



Leeds Supertram Act 1993

1993 CHAPTER xv

PART IV

PROTECTIVE PROVISIONS

37 Notice to police, etc

Before breaking up or otherwise interfering with any highway in connection with the construction of the tramway system, the Executive shall give not less than 14 days' notice to the chief officer of police and to the fire authority of their intention to do so, except in the case of emergency when such notice as is practicable shall be given.

38 As to highways, traffic, etc

For the protection of highway authorities the following provisions shall, unless otherwise agreed in writing between the Executive and the highway authority concerned, have effect:—

- (1) In this section “public highway” means a highway vested in, or repairable or maintained by, the highway authority;
- (2) Wherever in this section provision is made with respect to the approval or consent of the highway authority, that approval or consent shall be in writing and may be given subject to such reasonable terms and conditions as the highway authority may require, but shall not be unreasonably withheld;
- (3) Before commencing to construct any part of the authorised works which will involve interference with a public highway, or the traffic in any public highway, or before temporarily stopping up any public highway, the Executive shall consult the highway authority as to—
 - (a) the time when such part shall be commenced;
 - (b) the extent of the surface of the public highway which it may be reasonably necessary for the Executive to occupy, or the nature of the interference which may be caused to that traffic in the construction of such part; or

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- (c) the time during which, and the extent to which, the public highway shall be stopped up; and
- (d) the conditions under which such part shall be constructed or the public highway shall be stopped up;

so as to reduce so far as possible inconvenience to the public and to ensure the safety of the public; and

- (i) such part shall not be constructed and the surface of the highway shall not be occupied by the Executive; or
- (ii) the highway shall not be stopped up and the interference with traffic shall not be caused by the Executive;

except at such time, to such extent, and in accordance with such conditions, as may be agreed between the Executive and the highway authority or determined by arbitration:

- (4) At least 14 days before commencing to make any trial holes in any part of any public highway in exercise of the powers of section 11 (3) of the Act of 1965 as applied by this Act, the Executive shall serve notice in writing on the highway authority of their intention to do so describing the place or places at which the trial holes are intended to be made, and, if within 14 days after the receipt of such notice any objection is made by the highway authority, the matter shall (unless otherwise agreed) be determined by arbitration before the making of any trial hole is commenced, but if no such objection is made the Executive may proceed with the making of any trial hole of which notice has been so given:

- (5) So much of the authorised works as is intended to become public highway, or part of any such highway, shall be completed in accordance with the reasonable requirements of the local highway authority or, in case of difference between the Executive and the highway authority as to whether those requirements have been complied with or as to their reasonableness, in accordance with the determination of the Secretary of State upon any such difference:

- (6) (a) This paragraph applies to any of the following works (referred to as “a new bridge”), namely—
 - (i) a new bridge, or the extension or alteration of an existing bridge, carrying any part of the authorised works over a public highway; and
 - (ii) a new bridge, or the extension of an existing bridge, carrying a public highway over any part of the authorised works;
- (b) Before commencing the construction of a new bridge, or carrying out any work in connection with a new bridge which involves interference with a public highway, the Executive shall submit to the highway authority proper and sufficient plans, sections and specifications thereof (hereinafter referred to as “plans”) for their approval and the construction of the new bridge or, as the case may be, the carrying out of such works shall not be commenced before such plans have been approved by the highway authority or settled by arbitration:

Provided that if, within 56 days after the submission to them of plans under this paragraph, the highway authority do not notify the Executive of their disapproval thereof and the grounds of their disapproval, they shall be deemed to have approved the plans as submitted;

- (c) Any part of the construction of a new bridge or any part of any work as aforesaid which involves interference with a public highway shall be carried out in accordance with the plans approved, or deemed to be approved, or

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- settled as aforesaid, and under the supervision (if given) and to the reasonable satisfaction of the highway authority;
- (d) A new bridge which carries any part of the authorised works over any public highway shall be constructed in such manner as to prevent, so far as may be reasonably practicable, the dripping of water therefrom;
- (e) The highway authority may, at the cost of the Executive—
- (i) provide and place on a new bridge such apparatus as may from time to time be reasonably necessary for efficiently lighting any public highway under or in the vicinity of the new bridge; and
 - (ii) keep the highway sufficiently lighted during the construction of a new bridge;
- (7) It shall be lawful for the proper officer of the highway authority at all reasonable times, on giving to the Executive such notice as may in the circumstances be reasonable, to enter upon and inspect any part of the authorised works in any public highway, or which may affect any public highway or any property or work of the highway authority, during the execution thereof, and the Executive shall give to such officer all reasonable facilities for such inspection:
- (8) The Executive shall not, except with the consent of the highway authority, alter, disturb or in any way interfere with any sanitary convenience, refuge, sewer, drain, lamp column, traffic sign, bollard, bin for refuse or road materials or apparatus connected therewith, or any other property or work belonging to, or under the jurisdiction or control of, the highway authority on or under any public highway or repairable by them or the access thereto:
- (9) If the highway authority, after giving to the Executive not less than 28 days' notice (or in the case of emergency such other notice as is reasonably practicable) of their intention to do so, incur any extra expense in the signposting of traffic diversions or the taking of other measures in relation thereto, or in the repair of any public highway, by reason of the diversion thereto of traffic from a highway of a higher classification in consequence of the construction of the authorised works, the Executive shall repay the amount of the expense reasonably so incurred by the highway authority:
- (10) The Executive shall not, except with the consent of the highway authority, deposit any soil or materials or stand any vehicle or plant on or over any public highway so as to obstruct or render less safe the use of the highway by any person or, except with the like consent, deposit any soil or materials on any public highway except within a hoarding:
- (11) The Executive shall, if reasonably so required by the highway authority, provide and maintain to the reasonable satisfaction of the highway authority, during such time as the Executive may occupy any part of a public highway for the purpose of the construction of any part of the authorised works, temporary bridges and temporary ramps for vehicular traffic or pedestrian traffic, or both, in such position as may be necessary to prevent undue interference with the flow of traffic in any public highway:
- (12) (a) Where any part of any public highway shall have been temporarily broken up or disturbed by the Executive, the Executive shall make good the subsoil foundations and surface of such part of the road to the reasonable satisfaction of the highway authority and maintain the same to the reasonable satisfaction of the highway authority for such time as may be reasonably required for the permanent reinstatement of the highway:

