



# 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 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;
  - (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 [<sup>F1</sup>the Companies Act 2006];
  - (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 <sup>M1</sup>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.

#### Textual Amendments

- F1** Words in s. 11(11)(e) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 91](#) (with art. 10)

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**Marginal Citations**

**M1** 1986 c. 45.

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