

Status: Point in time view as at 07/07/2010.

Changes to legislation: There are currently no known outstanding effects for the Channel Tunnel Rail Link Act 1996, SCHEDULE 5. (See end of Document for details)

SCHEDULES

SCHEDULE 5

Section 6.

TEMPORARY POSSESSION AND USE OF LAND

Occupation and use for construction of works

- 1 (1) The nominated undertaker may, in connection with the construction of the scheduled work or works specified in column (1) of the following table (or any works which are necessary or expedient for the purposes of or in connection with that work or those works)—
- (a) enter upon and take possession of the land specified in relation to that work or those works in columns (2) and (3) of that table for such purposes as are so specified in column (4) of that table, and
 - (b) for such purposes as are so specified—
 - (i) remove from the land any structure or vegetation, and
 - (ii) construct on the land temporary works (including the provision of means of access) and structures.

TABLE

(1) Works	(2) Area	(3) Number of land shown on deposited plans	(4) Purpose for which temporary possession may be taken
GREATER LONDON			
1A, 1B, 1C, 1D, 1F and 5D(1)	London Borough of Camden	79	The provision of access for construction purposes.
1A, 1B, 1C, 1D and 1F		87	The provision of a working site and access for construction purposes.
1A, 1AA, 1B, 1BB, 1C, 1CC, 1D, 1DD, 1EE, 1K, 3, 3B, 3C and 5A		182 and 189 to 192	The provision of access for construction purposes.

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1HH, 3B and 3C		203 and 204	The provision of access for construction purposes.
1JJ, 2AA and 2BB	London Borough of Islington	782 and 1050	The provision of access for construction purposes.
1AA, 1BB and 3E		787 and 788	The provision of access for construction purposes.
6	London Borough of Hackney	778 and 779	The provision of barge moorings and barge loading facilities.
6		780	The provision of barge loading facilities, spoil handling plant and machinery, a temporary shaft to Work No. 6, a working site and access for construction purposes.
6		781 and 782	The provision of access for construction purposes.
22	London Borough of Newham	1237 and 1239	The provision of a working site.
6, 6A, 6B, 6C, 6D, 6G, 6H, 6J and 7		1253 and 1254	The provision of barge moorings and barge loading facilities, spoil handling plant and machinery, a conveyor, a working site and access for construction purposes.
6, 6A, 6B, 6C, 6D, 6G, 6H, 6J and 7		1255 to 1260	The provision of spoil handling plant and machinery,

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			a conveyor and access for construction purposes.
6, 6A, 6B, 6C, 6D, 6G, 6H, 6J and 7		1261	The provision of spoil handling plant and machinery and a conveyor.
6, 6A, 6B, 6C, 6D, 6G, 6H, 6J and 7		1262 and 1263	The provision of access for construction purposes.
6, 6A, 6B, 6C, 6D, 6G, 6H, 6J and 7		1269	The provision of a working site and access for construction purposes.
6D and 6E	London Borough of Waltham Forest	6	The provision of access for construction purposes.
6D and 6E		10	The provision of access for construction of drainage works.
8Q	London Borough of Barking and Dagenham	205	The provision of access for construction purposes.
8H, 8P(3) and 8P(4)		195, 201 and 202	The provision of access for construction purposes.
8L and 8R		215 and 226	The provision of accesses for construction purposes.
8, 8G, 8J and 8R		217 to 219	The provision of access for construction purposes.
22, 22A, 22B, 22C, 22E, 22F, 22G, 22J and 8U(13)		829 and 830	The provision of a conveyor, spoil handling plant and machinery, and access for

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			construction purposes.
22, 22A, 22B, 22C, 22E, 22F, 22G, 22J and 8U(13)		839	The use of a jetty and provision of moorings in the River Thames.
8, 8G, 8J and 8R	London Borough of Havering	1 to 4	The provision of access for construction purposes.
8 and 8S		25 to 30 and 45	The provision of a working site and access for construction purposes.
8 and 8U(7)		55 and 56	The provision of access for construction purposes.
COUNTY OF ESSEX			
9	Borough of Thurrock	52 and 56 to 67	The provision of access for construction purposes.
9, 9C, 9D, 9F(1) and 10		81, 83, 84, 89, 93, 94, 96 and 98	The provision of a working site and access for construction purposes.
COUNTY OF KENT			
10, 10A, 10B, 10C and 10J	Borough of Dartford, Parish of Swanscombe and Greenhithe	13 and 14	The provision of access for construction purposes.
10B, 10D, 10F(1) and 10R(2)		21 to 23	The provision of access for construction purposes.
10, 10T(1), 10T(3), 10T(8), 10R, 10P, 10Q and 11 to 11F	Borough of Dartford, Parish of Southfleet	12 and 13	The provision of access for construction purposes.
10T(6), 10T(7) and 10T(8)		26	The provision of access for construction purposes.

