
STATUTORY INSTRUMENTS

1995 No. 1332

**TRANSPORT AND WORKS
TRANSPORT**

The Heathrow Express Railway (Transfer) Order 1995

Made - - - - *17th May 1995*

Coming into force - - *7th June 1995*

The Secretary of State for Transport, on application made to him in accordance with the Transport and Works (Applications and Objections Procedure) Rules 1992(1) made under section 6 of the Transport and Works Act 1992(2) (hereinafter referred to as “the Act”) by Heathrow Airport Limited for an Order under section 1 of the Act, being satisfied in accordance with section 13(1) of the Act that its requirements in relation to any objections have been satisfied, and having determined to give effect to the proposals comprised in such application with modifications, in exercise of the powers conferred on him by sections 1 and 5 of the Act, and of all other powers enabling him in that behalf, hereby makes the following Order:—

Citation and commencement

1.—(1) This Order may be cited as the Heathrow Express Railway (Transfer) Order 1995 and shall come into force on 7th June 1995.

(2) The Acts and this Order may be cited together as the Heathrow Express Railway Acts and Order 1991 to 1995.

Interpretation

2. In this Order, unless the context otherwise requires—

“the 1991 Act” means the Heathrow Express Railway Act 1991(3);

“the Acts” means the 1991 Act and the Heathrow Express Railway (No. 2) Act 1991(4);

“the Company” means Heathrow Airport Limited and includes any subsidiary (within the meaning of section 736 of the Companies Act 1985(5)) of the Company;

“functions” includes powers, duties and obligations;

(1) S.I.1992/2902.
(2) 1992 c. 42.
(3) 1991 c.vii.
(4) 1991 c.ix.
(5) 1985 c. 6.

“transferee” means a person to whom all or any of the property or functions of the Company under the Acts have been transferred by virtue of a transfer agreement; and

“transfer agreement” means an agreement entered into under paragraph (1) or (2) of article 3 below.

Transfer of Company’s property and functions

3.—(1) The Company may enter into and carry into effect an agreement to sell, lease, charge or otherwise dispose of, on such terms and conditions as they think fit, the whole or any part of the undertaking consisting of the railway and other works comprised within the works as defined in the 1991 Act, and any land held for the purpose of, or in connection with, those works, so far as such undertaking is vested in the Company.

(2) Without prejudice to the generality of paragraph (1) above, the Company may enter into and carry into effect an agreement or agreements with any other person with respect to the transfer to and vesting in that other person of all or any of the functions of the Company arising under the Acts, including such functions as become exercisable by the Company by virtue of an agreement under section 19 (Exercise of powers with respect to works) of the 1991 Act.

(3) A transfer agreement may be entered into so as to transfer and vest such property and functions in any other person for such period as may be specified in that agreement or for so long as the agreement remains in force and where such an agreement is entered into references in the Acts to the Company shall, to the extent that the agreement so provides, have effect as references to the transferee.

(4) Without prejudice to the powers of the Company to terminate or vary a transfer agreement, a transfer agreement may specify circumstances in which that agreement shall cease to have effect before the expiry of any period specified in any such agreement.

(5) A transfer agreement may include such supplementary, incidental, transitional and consequential provisions as the Company may consider to be necessary or expedient.

Reversion of property and functions

4.—(1) Upon expiry of any period specified in a transfer agreement in accordance with paragraph (3) of article 3 above or upon a transfer agreement being terminated or otherwise ceasing to have effect, the functions and property of the Company which were transferred by that agreement shall, by virtue of this paragraph but subject to the effect of any further transfer agreement entered into by the Company, be re-vested in the Company, but such re-vesting shall not make the Company subject to any of the liabilities of the transferee other than any continuing duties imposed by the Acts.

(2) Notwithstanding anything in any transfer agreement, any duty arising under the Acts to complete the construction of, or to maintain or operate, any works in respect of which the Company’s functions are transferred by a transfer agreement, together with such rights and property as are required for the discharge of that duty, shall revert to the Company in the event of the abandonment of those works or in the event that the works are not completed within 10 years of the commencement of construction of those works.

(3) Unless the transfer agreement otherwise provides, if a duty to complete the construction of, to maintain or to operate any works reverts to the Company under paragraph (2) above, the transfer agreement shall terminate and all the functions and property of the Company which were transferred by that agreement shall be re-vested in the Company in accordance with paragraph (1) above.

Notice of transfer

5.—(1) Within 21 days of the completion of any transfer agreement the Company shall serve notice on the Secretary of State stating the name and address of the transferee and the date when the transfer is to take effect.

(2) Within 21 days of the re-vesting in the Company of any property or functions pursuant to paragraph (1) above or (3) below or the reversion to the Company of any duty, rights or property pursuant to paragraph (2) of article 4 above, the Company shall serve notice on the Secretary of State, providing him with particulars of the re-vesting or reversion concerned.

(3) If the Company fail to comply with the obligation imposed by paragraph (1) or (2) above they shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Transfer of power to enter into a transfer agreement

6.—(1) A transfer agreement may confer on the transferee the power of the Company to enter into a transfer agreement under this Order in respect of any functions or property transferred to the transferee, and the provisions of this Order shall apply in relation to the exercise of such power by such transferee; and, accordingly, those provisions shall in their application to the exercise of such power by such transferee have effect as if any reference to the Company in those provisions (except in paragraphs (2) and (3) of article 4 above, paragraph (2) below and article 7 below) were a reference to the transferee.

(2) The inclusion in any transfer agreement of the power to enter into a transfer agreement or anything done in pursuance of such a power shall not affect the reversion to the Company in the circumstances referred to in paragraphs (2) and (3) of article 4 above of any functions or property of the Company.

Protection of hydrant fuelling systems

7.—(1) If a transfer agreement is made which vests in any person a power of compulsory acquisition under the 1991 Act in respect of land at Heathrow Airport, a power to carry out the whole or any part of the Company's works (within the meaning of that Act), or a power to operate any part of the undertaking described in article 3 above within that airport, then, in the exercise of any such power by that person—

- (a) that person shall be bound by such provisions of the Consortium Agreement as are relevant to the exercise of that power as if references in that agreement to the Company were references to that person; and
- (b) that person and the Company shall be jointly and severally liable for any breach of the Consortium Agreement by that person.

(2) In this article "the Consortium Agreement" means an agreement dated 7th May 1991 and made between Heathrow Airport Limited of the one part and Esso Petroleum Company, Limited, Mobil Oil Company Limited, Shell U.K. Limited, BP Oil UK Limited, Texaco Limited, Total Oil Great Britain Limited, Elf Oil (UK) Limited (formerly Elf Oil G.B. Limited), Chevron International Oil Company Limited, Fina plc, British Airways plc and Kuwait Petroleum International Aviation Company (U.K.) Limited of the other part.

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Signed by authority of the Secretary of State for Transport

17th May 1995

R. A. Allan
An Under Secretary,
Department of Transport

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the transfer of the functions of Heathrow Airport Limited (“the Company”) under the Heathrow Express Railway Act and the Heathrow Express Railway (No. 2) Act, both of 1991, and of property held for the purpose of those functions to any other person or persons so that any such transferee or a transferee of that transferee may construct the works and exercise the powers of the Company under the 1991 Acts.