



Channel Tunnel Act 1987

1987 CHAPTER 53

PART V

MISCELLANEOUS AND GENERAL

37 Supplementary provisions with respect to acquisition of land

- (1) The purposes for which land may be acquired under section 8 of this Act include, in the case of any land specified in columns 1 and 2 of section A or B of Part I of Schedule 5 to this Act, the purpose specified in relation to that land in column 3 of section A or B as one for which that land may be acquired or used.
- (2) The purposes for which land may be acquired under section 36 of this Act include, in the case of any land specified in columns 1 and 2 of Part II of that Schedule, the purpose specified in relation to that land in column 3 of that Schedule as one for which that land may be acquired or used.
- (3) Part III of that Schedule shall have effect for supplementing sections 8 and 36 of this Act and for regulating or (in certain circumstances) restricting the exercise of the powers conferred by those sections.
- (4) Subject to Part III of that Schedule and to subsection (5) below, Part I of the Compulsory Purchase Act 1965 (except sections 4 and 27 and paragraph 3(3) of Schedule 3), in so far as it is applicable for the purposes of this Act and is not inconsistent with the provisions of this Act, shall apply to the acquisition of land under section 8 or 36 of this Act as it applies to a compulsory purchase to which Part II of the Acquisition of Land Act 1981, or Schedule 1 to that Act, applies and as if this Act were a compulsory purchase order under the latter Act.
- (5) Section 11 (1) of the Compulsory Purchase Act 1965 (power to enter on and take possession of land the subject of a notice to treat after giving not less than fourteen days' notice) shall have effect—
 - (a) in its application by virtue of subsection (4) above to any of the land specified in the table in paragraph 2(3) of Part III of Schedule 5 to this Act, as if for the words "fourteen days" there were substituted the words "one month"; and

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- (b) in its application by virtue of that subsection to any other land, as if for the words "fourteen days" there were substituted the words "three months".
- (6) The Lands Clauses Consolidation Act 1845 shall not apply to the acquisition of land under section 8 or 36 of this Act.

38 Time within which powers of compulsory acquisition may be exercised

- (1) Subject to subsection (3) below, a notice to treat under the Compulsory Purchase Act 1965 (as applied by section 37 of this Act and whether or not as extended by Part III of Schedule 5 to this Act) for the purpose of acquiring any land under section 8 or 36 of this Act shall not be served after 31st December 1992 or such later date as may for the time being be authorised by an order made by the Secretary of State.
- (2) An order under subsection (1) above shall be subject to special Parliamentary procedure.
- (3) Where the Secretary of State has issued a certificate under the following provisions of this section, a notice to treat under the Act of 1965 (as so applied and whether or not as so extended) for the purpose of acquiring under section 8(1) of this Act the land specified in the certificate may be served at any time before the date specified in the certificate.
- (4) The Concessionaires may in relation to any land which they require for purposes of safety in connection with any railway or siding comprised in the tunnel system apply to the Secretary of State for an extension of the time allowed under subsection (1) above for serving a notice to treat for the purpose of acquiring the land under section 8(1) of this Act.
- (5) Before making such an application, the Concessionaires shall serve on every owner, lessee and occupier (except tenants for a month or less than a month) of the land in relation to which they propose to seek the extension a notice in a form approved by the Secretary of State—
 - (a) stating that they propose to make an application under subsection (4) above in relation to the land;
 - (b) stating what the effect will be if their application is granted; and
 - (c) specifying the time, which shall not be less than fourteen days from service of the notice, within which and the manner in which representations about the application can be made.
- (6) Where the Secretary of State is satisfied—
 - (a) that the Concessionaires have complied with the requirements of subsection (5) above; and
 - (b) that all or some part of the land to which the application relates is required for purposes of safety in connection with any railway or siding comprised in the tunnel system;he may, after taking into consideration any representations about the application duly made by the recipient of a notice under that subsection, issue a certificate specifying which of the land to which the application relates is in his opinion required for those purposes.
- (7) The Secretary of State shall specify in any certificate which he issues under this section such date as he thinks fit as the date before which any notice to treat for the purpose of acquiring the land specified in the certificate must be served.