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- (b) The reinstatement of such part of the highway shall in the first instance be of a temporary nature only and the permanent reinstatement shall be carried out by the highway authority as soon as reasonably practicable after the completion of the temporary reinstatement, and the costs, charges and expenses reasonably incurred by the highway authority in so doing shall be repaid by the Executive:
- (13) It shall not be lawful for the Executive to place any hoardings on any part of any public highway except for such period and in such manner as may be reasonably necessary, and the provisions of sections 172 and 173 of the Highways Act 1980 shall apply to any hoarding erected on any part of any public highway, and, for the purposes of the said section 172, any such hoarding shall be deemed to have been erected in compliance with subsection (1) of that section:
- (14) The Executive shall make compensation to the highway authority for any subsidence of, or damage to, any public highway or any sanitary convenience, refuge, sewer, drain, lamp column, traffic sign, bollard, bin for refuse or road materials or apparatus connected therewith or any other property or work belonging to, or under the jurisdiction or control of, the highway authority on or under any public highway, or maintainable by them, which may be caused by, or in consequence of, any act or default of the Executive, their contractors, servants or agents, whether such damage or subsidence shall happen during the construction of the authorised works or at any time thereafter:
- (15) The highway authority may require that the authorised works, so far as they involve any serious interference with the movement of traffic in any public highway, shall be carried on, so far as reasonably practicable, continuously by day and night, and the Executive shall take all such steps as may be reasonably necessary to reduce so far as possible the period of such interference:
- (16) Except as provided in paragraph (5) above, any difference arising between the Executive and the highway authority under this section (other than a difference as to its meaning or construction) shall be determined by arbitration.

39 For protection of British Railways Board

For the protection of the railways board the following provisions shall, unless otherwise agreed in writing between the Executive and the railways board, have effect:

(1) In this section—

“construction” includes placing, alteration and renewal;

“the engineer” means an engineer to be appointed by the railways board;

“plans” includes sections, drawings, specifications, particulars and descriptions (including descriptions of methods of construction);

“railway property” means any railway of the railways board and any works connected therewith for the maintenance or operation of which the railways board are responsible, and includes any lands held or used by the railways board for the purposes of such railway or works;

“the specified works” means so much of the authorised works as may be situated upon, across, under, or over or within 15 metres of, or may in any way affect, railway property:

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- (2) The Executive shall not under the powers of this Act acquire compulsorily any railway property but they may acquire such easements or other rights in or over any railway property delineated on the deposited plans as they may reasonably require for the purposes of the specified works:
- (3) The Executive shall, before commencing the construction of the specified works, supply to the railways board proper and sufficient plans thereof for the approval of the engineer and shall not commence the specified works until plans thereof have been approved in writing by the engineer or settled by arbitration:

Provided that approval of plans supplied under this paragraph shall not be unreasonably withheld and, if within 56 days after such plans have been supplied to the railways board the engineer shall not have notified his disapproval thereof and the grounds of his disapproval, he shall be deemed to have approved the plans as supplied:

- (4) If, within 56 days after such plans have been supplied to the railways board, the railways board give notice to the Executive that the railways board desire themselves to construct any part of the specified works which, in the opinion of the engineer, will or may affect the stability of railway property or the safe operation of traffic on the railways of the railways board, then, if the Executive desire such part of the specified works to be constructed, the railways board shall construct it with all reasonable dispatch on behalf of, and to the reasonable satisfaction of, the Executive in accordance with the plans approved or deemed to be approved or settled as aforesaid:
- (5) Upon signifying his approval or disapproval of the plans the engineer may specify any protective works, whether temporary or permanent, which in his opinion should be carried out before commencement of the construction of the specified works to ensure the safety or stability of railway property, and such protective works as may be reasonably necessary for those purposes shall be constructed by the railways board or by the Executive, if the railways board so desire, with all reasonable dispatch; and the Executive shall not commence the construction of the specified works until the engineer shall have notified the Executive that the protective works have been completed:
- (6) The Executive shall give to the railways board not more than six months and not less than 28 days' notice in writing of their intention to commence the construction of any of the specified works and, except in case of emergency (when they shall give such notice as may be reasonably practicable), of their intention to carry out any works for the repair or maintenance of the specified works in so far as such works of repair or maintenance affect or interfere with railway property:
- (7) The construction of the specified works shall, when commenced, be carried out—
- (a) with all reasonable dispatch in accordance with the plans approved, or deemed to be approved, or settled as aforesaid;
 - (b) under the supervision (if given), and to the reasonable satisfaction, of the engineer;
 - (c) in such manner as to cause as little damage as may be to railway property; and
 - (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe user of any railway of the railways board or the traffic thereon and the use by passengers of railway property;