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11		53	The provision of a working site.
10J and 10J(2)	Borough of Gravesham, Town of Gravesend	2 to 4	The provision of access for construction purposes.
10, 10B, 10C, 10D, 10E and 10F(1)		12 to 14	The provision of access for construction purposes.
10R(2)		42	The provision of access for construction purposes.
10B, 10C and 10N		70	The provision of access for construction purposes.
12, 12F and 12H	Borough of Gravesham, Parish of Cobham	28	The provision of a working site and temporary road diversion.
20A and 20B	Borough of Gravesham, Parish of Higham	9 and 10	The provision of access to a railhead to be used for construction purposes.
20A and 20B	Borough of Gravesham, Parish of Shorne	18	The provision of access to a railhead to be used for construction purposes.
13, 13B	City of Rochester Upon Medway, Town of Rochester	27 to 29	The provision of a working site and access to the River Medway for construction purposes.
13C and 13D		65, 68, 69 and 71	The provision of access for construction purposes.
13C and 13D	Borough of Tonbridge and	1 and 2	The provision of access for

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	Malling, Parish of Wouldham		construction purposes.
13	Borough of Tonbridge and Malling, Parish of Aylesford	1, 4, 29 and 41	The provision of a working site and access for construction purposes.
13	Borough of Maidstone, Parish of Boxley	88	The provision of access for construction purposes.
13 and 13J	Borough of Maidstone, Parish of Detling	1	The provision of a working site and access for construction purposes.
14 and 14A	Borough of Maidstone, Parish of Thurnham	5	The provision of a working site and access for construction purposes.
14	Borough of Maidstone, Parish of Leeds	1	The provision of access for construction purposes.
15	Borough of Ashford, Parish of Hothfield	6	The provision of access for construction purposes.
16, 16A, 16B and 16F		15	The provision of a working site and access for construction purposes.
16, 16A and 16B	Borough of Ashford, Town of Ashford	16	The provision of a working site.
16C and 16H		34 to 37 and 48	The provision of a working site and access for construction purposes.
16 and 16H		59 to 73 and 76	The provision of a working site and access for construction purposes.

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16 and 16K		78	The provision of a working site and access for construction purposes.
16A, 16B, 16C, 16K and 16L		46 and 78 to 80	The provision of a working site and access for construction purposes.
16, 16A, 16B, 16C, 16K and 16M		85, 86, 89, 94 and 95	The provision of a working site and access for construction purposes.
16, 16A, 16B 16C and 16D		110, 111, 117 and 122	The provision of a working site and access for construction purposes.
16, 16A, 16B, 16C, 16D and 16E		125 and 131	The provision of a working site and access for construction purposes.
17, 17B and 17C	Borough of Ashford, Parish of Sevington	28	The provision of a working site.
17 and 17H	Borough of Ashford, Parish of Smeeth	24 and 27	The provision of access for construction purposes.
17, 17J(1) and 17K		31	The provision of a working site and access for construction purposes.
17 and 17J(2)	District of Shepway, Parish of Sellindge	44, 45 and 60	The provision of access for construction purposes.
17	District of Shepway, Parish of Stanford	7 and 17 to 19	The provision of access for construction purposes.
17 and 17Q	District of Shepway, Parish of Saltwood	13 to 16	The provision of a working site and access

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			for construction purposes.
17, 17Q and 17P	District of Shepway, Parish of Postling	11 and 14 to 18	The provision of a working site and access for construction purposes.
18B, 18E, 18F and 18G	District of Shepway, Parish of Newington	3 and 4	The provision of a working site and access for construction purposes.
18J		6 and 9	The provision of access for construction purposes.
18A, 18AA, 18B, 18F, 18G and 18K		14 to 16, 19 to 21, 32 and 37	The provision of a working site and access for construction purposes.
18A, 18AA, 18B and 18G		31 and 40	The provision of working sites and access for construction purposes.
18AA		62	The provision of access for construction purposes.
18E	District of Shepway, Parish of Hythe	1	The provision of access for construction purposes.
18AA	District of Shepway, Town of Folkestone	6	The provision of a working site and access for construction purposes.
13, 14, 15, 15A, 15B, 16, 16A, 16B, 16C, 16D, 16E, 17, 18A, 18AA, 18B, 18C, 18D, 18F, 18G and all railway works	District of Thanet, Parish of Minster	2	The provision of access to a railhead to be used for construction purposes.