39 Extension of Railways Board's powers in connection with through services

(1) In section 3(3) of the Transport Act 1962 (powers of the Railways Board) there shall be substituted for paragraph (a) (power to carry goods and passengers within Great Britain)—

- “(a) to carry goods and passengers by rail within, to or from Great Britain,
- (aa) to carry goods and passengers by rail between places outside Great Britain in so far as they consider it expedient to do so in connection with the exercise of their powers under paragraph (a) above,”;

and there shall be added at the end—

- “(g) to do anything which appears to the Board to be expedient for the purposes of or in connection with the provision by the Board of railway services outside Great Britain.”

(2) It is within the power of the Railways Board to enter into a contract with any person operating railway services through the tunnel system for the passage of any train of any such person over or along any railway of the Board; and this section gives any person with whom the Board have entered into such a contract authority to use any railway of the Board in accordance with that contract in so far as such authority is not given by any other enactment.

(3) The assumption by the Railways Board, under any contract with the Concessionaires under which the Board are permitted to use the tunnel system, of any obligations with respect to the exercise of any of their powers, shall not be regarded (if it would be so regarded apart from this provision) as incompatible with the proper exercise of those or any other of their powers.

40 Railways Board's plan for international through services

(1) It shall be the duty of the Railways Board to prepare a plan stating measures which the Board propose to take, and any proposals as to measures which the Board consider ought to be taken by any person in the United Kingdom or France, with the aim of securing—

- (a) the provision or improvement of international through services serving various parts of the United Kingdom; and
- (b) an increase in the proportion of the passengers and goods carried between places in the United Kingdom and places outside the United Kingdom that is carried by international through services.

(2) The measures referred to in subsection (1) above are—

- (a) measures relating to the operation of international through services;
- (b) measures relating to the carrying out of works or other development connected with international through services (including collection and distribution centres for goods and inland clearance depots); and
- (c) measures relating to the provision or improvement of facilities or other services connected with international through services.

(3) The Railways Board—

- (a) shall prepare the plan under this section not later than 31st December 1989;
- (b) shall keep the plan under review and from time to time revise it; and
- (c) shall cause the plan and any revisions of it to be published in such manner as they think fit.

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- (4) In preparing the plan and any revisions of it the Railways Board shall have regard to the financial resources likely to be available to them and to any restrictions likely to be imposed on them with respect to the application of such resources.
- (5) The duties imposed by this section shall not apply at any time when the original Concession, as defined by section 1(4) of this Act, has expired or terminated and no new Concession is in operation.
- (6) In this section "international through services" means services for the carriage of passengers or goods by rail by way of the tunnel system, other than shuttle services.

41 Railway services: consultative committees and closures

- (1) The duty—
 - (a) of the Central Transport Consultative Committee for Great Britain and each of the Area Transport Users Consultative Committees under section 56(4) of the Transport Act 1962; and
 - (b) of the London Regional Passengers' Committee under section 40(4) of the London Regional Transport Act 1984;

