



Channel Tunnel Act 1987

1987 CHAPTER 53

PART III

STATUS, OPERATION AND REGULATION OF THE TUNNEL SYSTEM

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 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;
 - (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

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- 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;
 - (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;

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- (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.
- (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.

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- (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 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 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.

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—

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- (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 Immigration Act 1971.

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.

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- (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 for the county of Kent.
- (2) The Railways Board may, on the application of the Chief Constable of the police force for the county of Kent, provide constables or other assistance for the policing of the tunnel system.
- (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 for the county of Kent and have the same powers as a constable who is a member of that force.
- (4) The Concessionaires shall—
 - (a) make to the police committee for the county of Kent 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 committee may agree or as may, in default of agreement, be determined by the Secretary of State.
- (5) The police committee for the county of Kent shall make to the Railways Board such payments in respect of any assistance provided under subsection (2) above as the committee and the Board may agree or as may, in default of agreement, be determined by the Secretary of State.