
STATUTORY INSTRUMENTS

1988 No. 68

COMPETITION

RESTRICTIVE TRADE PRACTICES

The Channel Tunnel Act (Competition) (No. 2) Order 1988

Made - - - - *19th January 1988*

Coming into force - - *16th February 1988*

Whereas the Secretary of State has by order dated 18th January 1988 approved a channel tunnel agreement for the purposes of section 29 of the Restrictive Trade Practices Act 1976⁽¹⁾;

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by section 33(5) of the Channel Tunnel Act 1987, and after consultation with the Director General of Fair Trading, hereby makes the following Order in connection with that approval:

1. This Order may be cited as the Channel Tunnel Act (Competition) (No. 2) Order 1988 and shall come into force on 16th February 1988.

2. In this Order “the section 29 agreement” means the channel tunnel agreement providing for the construction of the tunnel system which comprises the documents listed in the Schedule to this Order, and which has been approved by the Secretary of State for the purposes of section 29 of the Restrictive Trade Practices Act 1976 by order dated 18th January 1988.

3. In relation to any agreement which is made—

(a) exclusively for the purpose of the performance by the persons specified in article 5 below of their obligations under the section 29 agreement or of the exercise of their rights under that agreement, and

(b) in pursuance or furtherance of the section 29 agreement,

the persons specified in article 5 below (being parties to the section 29 agreement) 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 Restrictive Trade Practices Act 1976.

4. In relation to any course of conduct engaged in in connection with the construction of the tunnel system, the persons specified in article 5 below (being parties to the section 29 agreement) and any body corporate which is a member of the same group as any of them shall be deemed to

(1) 1976 c. 34; section 29 was amended in its application to channel tunnel agreements by section 33 of the Channel Tunnel Act 1987 (c. 53).

be persons who are to be treated as associated for the purposes of section 2 of the Competition Act 1980(2).

5. The persons referred to in articles 3 and 4 above are—

Balfour Beatty Construction Limited
Costain Civil Engineering Limited
Tarmac Construction Limited
Taylor Woodrow Construction Limited
Wimpey Major Projects Limited
Bouygues SA
Dumez SA
Societe Auxiliaire D'Entreprises SA
Societe Generale D'Entreprises SA
Spie Batignolles SA
GIE Transmanche Construction.

19th January 1988

Francis Maude
Parliamentary Under Secretary of State,
Department of Trade and Industry

SCHEDULE

Article 2

Construction Contract (comprising the Contract Agreement, the Conditions of Contract and the Schedules to the Conditions of Contract numbered 1 to 26) dated 13th August 1986

Supplemental Construction Contract dated 13th August 1986

Construction Contract Amending Agreement dated 25th September 1986

The Second Amending Agreement dated 27th January 1987

The Third Amending Agreement dated 5th November 1987

Guarantee Agreements dated 13th August 1986 and 21st July 1987

Letter dated 13th August 1986 from Eurotunnel to Transmanche-Link confirming instructions to proceed (as acknowledged by Transmanche-Link on 15th August 1986).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in connection with the approval by the Secretary of State by order under section 29 of the Restrictive Trade Practices Act 1976 (as amended by section 33 of the Channel Tunnel Act 1987) of the channel tunnel agreement providing for the construction of the tunnel system.

This Order provides for the parties to that agreement specified in article 5 of the Order, and bodies corporate which are members of the same group as any of them, to be deemed to be interconnected bodies corporate for the purposes of the Restrictive Trade Practices Act 1976, in relation to agreements made exclusively for the purpose of the performance by the specified parties of their obligations, or the exercise of their rights, under the agreement approved under section 29. If, on the coming into force of this Order, the Restrictive Trade Practices Act 1976 does not apply to an agreement then, by virtue of section 33(8) of the Channel Tunnel Act 1987, it shall be deemed never to have applied to that agreement.

This Order also provides for those parties and bodies corporate which are members of the same group as any of them to be deemed to be associated persons for the purposes of the Competition Act 1980, in relation to any course of conduct engaged in in connection with the construction of the tunnel system.

This Order comes into force on 16th February 1988.