to consider and, where it appears to them to be desirable, make recommendations with respect to any matter affecting the services and facilities there mentioned shall apply in relation to services and facilities within this subsection as it applies in relation to services and facilities provided by the Railways Board or any subsidiary of theirs.
- (2) The services and facilities within subsection (1) above are—
 - (a) international railway passenger services which are provided otherwise than by the Concessionaires or the Railways Board or any subsidiary of theirs; and
 - (b) facilities so provided which are intended for use primarily in connection with such services.
- (3) In relation to any services or facilities to which by virtue of subsection (1) above the duty under section 56(4) or 40(4) applies—
 - (a) section 56(4) shall have effect as if references in it to a Board or to the Board concerned were references to the person providing those services and facilities; and
 - (b) section 40(5) to (7) and (9) and section 41(3) and (5) to (7) of the Act of 1984 shall have effect as if references in any of those provisions to the Railways Board or to the Railways Board or any subsidiary of theirs were references to that person.
- (4) The reference to services and facilities in section 56(4) shall not include railway services and facilities provided by the Railways Board or any subsidiary of theirs so far as they are provided outside Great Britain.
- (5) The references to railway passenger services in section 56(7) of the Act of 1962 (procedure in case of proposal to discontinue all railway passenger services from a station or on a line) shall not include international railway passenger services.
- (6) In this section "international railway passenger services" means services provided in Great Britain for the carriage of passengers by rail between any place in Great Britain and any place outside Great Britain by way of the tunnel system.

42 No government grants to Railways Board in respect of international railway services

- (1) No obligation with respect to international railway services shall be imposed on the Railways Board under section 3 of the Railways Act 1974 (imposition of obligations in connection with certain Community regulations giving rise to payments by way of compensation).
- (2) In ascertaining any relevant deficit of the Railways Board's railway undertaking for the purposes of section 1 of the Transport (Financial Provisions) Act 1977 (power of Secretary of State to make grants in respect of such a deficit) there shall be disregarded so much of the revenue and expenditure properly attributable to revenue account as is referable to the provision of international railway services.
- (3) No grants shall be made by the Secretary of State under section 56(1) of the Transport Act 1968 (grants towards capital expenditure on public passenger transport facilities) towards expenditure incurred or to be incurred by the Railways Board for the purpose of the provision, improvement or development of international railway services,
- (4) In this section "international railway services" means services for the carriage of passengers or goods by way of the tunnel system.

43 Application of railway regulation enactments

Schedule 6 to this Act shall have effect for making miscellaneous provisions about the application of railway regulation enactments in relation to the tunnel system, the Concessionaires and certain other persons operating services by way of the tunnel system.

44 Modification of enactments relating to coast protection, safety of navigation and the powers of harbour authorities

- (1) Section 16(1) of the Coast Protection Act 1949 (consent of coast protection authority required for carrying out coast protection work) shall not apply to the carrying out of any work by the Concessionaires for the construction or protection of any part of the tunnel system, but section 17(2) to (9) of that Act (restrictions imposed on the carrying out of work excluded from section 16(1) by section 17(1) of that Act) shall apply to any such work of the Concessionaires as it applies to work so excluded by section 17(1) (d) of that Act (work carried out by certain bodies for the protection of a railway).
- (2) Section 18 of that Act (prohibition of excavation or removal of materials from the seashore) shall not apply to any excavation or removal by the Concessionaires in the course of constructing, maintaining or altering the tunnel system of any materials on, under or forming part of any portion of the seashore within the limits of deviation for their scheduled works.
- (3) Section 34(1) of that Act (restriction of works detrimental to navigation) shall not apply in relation to anything done in the course of carrying out any work which the Concessionaires are authorised by this Act to carry out.
- (4) Nothing in that Act or any order under that Act shall authorise or require any person to carry out any work within 150 metres of the centre line of the tunnel system, so far as lying under the foreshore or the bed of the sea, without the consent of the Concessionaires.

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- (5) Subject to subsection (6) below, any power conferred on the Dover Harbour Board by any enactment to raise or destroy wrecks, dredge or deepen the foreshore or the bed of the sea or carry out any blasting operations shall not without the consent of the Concessionaires be exercised—
- (a) in the case of any operation involving the use of explosives having an explosive force greater than that of 100 pounds of trinitrotoluene (TNT), within 1,000 metres;
 - (b) in the case of any other operation involving the use of any explosives, within 500 metres; and
 - (c) in any other case, within 150 metres;
- of the centre line of the tunnel system, so far as lying under the foreshore or the bed of the sea.
- (6) Subsection (5) above shall not apply in relation to the exercise by the Dover Harbour Board in, or within 200 metres of any entrance to, Dover Harbour of any power to carry out blasting operations if the Board—
- (a) have given to the Concessionaires such notice of their intention to carry out the operations as is reasonably practicable; and
 - (b) have consulted the Concessionaires with a view to agreeing the time at which and the manner in which the operations are carried out.
- (7) The Concessionaires shall not unreasonably withhold their consent in any case where it is required under subsection (4) or (5) above.
- (8) Any difference arising between the Concessionaires and any person seeking their consent under subsection (4) or (5) above shall be determined by arbitration.