and, if any damage to railway property or any such interference or obstruction shall be caused or take place in consequence of the construction of the specified works, the Executive shall, notwithstanding any such approval as aforesaid, make good such

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damage and shall pay to the railways board all reasonable expenses to which they may be put and compensation for any loss which they may sustain by reason of any such damage, interference or obstruction:

Provided that nothing in this paragraph shall impose any liability on the Executive with respect to any damage, cost, expense or loss which is attributable to the neglect or default of the railways board or their servants or agents:

- (8) The Executive shall at all times afford reasonable facilities to the engineer for access to the specified works during their construction and supply him with all such information as he may reasonably require with regard to the specified works or the method of construction thereof:
- (9) The railways board shall at all times afford reasonable facilities to the Executive and their agents for access to any works carried out by the railways board under this section during their construction, and shall supply the Executive with such information as they may reasonably require with regard to such works or the method of construction thereof:
- (10) If any alterations or additions, whether permanent or temporary, to railway property shall be reasonably necessary during the construction of the specified works, or during a period of 12 months after the completion thereof, in consequence of the construction of the specified works, and the railways board give to the Executive reasonable notice of their intention specifying the alterations or additions to be carried out, the Executive shall pay to the railways board the reasonable cost thereof including, in respect of any permanent alterations and additions, a capitalised sum representing the increase in the costs which may be expected to be reasonably incurred by the railways board in maintaining, working and, when necessary, renewing any such alterations or additions:

Provided that, if the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions, a capitalised sum representing such saving shall be set off against any sum payable by the Executive to the railways board under this section:

- (11) The Executive shall repay to the railways board all costs, charges and expenses reasonably incurred by the railways board—
 - (a) in constructing any part of the specified works on behalf of the Executive as provided by paragraph (4) above or in constructing any protective works under the provisions of paragraph (5) above, including, in respect of any permanent protective works, a capitalised sum representing the costs which may be expected to be reasonably incurred by the railways board in maintaining and renewing such works;
 - (b) in respect of the employment of any inspectors, signalmen, watchmen and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing interference, obstruction, danger or accident arising from the construction, maintenance, repair or failure of the specified works;
 - (c) in respect of any special traffic working resulting from any speed restrictions which are necessary as a result of the construction, repair or failure of the specified works or from the substitution, suspension or diversion of services which may be necessary for the same reason;
 - (d) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary as a result of the specified works or the failure thereof;

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- (e) in respect of the approval by the engineer of plans submitted by the Executive and the supervision by him of the construction of the specified works:
- (12) If at any time after the completion of the specified works the railways board shall give notice to the Executive that the state of repair of the specified works prejudicially affects railway property, the Executive shall take such steps as may be reasonably necessary to avoid the prejudicial effect on railway property:
- (13) Before providing any illumination or illuminated traffic sign on or in connection with the specified works in the vicinity of any railway of the railways board, the Executive shall consult with the railways board and comply, subject to the approval of the Secretary of State, with the board's reasonable requirements in regard thereto with a view to ensuring that such illumination or illuminated sign will not be confused with any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway:
- (14) The Executive shall be responsible for, and make good to the railways board, all costs, charges, damages and expenses not otherwise provided for in this section which may be occasioned to, or reasonably incurred by, the railways board—
 - (a) by reason of the construction or repair of the specified works or the failure thereof; or
 - (b) by reason of any act or omission of the Executive, or of any person in their employ, or of their contractors or others whilst engaged upon the construction or repair of the specified works;

and the Executive shall indemnify the railways board from and against all claims and demands arising out of or in connection with the construction or repair of the specified works or any such failure, act or omission as aforesaid, and the fact that any act or thing may have been done by the railways board on behalf of the Executive under the provisions of this Act, or in accordance with plans approved by the engineer, or in accordance with any requirement of the engineer or under his supervision, shall not (if it was not attributable to the neglect or default of the railways board, or of any person in their employ, or of their contractors or agents) excuse the Executive from any liability under the provisions of this section:

Provided that the railways board shall give to the Executive reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Executive:

- (15) Any difference arising between the Executive and the railways board under this section (other than a difference as to its meaning or construction) shall be referred to and settled by arbitration.