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associated therewith	13, 14, 15, 15A, 15B, 16, 16A, 16B, 16C, 16D, 16E, 17, 18A, 18AA, 18B, 18C, 18D, 18F, 18G and all railway works associated therewith	District of Dover, Parish of Sandwich	1	The provision of access to a railhead to be used for construction purposes.
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- (2) Not less than 28 days before entering upon and taking possession of land under this paragraph, the nominated undertaker shall give notice to the owners and occupiers of the land of its intention to do so.
- (3) The nominated undertaker may not remain in possession of any land under this paragraph after the end of the period of one year beginning with the date of completion of the work or works specified in relation to the land in column (1) of the table in sub-paragraph (1) above unless the owners of the land agree.
- (4) The nominated undertaker shall pay compensation to the owners and occupiers of land of which possession is taken under this paragraph for any loss which they may suffer by reason of the exercise in relation to the land of the powers conferred by this paragraph.
- (5) Any dispute as to a person's entitlement to compensation under sub-paragraph (4) above, or as to the amount of compensation, shall be determined under and in accordance with Part I of the ^{M1}Land Compensation Act 1961.
- (6) Nothing in this paragraph shall affect any liability to pay compensation under section 10(2) of the ^{M2}Compulsory Purchase Act 1965, as applied to the acquisition of land under section 4(1) above, or under any other enactment, otherwise than for loss for which compensation is payable under sub-paragraph (4) above.
- (7) In this paragraph, "structure" includes any erection.

Marginal Citations

M1 1961 c. 33.

M2 1965 c. 56.

- 2 (1) Before giving up possession of land of which possession has been taken under paragraph 1 above, the nominated undertaker shall, in accordance with a scheme agreed with the owners of the land and the relevant planning authority, put the land into such condition as the scheme may provide.
- (2) If, in relation to any land of which possession has been taken under paragraph 1 above, no scheme has been agreed for the purposes of this paragraph within 6 months of the date of completion of the work or works specified in relation to the land in column (1) of the table in paragraph 1(1) above, the scheme shall be such as may be determined by the [^{F1}Secretary of State] after consultation with the nominated undertaker, the owners of the land and the relevant planning authority.

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- (3) Unless the owners of the land and the nominated undertaker otherwise agree, a scheme determined under sub-paragraph (2) above shall provide for land to be restored to its former condition.
- (4) Unless the nominated undertaker otherwise agrees, a scheme determined under sub-paragraph (2) above shall not provide for the nominated undertaker to replace any structure removed under paragraph 1 above other than a fence.
- (5) Where the [^{F2}Secretary of State asks] the relevant planning authority for assistance in connection with the carrying out by [^{F2}him of his] function under sub-paragraph (2) above, [^{F2}he] may require the nominated undertaker to reimburse to the planning authority any expenses which it reasonably incurs in meeting the request.
- (6) The duty under sub-paragraph (1) above in relation to any land shall be owed separately to the owners of the land and to the relevant planning authority.
- (7) Where a scheme for the purposes of this paragraph provides for any step to be taken by the nominated undertaker before a specified date and that step has not been taken before that date, the relevant planning authority may—
- (a) enter the land concerned and take that step, and
 - (b) require the nominated undertaker to reimburse to it any expenses which it reasonably incurs in acting under paragraph (a) above.
- (8) In this paragraph—
- ^{F3}

 “relevant planning authority” means—
- (a) in relation to Greater London, the local planning authority, and
 - (b) in relation to Essex or Kent, the district planning authority; and
- “structure” includes any erection.