45 Protection of interests

Schedule 7 to this Act shall have effect for protecting the interests of the bodies and persons specified in that Schedule (being bodies and persons who may be affected by other provisions of this Act).

46 Determination of questions referred to arbitration under this Act

Where under this Act any difference (other than a difference which falls to be determined by the Lands Tribunal) is to be determined by arbitration, then, subject to any other provision of this Act, the difference shall be referred to, and settled by, a single arbitrator to be agreed between the parties or, in default of agreement, to be appointed on the application of either party, after notice in writing to the other, by the President of the Institution of Civil Engineers.

47 Offences by bodies corporate

- (1) Where a body corporate is guilty of an offence under this Act or of an offence created by an order made under section 11 of this Act and the offence is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and liable to be proceeded against and punished accordingly.

- (2) Where the affairs of a body corporate are managed by its members, this section shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

48 Financial provisions

- (1) Any expenditure incurred by the Secretary of State—
- (a) in making payments for land vested in or acquired by him under this Act;
 - (b) for the purpose of or in connection with the discharge by the Intergovernmental Commission or the Safety Authority of their functions under the Treaty;
 - (c) by virtue of section 25 or 26 of this Act;
 - (d) in making payments for the purpose of restoring any land in pursuance of this Act;
 - (e) in making any payments of compensation that fall under any provision of this Act to be made by him; and
 - (f) in meeting any obligations or exercising any rights to which he is or from time to time becomes subject or entitled in pursuance of the Treaty or the Concession, being obligations or rights arising in connection with the tunnel system;

shall be met out of money provided by Parliament.

- (2) Any increase attributable to this Act—
- (a) in the sums payable out of money so provided under any other enactment; and
 - (b) in the administrative expenses of any government department;
- shall be met out of money so provided.

- (3) Any sums received by the Secretary of State—
- (a) in reimbursement of any expenditure mentioned in subsection (1)(a),(d) or (e) above;
 - (b) in consideration of the disposal by him of any land acquired under this Act or otherwise in connection with the construction of the tunnel system;
 - (c) by way of receipts arising from the operation of the tunnel system or any part of it under section 26 of this Act; or
 - (d) in pursuance of the Treaty or the Concession;
- shall be paid by him into the Consolidated Fund.

49 Interpretation

- (1) In this Act, except where the context otherwise requires—
- "A20 improvement works" has the meaning given by section 35;
 - "the appropriate authority" means—
- (a) in relation to the acquisition of land required for the Concessionaires' scheduled works and other works in connection with those works, or for any purpose of Part IV of this Act, the Secretary of State;
 - (b) in relation to any other matter concerning the Concessionaires' scheduled works or such other works, the Concessionaires;
 - (c) in relation to the County Council's scheduled works and other works in connection with those works, that Council; and

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(d) in relation to the Railways Board's scheduled works and other works in connection with those works, the Railways Board;

"the arbitral tribunal" has the meaning given by section 2(10);

"bridleway" has the same meaning as in the Highways Act 1980;

"the Concession", "Concession agreement", "Concession lease" and "the Concessionaires" have the meanings given by the relevant provisions of section 1 (read with section 3(3));

"deposited plans" and "deposited sections" mean respectively the plans and sections shown on Sheets Nos. 1 to 15 and 21 to 34 of the plans and sections deposited in connection with the Channel Tunnel Bill in the Office of the Clerk of the Parliaments and the Private Bill Office of the House of Commons in April 1986 and the plans and sections so deposited in July 1986;

