrument may, by virtue of any order made under this section with respect to the exercise of those functions by the Secretary of State, vary from one such authority to another.

29 Scheme for land on abandonment of construction or operation.

- (1) Where on or at any time after the expiry or termination of the Concession it appears to the Secretary of State that the construction or operation of the tunnel system will not be resumed in the near future, the Secretary of State shall notify the district planning authority of that fact and, after consultation with them, shall make in relation to any land on which work has been done under this Act a scheme for putting it into such a condition as the scheme may provide and shall put it into such a condition in accordance with the scheme.
- (2) A scheme under this section may be revoked or varied by a subsequent scheme made under this section by the Secretary of State after consultation with the district planning authority.

Miscellaneous

[^{F3}30 Rating.

In Schedule 3 to the ^{M7}Local Government Act 1974 (hereditaments in relation to which a method for fixing or determining rateable value may be specified by the Secretary of State under section 19 of that Act), there shall be inserted at the end—

- “10 (1) Any hereditament consisting of channel tunnel premises occupied by the Concessionaires or by any subsidiary of theirs.
- (2) For the purposes of this paragraph—

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- (a) “channel tunnel premises” means premises comprised in the tunnel system within the meaning of the Channel Tunnel Act 1987;
- (b) “Concessionaires” has the same meaning as in that Act; and
- (c) “subsidiary”, in relation to the Concessionaires—
 - (i) means a body corporate which is a subsidiary of theirs or, where the Concessionaires are for the time being two or more persons, of any of them, within the meaning of the ^{M8}Companies Act 1985; and
 - (ii) where the Concessionaires are for the time being two or more persons, includes a body corporate which would be a subsidiary of theirs within the meaning of that Act if the Concessionaires were a single body corporate.”]

Textual Amendments

F3 S. 30 repealed (E.W.S.) by S.I. 1990/1285, art. 3

Marginal Citations

M7 1974 c. 7.

M8 1985 c. 6.

31 Building regulations.

- (1) Nothing in Part I of the ^{M9}Building Act 1984 (building regulations), and nothing in any building regulations, shall apply in relation to any building comprised in the tunnel system unless the building is, within the meaning of that Act, a house or a hotel.
- (2) Section 4 of that Act (exemption from building regulations of certain buildings, other than houses, which belong to statutory undertakers) shall not apply in relation to any building comprised in the tunnel system.

Marginal Citations

M9 1984 c. 55.

32 Exclusion of exercise of rights under telecommunications code in relation to tunnel system land under the sea.

Notwithstanding anything in section 10 of the ^{M10}Telecommunications Act 1984 (the telecommunications code) or in any licence granted by the Secretary of State under section 7 of that Act (licensing of telecommunication systems), no rights shall be exercisable by any person by virtue of the telecommunications code in relation to any land comprised in the tunnel system and lying in or under the bed of the sea.

Marginal Citations

M10 1984 c. 12.

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33 Competition, etc.

- (1) The Act of 1976 shall not apply to any Concession agreement and shall be deemed never to have applied to any such agreement.
- (2) Where the Concessionaires are for the time being two or more persons, the Secretary of State may, after consultation with the Director General of Fair Trading, by order provide that—
 - (a) the Concessionaires 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 section 6(1)(b) (monopoly situation in relation to the supply of goods by or to members of one and the same group of interconnected bodies corporate) and 7(1)(b) (corresponding provision in relation to the supply of services) of the Act of 1973;
 - (b) the Concessionaires 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 the Act of 1976 in relation to any specified channel tunnel agreement, any specified class of channel tunnel agreements or all such agreements; and
 - (c) the Concessionaires 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 Act of 1980 (anti-competitive practices).
- (3) In the case of any channel tunnel agreement—
 - (a) the Secretary of State shall consult the Director General of Fair Trading before approving the agreement under section 29 of the Act of 1976 (exemption from registration under that Act of agreements which are of importance to the national economy and approved by the Secretary of State for the purposes of that section); and
 - (b) that section shall apply as if for the condition set out in subsection (2)(b) there were substituted a condition that the object or main object of the agreement is the facilitation of the construction or operation of the tunnel system.
- (4) In the case of any channel tunnel agreement made before, or within the period of six months beginning with, the date of passing of this Act, the Secretary of State may, before the expiration of that period, approve the agreement under section 29 by order made after it has been concluded; and, if he does so, the Act of 1976 shall be deemed not to have applied to the agreement at any time before that order comes into force.
- (5) In connection with the approval of any channel tunnel agreement for the purposes of section 29, the Secretary of State may, after consultation with the Director General of Fair Trading, by order provide that—
 - (a) in relation to any specified description of goods or services supplied in connection with the construction or operation of the tunnel system, such of the parties to that agreement as he may specify 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 sections 6(1)(b) and 7(1)(b) of the Act of 1973;
 - (b) in relation to any specified class of agreement which is made in pursuance or furtherance of that agreement, such of the parties to that agreement as he may specify and any body corporate which is a member of the same group