40 For protection of public sewers

For the protection of sewerage authorities the following provisions shall, unless otherwise agreed in writing between the Executive and the sewerage authority concerned, have effect:—

- (1) In this section—
 - “public sewer” means a public sewer within the meaning of the Water Industry Act 1991, and includes a sludge main, disposal main (within the meaning of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such public sewer, main

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or outfall, not being, in any such case, apparatus in respect of which the relations between the Executive and the sewerage authority are regulated by the provisions of Part III of the Act of 1991;

“sewerage authority” means a sewerage undertaker and any local authority which is a relevant authority for the purposes of section 97 of the Water Industry Act 1991;

“new, altered or substituted works” includes any works required for the protection of any public sewer of the sewerage authority;

“specified works” means any part of the authorised works which will or may be situated within 15 metres measured in any direction of any public sewer vested in a sewerage authority:

- (2) Wherever in this section provision is made with respect to the approval or consent of the sewerage authority, that approval shall be in writing but shall not be unreasonably withheld:
- (3) The Executive shall not commence the construction of the specified works until they have given to the sewerage authority not less than 56 days' notice in writing of their intention to do so with plans as described in paragraph (10) below (in this section referred to as “the said plans”) for their approval:

Provided that approval of the said plans shall not be unreasonably withheld and, if within 56 days after the submission of the said plans the sewerage authority have not approved or disapproved them, they shall be deemed to have approved the said plans as submitted:
- (4) The said plans of the specified works shall make provision for such new, altered or substituted works as the sewerage authority shall reasonably require for the protection of, and for preventing injury or impediment to, or for securing access to, any existing public sewer of the sewerage authority by reason of the specified works, and shall indemnify the sewerage authority against all expenses occasioned thereby:
- (5) The specified works, including any such new, altered or substituted works, shall be constructed in accordance with such plans as may be approved or deemed to be approved by the sewerage authority under paragraph (3) above, or settled by arbitration, and to their reasonable satisfaction in compliance with all reasonable orders, directions and regulations of the sewerage authority:
- (6) The Executive shall give to the sewerage authority reasonable notice of the commencement of any new, altered or substituted works:
- (7) All new, altered or substituted works shall, where so required by the sewerage authority, be constructed by the sewerage authority, or under the direction, superintendence and control of an officer of the sewerage authority duly appointed for the purpose, at the cost of the Executive, and all costs, charges and expenses reasonably incurred by the sewerage authority by reason of such works, whether in the execution thereof, or in the preparation or examination of plans or designs, or in such direction, superintendence or control as aforesaid, or otherwise, shall be paid to the sewerage authority by the Executive:
- (8) When any new, altered or substituted works shall be completed by, or at the cost of, the Executive under the provisions of this section the same shall thereafter be as fully and completely under the direction, jurisdiction and control of the sewerage authority as any sewers or works now or hereafter may be:

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- (9) It shall not be lawful for the Executive without the consent of the sewerage authority, in the exercise of the powers of section 11 (3) of the Act of 1965 as applied by this Act, to make any trial holes which interfere with any public sewer:
- (10) The plans to be submitted to the sewerage authority for the purposes of this section shall be detailed plans, drawings, sections and specifications which shall describe the exact position and manner in which, and the level at which, the specified works are to be constructed and shall accurately describe the position of all public sewers of the sewerage authority within the limits of deviation (for which purpose the sewerage authority shall allow the Executive access to plans in their possession and to any of their sewers in order to enable the Executive to obtain reliable information) and shall comprise detailed drawings of every alteration which the Executive may propose to make in any such sewer:
- (11) The Executive shall be liable to make good, or, if the sewerage authority so decide, to repay any expense reasonably incurred by the sewerage authority in making good, damage caused by, or resulting from, the construction of the specified works to any sewers, drains or works vested in the sewerage authority:
- (12) If the Executive, in the construction of the specified works or any new, altered or substituted works provided in accordance with this section, damage or, without the consent of the sewerage authority, alter or in any way interfere with any existing public sewer of the sewerage authority, the Executive shall—
- (a) pay to the sewerage authority any additional expense which may be reasonably incurred by the sewerage authority in the maintenance, operation, management or renewal of any new, altered or substituted sewer which may be necessary in consequence of the said construction; and
 - (b) give to the sewerage authority free and uninterrupted access at all times to any such new, altered or substituted sewer and reasonable facilities for the inspection, maintenance, alteration and repair thereof:
- (13) It shall be lawful for the proper officer of the sewerage authority at any reasonable time, on giving to the Executive such notice as may in the circumstances be reasonable, to enter upon and inspect the specified works or any other works constructed under the powers of this section:
- (14) The approval by the sewerage authority of any plans, or the superintendence by them of any work, under the provisions of this section shall not exonerate the Executive from any liability, or affect any claim for damages, under this section or otherwise:
- (15) The following provisions of this paragraph shall have effect for the provision by the Executive, in the construction of the railways authorised by this Act, of accommodation or other facilities for the laying under those railways of any sewer not more than 18 inches in diameter and any drains or private sewers connecting with any sewer and other associated apparatus (all or any of which is hereafter in this paragraph called “apparatus”):—
- (a) Not less than six months before the Executive commence the construction of any of the railways in any highway they shall give notice thereof in writing to the sewerage authority;
 - (b) If, within 56 days from the service on them of notice of the intended construction of any works under paragraph (a) above, the sewerage authority give to the Executive notice in writing that they desire such accommodation or other facilities to be provided, and such information as the Executive