Textual Amendments

- F1** Words in Sch. 5 para. 2(2) substituted (26.1.1998) by S.I. 1997/2971, art. 6(1), Sch. paras. 25, 31(a)
- F2** Words in Sch. 5 para. 2(5) substituted (26.1.1998) by S.I. 1997/2971, art. 6(1), Sch. paras. 25, 31(b)
- F3** Definition in Sch. 5 para. 2(8) repealed (26.1.1998) by S.I. 1997/2971, art. 6(1), Sch. paras. 25, 31(c)

- 3 (1) Where the power under paragraph 1 above to take possession of land is exercised in relation to any land to which section 4(1) above applies, the relevant powers of compulsory acquisition shall thereupon cease to be exercisable in relation to that land.
- (2) Sub-paragraph (1) above shall not apply to compulsory acquisition by virtue of paragraph 8(1) of Schedule 4 to this Act.
- (3) In sub-paragraph (1) above, the reference to the relevant powers of compulsory acquisition is to—
- (a) the power to serve a notice to treat under Part I of the ^{M3}Compulsory Purchase Act 1965, as applied to the acquisition of land under section 4(1) above, and
 - (b) the power to execute a declaration under section 4 of the ^{M4}Compulsory Purchase (Vesting Declarations) Act 1981, as applied by paragraph 4 of Schedule 4 to this Act.

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Marginal Citations

M3 1965 c. 56.

M4 1981 c. 66.

Occupation and use for maintenance of works

- 4 (1) At any time during the maintenance period relating to any of the scheduled works, the nominated undertaker may—
- (a) enter upon and take possession of any land which is—
 - (i) within 20 metres from that work, and
 - (ii) within the limits of deviation for the scheduled works or the limits of land to be acquired or used,if such possession is reasonably required for the purpose of or in connection with maintaining the work or any ancillary works connected with it, and
 - (b) construct on the land such temporary works (including the provision of means of access) and structures as may be reasonably so required.
- (2) Sub-paragraph (1) above shall not authorise the nominated undertaker to take possession of—
- (a) a house,
 - (b) any other structure which is for the time being occupied, or
 - (c) a garden belonging to a house.
- (3) Not less than 28 days before entering upon and taking possession of land under this paragraph, the nominated undertaker shall give notice to the owners and occupiers of the land of its intention to do so.
- (4) The nominated undertaker may only remain in possession of land under this paragraph for so long as may be reasonably required to carry out the maintenance works for which possession of the land was taken.
- (5) Before giving up possession of land of which possession has been taken under this paragraph, the nominated undertaker shall restore the land to the reasonable satisfaction of the owners of the land.
- (6) The nominated undertaker shall pay compensation to the owners and occupiers of land of which possession is taken under this paragraph for any loss which they may suffer by reason of the exercise in relation to the land of the powers conferred by this paragraph.
- (7) Any dispute as to a person's entitlement to compensation under sub-paragraph (6) above, or as to the amount of the compensation, shall be determined under and in accordance with Part I of the ^{M5}Land Compensation Act 1961.
- (8) Nothing in this paragraph shall affect any liability to pay compensation under section 10(2) of the ^{M6}Compulsory Purchase Act 1965, as applied to the acquisition of land under section 4(1) above, or under any other enactment, otherwise than for loss for which compensation is payable under sub-paragraph (6) above.
- (9) In this paragraph—

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- (a) “the maintenance period”, in relation to any work, means the period beginning with the date on which the work is completed and ending 5 years after the date on which it is brought into general use,
- (b) “structure” includes any erection, and
- (c) any reference to land within a specified distance of a work includes, in the case of a work under the surface of the ground, a reference to land within the specified distance of any point on the surface below which the work is situated.

Modifications etc. (not altering text)

- C1** Sch. 5 para. 4 applied (with modifications) (19.2.1999) by S.I. 1999/537, art. 13(1), **Sch. 3 para. 1-8**
 Sch. 5 para. 4 applied (with modifications) (22.3.2001) by S.I. 2001/1451, art. 15(1), Sch. 3 paras. 1(e), **3(5)**

Marginal Citations

- M5** 1961 c. 33.
M6 1965 c. 56.

Suspension of private rights of way

- 5 (1) All private rights of way over land of which the nominated undertaker takes possession under paragraph 1 or 4 above shall be suspended and unenforceable for as long as it remains in lawful possession of the land.
- (2) Any person who suffers loss by the suspension of any right under this paragraph shall be entitled to compensation.
- (3) Any dispute as to a person’s entitlement to compensation under this paragraph, or as to the amount of such compensation, shall be determined under and in accordance with Part I of the Land Compensation Act 1961.

Modifications etc. (not altering text)

- C2** Sch. 5 para. 5 applied (with modifications) (19.2.1999) by S.I. 1999/537, art. 13(1), **Sch. 3 paras. 1-8**
 Sch. 5 para. 5 applied (with modifications) (22.3.2001) by S.I. 2001/1451, art. 15(1), **Sch. 3 para. 1(e)**

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