"Dover Harbour" has the same meaning "harbour" has in the Dover Harbour Consolidation Act 1954;

"enactment" includes an enactment contained in this Act or in any Act passed on or after the date on which this Act is passed, and any subordinate legislation within the meaning of the Interpretation Act 1978;

"footpath" has the same meaning as in the Highways Act 1980;

"frontier" means the frontier between the United Kingdom and France fixed by the Treaty;

"functions" includes powers, duties and obligations;

"goods" includes vehicles (notwithstanding that they may be being used for the carriage of other goods or of persons), animals, plants and any other creature, substance or thing capable of being transported;

"the Intergovernmental Commission" means the Intergovernmental Commission established by the Treaty;

"the international arrangements" means—

(a) the Treaty and the Concession; and

(b) any other agreements or arrangements between Her Majesty's Government in the United Kingdom and the Government of the French Republic which for the time being apply for regulating any matters arising out of or connected with the tunnel system;

"land" includes buildings and other structures, land covered with water, and any estate, interest, easement, servitude or right in or over land;

"limits of deviation" means the limits of deviation shown on the deposited plans and "limits of land to be acquired" means the limits of land to be acquired so shown;

"modification" includes addition, omission and alteration, and related expressions shall be construed accordingly;

"nature conservation" means the conservation of flora, fauna or geological or geographical features;

"the Railways Board" has the meaning given by section 5(3);

"the Safety Authority" means the Safety Authority established by the Treaty;

"shuttle service" and "shuttle train" have the meanings given by section 1(9);

"substance" means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour;

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"train" includes any locomotive and railway rolling stock of any description;

"the Treaty" has the meaning given by section 1(4);

"the tunnel system" has the meaning given by section 1(7); and

"vehicle" includes a railway vehicle.

- (2) References in this Act to—
- (a) the scheduled works;
 - (b) the Concessionaires' scheduled works;
 - (c) the County Council's scheduled works; and
 - (d) the Railways Board's scheduled works;
- shall be read in accordance with section 5(4) of this Act.
- (3) References in this Act to the expiry of the Concession are references to the expiry of the maximum period for which, in accordance with its terms, the Concession would remain in force in default of earlier termination under any of its provisions providing for premature termination of that maximum period.
- (4) References in this Act to the termination of the Concession are references to the termination of the Concession before the end of that maximum period.
- (5) References in this Act to agreement on a new Concession, and to a new Concession, shall be read in accordance with section 3(5) of this Act.
- (6) In this Act—
- (a) references to the M20 are references to the special road so designated; and
 - (b) references to specified distances or lengths shall be construed as if the words "or thereabouts" were inserted after each such distance or length, distances between points on a road or railway being measured along the centre line of the road or railway.
- (7) Unless the context otherwise requires, a reference in this Act to a work identified by a number shall be read as a reference to the scheduled work or (as the case may be) the A20 improvement work of that number.
- (8) In this Act—
- (a) any reference specifying any land or point shown on the deposited plans shall be taken as a reference to the land or point identified on those plans by the numbers or letters or the numbers and letters so specified;
 - (b) unless the context otherwise requires, any reference to any land specifying a range of consecutive numbers shall include a reference to any land identified on the deposited plans by a number within the range of numbers so specified whether or not a letter is added to that number for the purpose of identification; and
 - (c) any reference to any land specifying a single number with the addition of a range of alphabetically consecutive letters shall include a reference to any land identified on the deposited plans by that number with the addition of any letter within the range of letters so specified.
- (9) Any reference in this Act to Part I or II of the Land Compensation Act 1973 or any provision of either Part shall include a reference to that Part or provision as modified by section 84(1) of that Act.

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50 Short title and extent

- (1) This Act may be cited as the Channel Tunnel Act 1987.
- (2) This Act extends to Northern Ireland.