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- as any of them shall be deemed to be interconnected bodies corporate for the purposes of the Act of 1976; and
- (c) in relation to any course of conduct engaged in in connection with the construction or operation of the tunnel system, such of the parties to that agreement as he may specify 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 Act of 1980.
- (6) An order under subsection (2) or (5) 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.
- (7) Section 93(3) and (4) of the Act of 1973 (which enables the Secretary of State to apply to the court for an order to enforce certain directions given by him under that Act and makes provision with respect to the expenses of such an application) shall apply in relation to requirements imposed by an order under subsection (2) or (5) above as it applies in relation to directions given under section 90(7) of that Act.
- (8) Where, before the expiration of the period mentioned in subsection (4) above, the Secretary of State makes such provision as is mentioned in subsection (5)(b) above in connection with the approval of any agreement for the purposes of section 29, the Act of 1976 shall be deemed not to have applied, at any time before the order making the provision comes into force, to any agreement made in pursuance or furtherance of that agreement if, by virtue of that provision, the agreement so made is one to which that Act does not apply on the coming into force of that order.
- (9) Where an order under subsection (2) or (5) above is revoked, section 24 of the Act of 1976 (time for registering particulars of agreements subject to registration) shall apply in relation to any agreement which becomes subject to registration under that Act by virtue of the revocation of that order as it applies in relation to any 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.
- (10) In section 137(3) of the Act of 1973 (which defines “the supply of services” for the purposes of that Act and, by virtue of section 33(2) of the Act of 1980, for the purposes also of sections 2 to 24 of the latter Act) there shall be added after paragraph (d)—
- “and
- (e) includes the making of arrangements permitting use of the tunnel system (within the meaning of the Channel Tunnel Act 1987) by a person operating services for the carriage of passengers or goods by rail.”
- ^{F4}(11)
- (12) In this section—
- “the Act of 1973” means the ^{M11}Fair Trading Act 1973;
- “the Act of 1976” means the ^{M12}Restrictive Trade Practices Act 1976;
- “the Act of 1980” means the ^{M13}Competition Act 1980;
- “channel tunnel agreement” means any agreement connected with the construction or operation of the tunnel system;
- “group” means a body corporate and all other bodies corporate which are its subsidiaries within the meaning of the ^{M14}Companies Act 1985; and
- “specify” and “specified” mean specify and specified in an order.

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Textual Amendments

F4 S. 33(11) repealed (1.4.1994) by 1993 c. 43, ss. 150(1)(o), 152(3), **Sch.14**; S.I. 1994/571, **art. 5**

Marginal Citations

M11 1973 c. 41.

M12 1976 c. 34.

M13 1980 c. 21.

M14 1985 c. 6.

34 Supplementary provisions with respect to orders under Part III.

- (1) Any power to make an order conferred on the Secretary of State or the appropriate Minister by any provision of this Part of this Act shall be exercisable by statutory instrument.
- (2) Subject to subsection (3) below, any statutory instrument containing an order made under any such provision shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Subsection (2) above—
 - (a) shall not apply to a statutory instrument containing an order under section 10(8), 23(5) or 33 of this Act; and
 - (b) shall not apply to a statutory instrument containing an order made under section 11 of this Act if a draft of the instrument containing the order has been approved by resolution of each House of Parliament before the order is made.
- (4) Any order made by the Secretary of State or the appropriate Minister under this Part of this Act may make different provision for different cases or classes of case to which the order applies.
- (5) It is hereby declared that, notwithstanding that orders under section 11 of this Act may affect individuals or bodies corporate outside the United Kingdom, any provision made by any such order that does affect such individuals or bodies corporate applies whether or not those individuals are British subjects or those bodies corporate are incorporated in any part of the United Kingdom.

Status:

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