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- may require to enable them to determine the extent and description of the accommodation or facilities to be provided and the means of access to apparatus laid therein, the Executive shall, so far as it is reasonably practicable to do so, provide in the construction of the railway such accommodation or facilities for the laying of apparatus under the railway as may be agreed between them and the sewerage authority, or in default of agreement, determined by arbitration to be reasonably practicable;
- (c) Subject to the provisions of this section, the sewerage authority shall be entitled to use accommodation or other facilities and the means of access thereto provided by the Executive for the laying and installing therein of the apparatus for which they were provided and for the purpose of inspecting, repairing, removing or renewing that apparatus;
- (d) Except in case of emergency, when they shall give such notice as they can in the circumstances, the sewerage authority shall give to the Executive not less than 42 days' notice of their intention to lay and install, or to repair, remove or renew, apparatus in any such accommodation or facilities;
- (e) In laying and installing apparatus in accommodation or other facilities provided by the Executive the sewerage authority shall conform with the reasonable requirements of the Executive as to the times at which, and the manner in which, such undertakers' works affecting the tramway system shall be carried out, and the Executive shall be entitled to superintend the carrying out of such works;
- (f) The sewerage authority shall maintain in good repair and to the reasonable satisfaction of the Executive any apparatus laid and installed in accommodation or facilities provided by the Executive and shall take such precautions as the Executive reasonably require to be taken for ensuring the safety of the railway and the traffic thereon;
- (g) The accommodation or facilities provided by the Executive shall be maintained by the Executive to the reasonable satisfaction of the sewerage authority;
- (h) Except in case of emergency, when they shall give such notice as they can, the Executive shall give to the sewerage authority not less than 42 days' notice in writing of their intention to carry out any works affecting any such accommodation or facilities and, in carrying out the same, shall take such measures as the sewerage authority may reasonably require for the protection of, or for preventing interference with, apparatus laid or installed therein:
- (16) As soon as reasonably practicable after the completion of the construction of a specified work the Executive shall deliver to the sewerage authority a plan and section showing the position and level of that work as constructed and all new, altered or substituted works of the sewerage authority provided under this section:
- (17) (a) If by reason, or in consequence of, the construction or failure of any part of the tramway system or any subsidence resulting from the tramway system, any damage shall be caused to any sewer or property of the sewerage authority (other than a sewer the repair of which is not reasonably necessary in view of its intended removal), the Executive shall repay the cost reasonably incurred by the sewerage authority in making good such damage and shall—
- (i) make reasonable compensation to the sewerage authority for any loss sustained by them; and
 - (ii) indemnify the sewerage authority against all claims, demands, proceedings, costs, damages and expenses which may be made

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or taken against or recovered from, or incurred by, the sewerage authority;

by reason or in consequence of any such damage;

- (b) Nothing in sub-paragraph (a) above shall impose any liability on the Executive with respect to any damage to the extent that such damage is attributable to the act, neglect or default of the sewerage authority, their officers, servants, contractors or agents;
 - (c) The sewerage authority shall give to the Executive reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Executive:
- (18) Where, in consequence of this Act, any part of any road in which any sewer is situate ceases to be part of the road, the sewerage authority may exercise the same rights of access to such sewer as they enjoyed immediately before the passing of this Act, but nothing in this paragraph shall prejudice or affect any right of the Executive or of the sewerage authority to require alteration of such sewer under this section:
- (19) Notwithstanding the temporary stopping up or diversion of any highway under the powers of section 18 (Temporary stoppage of roads) of this Act, the sewerage authority shall be at liberty at all times to construct and do all such works and things in, upon or under any such highway as may be reasonably necessary to enable them to inspect, repair, maintain, renew, alter, protect, remove or use any sewer which at the time of the stopping up or diversion was in that highway:
- (20) The Executive shall, so far as is reasonably practicable, so exercise the powers conferred by section 21 (Underpinning of houses near works) of this Act as not to obstruct or render less convenient the access to any sewer:
- (21) Any difference arising between the Executive and the sewerage authority under this section (other than a difference as to its meaning or construction) shall be determined by arbitration.

41 For protection of certain statutory undertakers

For the protection of the statutory undertakers the following provisions shall, unless otherwise agreed in writing between the Executive and the undertakers concerned, have effect:—

- (1) In this section, unless the context otherwise requires—
- “the undertakers” means the statutory undertakers or any of them, as the case may be, and, in relation to any apparatus, means the undertakers to whom it belongs or by whom it is maintained;
 - “adequate alternative apparatus” means alternative apparatus adequate to enable the undertakers to fulfil their statutory functions in a manner not less efficient than previously;
 - “apparatus” means—
 - (a) electric lines and electric plant (as defined in Part I of the Electricity Act 1989) belonging to, or maintained by, a licence holder under that Part;
 - (b) mains, pipes or other apparatus belonging to, or maintained by, a public gas supplier; or
 - (c) mains, pipes or other apparatus belonging to, or maintained by, a water undertaker for the purposes of water supply;

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(not being apparatus in respect of which the relations between the Executive and the undertakers are regulated by the provisions of Part III of the Act of 1991), and includes any structure for the lodging therein of apparatus;

“in” in a context referring to apparatus includes under, over, across, along or upon:

- (2) Notwithstanding anything in this Act or shown on the deposited plans the Executive shall not acquire any apparatus under this Act otherwise than by agreement:
- (3) If the Executive in the exercise of the powers of this Act acquire any interest in any lands in which any apparatus is placed, that apparatus shall not be removed under this section, nor shall any right of the undertakers to use, maintain, repair, renew or inspect any apparatus in those lands be extinguished, until any necessary adequate alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the undertakers:
- (4) (a) If the Executive, for the purpose of constructing any of the authorised works in, on or under any lands (including lands forming part of any road) acquired, held or used under this Act, require the removal of any apparatus placed in those lands, and give to the undertakers not less than 56 days' written notice of such requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed so as to provide adequate alternative apparatus in lieu of the apparatus to be removed, or if, in consequence of the exercise of any of the powers of this Act, the undertakers shall reasonably require to remove any apparatus,

the Executive shall, if it is practicable to do so, afford to the undertakers the necessary facilities and rights for the construction of any necessary adequate alternative apparatus in other lands of the Executive and thereafter for the maintenance, repair, renewal and inspection of such apparatus;

- (b) If the alternative apparatus, or any part thereof, is to be constructed in a road or elsewhere than in other lands of the Executive, the undertakers shall, on receipt of a written notice to that effect from the Executive, as soon as reasonably practicable exercise their powers to lay the alternative apparatus:
- (5) (a) Subject, in the case of alternative apparatus to be laid in a road, to any requirements imposed under Part III of the Act of 1991, any alternative apparatus to be constructed in pursuance of paragraph (4) above shall be constructed in such manner, and in such line or situation, as may be agreed between the undertakers and the Executive or, in default of agreement, determined by arbitration;
- (b) The undertakers shall, after the manner of construction and the line and situation of any necessary alternative apparatus have been agreed or determined, proceed with all reasonable dispatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the Executive to be removed under the provisions of this section:
- (6) Notwithstanding anything in paragraph (5) above, if the Executive give notice in writing to the undertakers that they desire to carry out any part of so much of the work necessary in connection with the construction of the alternative apparatus, or the removal of the apparatus required to be removed, such work, instead of being carried out by the undertakers, shall be carried out by the Executive with all reasonable

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dispatch under the superintendence (if given) and to the reasonable satisfaction of the undertakers:

- (7) Nothing in paragraph (6) above shall authorise the Executive to carry out the actual placing, erection, installation, bedding, packing, removal, connection or disconnection of any apparatus or, where the apparatus is laid in a trench, execute any filling around the apparatus within 600 millimetres (measured in any direction) of the apparatus:
- (8) Where, in accordance with the provisions of this section, the Executive afford to the undertakers facilities and rights for the construction, maintenance, repair, renewal and inspection in lands of the Executive of alternative apparatus in substitution for apparatus to be removed as aforesaid, those facilities and rights shall be granted upon such terms and conditions as may be agreed between the Executive and the undertakers or, in default of agreement, determined by arbitration:
- (9) In determining the terms and conditions mentioned in paragraph (8) above in respect of alternative apparatus to be constructed across or along the authorised works the arbitrator shall—
 - (a) give effect to all reasonable requirements of the Executive for ensuring the safety and efficient operation of the authorised works and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any such works; and
 - (b) so far as it may be reasonable and practicable to do so in the circumstances of the case, give effect to any terms and conditions applicable to the apparatus (if any) constructed across or along the authorised works for which the alternative apparatus is to be substituted:
- (10) If the facilities and rights to be afforded by the Executive in respect of any alternative apparatus under paragraph (8) above and the terms and conditions subject to which the same are to be granted are, in the opinion of the arbitrator, more or less favourable on the whole to the undertakers than the facilities, rights, terms and conditions applying to the apparatus to be removed, the arbitrator shall make such provision for the payment of compensation to or by the Executive by or to the undertakers in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the case:
- (11)
 - (a) Not less than 56 days before commencing to construct any of the authorised works which are near to, or will or may affect, any apparatus the removal of which has not been required by the Executive under paragraph (4) above, the Executive shall submit to the undertakers a plan, section and description of the works to be constructed;
 - (b) Such works shall be constructed only in accordance with the plan, section and description submitted as aforesaid and in accordance with such reasonable requirements as may be made by the undertakers for the alteration or otherwise for the protection of the apparatus, or for securing access thereto, and the undertakers shall be entitled by their officer to watch and inspect the construction of such works:
- (12) If within 42 days after the submission to them of any plan, section and description under paragraph (11) above, in consequence of the works proposed by the Executive, the undertakers reasonably require the removal of any apparatus and give written notice to the Executive of such requirement, the foregoing provisions of this section shall have effect as if the removal of such apparatus had been required by the Executive under paragraph (4) above:

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- (13) Nothing in paragraph (11) or (12) above shall preclude the Executive from submitting at any time, or from time to time, but in no case less than 28 days before commencing the construction of any such works, a new plan, section and description thereof in lieu of the plan, section and description previously submitted, and thereupon the provisions of those paragraphs shall apply to, and in respect of, such new plan, section and description:
- (14) The Executive shall not be required to comply with paragraph (11) (a) above in a case of emergency but, in such a case, they shall give to the undertakers notice so soon as reasonably practicable, and a plan, section and description of the works so soon as reasonably practicable thereafter, and shall comply with paragraph (11) (b) above so far as reasonably practicable in the circumstances:
- (15) If in consequence of the exercise of the powers of this Act the access to any apparatus is materially obstructed the Executive shall provide alternative means of access to such apparatus:
- (16) The following provisions of this paragraph shall have effect for the provision by the Executive, in the construction of the railways authorised by this Act, of accommodation or other facilities for the laying of apparatus under the railways—
- (a) Not less than six months before the Executive commence the construction of any of the railways in any highway they shall give notice thereof in writing to each of the undertakers;
 - (b) If, within two months from the service on them of notice of the intended construction of any works under paragraph (a) above, the undertakers give to the Executive notice in writing that they desire such accommodation or other facilities to be provided, and such information as the Executive may require to enable them to determine the extent and description of the accommodation or facilities to be provided and the means of access to apparatus laid therein, the Executive shall, so far as it is reasonably practicable to do so, provide in the construction of the railway such accommodation or facilities for the laying of apparatus under the railway as may be agreed between them and the undertakers, or in default of agreement, determined by arbitration to be reasonably practicable;
 - (c) Subject to the provisions of this section, the undertakers shall be entitled to use accommodation or other facilities and the means of access thereto provided by the Executive for the laying and installing therein of the apparatus for which they were provided and for the purpose of inspecting, repairing, removing or renewing that apparatus;
 - (d) Except in case of emergency, when they shall give such notice as they can in the circumstances, the undertakers shall give the Executive not less than 42 days' notice of their intention to lay and install or to repair, remove or renew apparatus in any such accommodation or facilities;
 - (e) In laying and installing apparatus in accommodation or other facilities provided by the Executive the undertakers shall conform with the reasonable requirements of the Executive as to the times at which, and the manner in which, such undertakers' works affecting the railways shall be carried out, and the Executive shall be entitled to superintend the carrying out of such works;
 - (f) The undertakers shall maintain in good repair and to the reasonable satisfaction of the Executive any apparatus laid and installed in accommodation or facilities provided by the Executive and shall take such

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- precautions as the Executive reasonably require to be taken for ensuring the safety of the railway and the traffic thereon;
- (g) The accommodation or facilities provided by the Executive shall be maintained by the Executive to the reasonable satisfaction of the undertakers;
- (h) Except in case of emergency when they shall give such notice as they can, the Executive shall give to the undertakers not less than 42 days' notice in writing of their intention to carry out any works affecting any such accommodation or facilities and, in carrying out the same, shall take such measures as the undertakers may reasonably require for the protection of, or for preventing interference with, their apparatus laid or installed therein:
- (17) (a) The Executive shall repay the reasonable expenses incurred by the undertakers in, or in connection with—
- (i) the removal and relaying or replacing, alteration or protection of any apparatus or the provision and construction of any new apparatus under any of the provisions of this section; and
 - (ii) the cutting off of any apparatus from any other apparatus;
- (b) Subsections (3) and (4) of section 23 of the Public Utilities Street Works Act 1950 as enacted shall extend and apply to any payment to be made by the Executive under sub-paragraph (a) above as if the works there mentioned were such undertakers' works as are referred to in the said subsection (3), and as if in that subsection for the words “specified as so necessary in a specification of the works settled under Part I of the Fourth Schedule to this Act or agreed so to be by the promoting authority” there were substituted the words “agreed or settled by arbitration under section 41 (For protection of certain statutory undertakers) of the Leeds Supertram Act 1993”:
- (18) (a) If, by reason or in consequence of the construction or failure of any of the authorised works or any subsidence resulting from any of those works, any damage shall be caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal) or property of the undertakers, or any interruption shall be caused in the supply of electricity, gas or, as the case may be, water by the undertakers, the Executive shall repay the cost reasonably incurred by the undertakers in making good such damage, or restoring the supply, and shall—
- (i) make reasonable compensation to the undertakers for any loss sustained by them; and
 - (ii) indemnify the undertakers against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from, or incurred by, the undertakers;
- by reason or in consequence of any such damage or interruption;
- (b) Nothing in sub-paragraph (a) above shall impose any liability on the Executive with respect to any damage or interruption to the extent that such damage or interruption is attributable to the neglect or default of the undertakers, their officers, servants, contractors or other agents;
- (c) The undertakers shall give to the Executive reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Executive:
- (19) Where, in consequence of this Act, any part of any highway in which any apparatus is situate ceases to be part of the highway, the undertakers may exercise the same rights of access to such apparatus as they enjoyed immediately before the passing of this

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Act, but nothing in this paragraph shall prejudice or affect any right of the Executive or of the undertakers to require removal of such apparatus under this section, or the power of the Executive to execute works, in accordance with paragraph (11) above:

- (20) Notwithstanding the temporary stopping up or diversion of any highway under the powers of section 18 (Temporary stoppage of roads) of this Act, the undertakers shall be at liberty at all times to carry out and do all such works and things in, upon or under any such highway as may be reasonably necessary to enable them to inspect, repair, maintain, renew, remove or use any apparatus which at the time of the stopping up or diversion was in that highway:
- (21) The Executive shall, so far as is reasonably practicable, so exercise the powers conferred by section 21 (Underpinning of houses near works) of this Act as not to obstruct or render less convenient the access to any apparatus:
- (22) (a) Any difference arising between the Executive and the undertakers under this section (other than a difference as to its meaning or construction) shall be determined by arbitration;
- (b) In determining any difference under this section the arbitrator may, if he thinks fit, require the Executive to execute any temporary or other works so as to avoid, so far as may be reasonably possible, interference with the use of any apparatus.

42 For protection of tele- communications operators

For the protection of telecommunications operators the following provisions shall, unless otherwise agreed in writing between the Executive and the telecommunications operators concerned, have effect:—

- (1) In this section expressions defined in the Telecommunications Act 1984 have the same meanings as in that Act.
- (2) The temporary stopping up or diversion of any highway under section 18 (Temporary stoppage of roads) of this Act shall not affect any right of a telecommunications operator under paragraph 9 of the telecommunications code to inspect, maintain, adjust, repair or alter any apparatus which, at the time of the stopping up or diversion, is in that highway.

43 Removal of human remains

- (1) In this section “the specified land” means the lands in the City numbered 31A on the deposited plans.
- (2) Before the Executive begin to use any part of the specified land for the construction of any authorised works therein they shall remove, or cause to be removed, from that part of the specified land the remains of all deceased persons interred therein in accordance with the following provisions of this section.
- (3) Before any such remains are removed from the specified land the Executive shall give notice of such intended removal, describing the specified land and stating the general effect of the following provisions of this section, by—
 - (a) publishing it once in each of two successive weeks in a newspaper circulating in the City; and
 - (b) displaying it in a conspicuous place upon or near to the specified land.

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- (4) At any time within 56 days after the first publication of such notice, any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land, may give notice in writing to the Executive of his intention to undertake the removal of such remains, and thereupon if such remains can be identified he shall be at liberty to cause such remains to be removed and reinterred in any burial ground or cemetery in which burials may legally take place, or to be removed to, and cremated in, any crematorium, and forthwith after such reinterment or cremation shall provide to the Executive a certificate for the purpose of enabling compliance with subsection (8) below.
- (5) If any person giving such notice as aforesaid fails to satisfy the Executive that he is such personal representative or relative as he claims to be, or that the remains in question can be identified, the question shall be determined on the application of either party in a summary manner by the county court, and the court shall have power to make an order specifying who shall remove the remains and as to the payment of the costs of the application.
- (6) The Executive shall defray the reasonable expenses of the removal and reinterment or cremation of such remains.
- (7) If—
- (a) within the said period of 56 days no notice under subsection (4) above has been given to the Executive in respect of any remains in the specified land; or
 - (b) such notice is given and no application is made under subsection (5) above within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days thereafter; or
 - (c) within 56 days after any order is made by the county court under subsection (5) above any person, other than the Executive, specified in the order fails to remove the remains; or
 - (d) it is determined that the remains to which any such notice relates cannot be identified;
- the Executive shall remove the remains and cause them either to be reinterred in such burial ground or cemetery in which burials may legally take place as the Executive think suitable for the purpose, or cremated in such crematorium as the Executive think suitable for the purpose:
- Provided that if any personal representative or relative has given notice under subsection (4) above and has satisfied the Executive that he is such personal representative or relative as he claims to be, and that the remains in question can be identified, but does not remove the remains, the Executive shall comply with any reasonable request he may make in relation to the removal and reinterment or cremation of the remains.
- (8) Upon the reinterment or cremation of any remains under this section, a certificate of reinterment or cremation shall be sent to the Registrar General by the Executive giving the date of reinterment or cremation and identifying the place from which the remains were removed and the place in which they were reinterred or cremated.
- (9) The removal of the remains of any deceased person under this section shall be carried out in accordance with any directions which may be given by the Secretary of State.
- (10) Any jurisdiction or power conferred on the county court by this section may be exercised by the district judge of the court.

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- (11) Section 25 of the Burial Act 1857 shall not apply to a removal carried out in accordance with this section.

44 Crown rights

- (1) Nothing in this Act affects prejudicially any estate, right, power, privilege or exemption of the Crown and, without prejudice to the generality of the foregoing, nothing in this Act authorises the Executive to take, use or in any manner interfere with any land or hereditaments or any rights of whatsoever description—
- (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those commissioners; or
 - (b) belonging to Her Majesty in right of Her Crown and under the management (pursuant to any statute or otherwise) of the Secretary of State, without his consent in writing; or
 - (c) belonging to a government department or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.
- (2) A consent under subsection (1) above may be given unconditionally or subject to such conditions and upon such terms as may be considered necessary or appropriate.
- (3) Nothing in this section shall prejudice or affect the exercise of statutory powers to carry out works in or affecting any highway vested in or maintained by the Secretary of State in relation to which the provisions of section 38 (As to highways, traffic, etc.) of this Act apply.