



Greater Manchester (Light Rapid Transit System) Act 1994

1994 CHAPTER vi

PART IV

PROTECTIVE PROVISIONS

18 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 execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

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

“plans” includes sections, drawings, specifications, soil reports, calculations 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 land held or used by the railways board for the purposes of such railway or works;

“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 and includes the construction, maintenance, alteration and renewal of the specified works:

- (2) (a) The Executive shall not under the powers of this Act acquire compulsorily any railway property or any other land of the railways board but they may, with the consent of the railways board, which consent shall not be unreasonably withheld, acquire such easements or other rights in any railway property or

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any other land of the railways board delineated on the deposited plans or, as the case may be, the substituted plan as they may reasonably require for the purposes of the specified works;

- (b) The Executive shall fence off the specified works from railway property or any other land of the railways board to the reasonable satisfaction of the engineer where so required by him:
- (3) During the construction of the specified works the Executive shall at all times ensure reasonable access to, and egress from—
- (a) any station, depot or other operational premises of the railways board for vehicles and pedestrians;
 - (b) any other railway property for the railways board and their agents, contractors and employees (with or without vehicles, plant, machinery and materials):
- (4) The Executive shall before commencing the specified works (other than works of maintenance or repair) furnish to the railways board proper and sufficient plans thereof for the reasonable 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 if within 56 days after such plans have been furnished to the railways board the engineer has not intimated his disapproval thereof and the grounds of his disapproval he shall be deemed to have approved the same:

- (5) If within 56 days after such plans have been furnished 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 the same 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:
- (6) 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 the commencement 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 has notified the Executive that the protective works have been completed to his reasonable satisfaction:
- (7) (a) The Executive shall give to the railways board notice in writing of their intention to commence the construction of any of the specified works in accordance with sub-paragraph (b) below and, except in emergency (when they shall give such notice as may be reasonably practicable), also of their intention to carry out any works for the maintenance or renewal of the specified works;
- (b) The period of notice required to be given by the Executive to the railways board by virtue of sub-paragraph (a) above shall be—
- (i) 6 months in any case where the engineer, upon signifying his approval or disapproval of plans furnished to the railways board under paragraph (4) above, has reasonably given it as his opinion that the

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construction, maintenance or renewal of the specified works will require the Executive to have temporary occupation of the permanent way of the railway (including land lying within a distance of 2 metres from any outer rail of the railway) or will necessitate the imposition of speed restrictions, or the substitution, diversion or suspension of train services; and

(ii) 28 days in all other cases:

- (8) The specified works shall, when commenced, be carried out—
- (a) with all reasonable dispatch in accordance with the plans approved or deemed to have been 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 to railway property as may be; 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 is caused or takes place, the Executive shall, notwithstanding any such approval as aforesaid, make good such damage and shall on demand 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:

- (9) The Executive shall—
- (a) at all times afford reasonable facilities to the engineer for access to the specified works during their construction;
 - (b) ensure access for the engineer at all reasonable times to all working sites, depots and premises at which materials to be employed in the construction of the specified works are being made, constructed or assembled;
 - (c) supply the engineer with all such information as he may reasonably require with regard to the specified works or the method of construction thereof:
- (10) 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:
- (11) If any alterations or additions, either permanent or temporary to railway property are reasonably necessary in consequence of the construction of the specified works, such alterations and additions may be effected by the railways board after not less than 28 days' notice has been given to the Executive and the Executive shall pay to the railways board on demand the cost thereof as certified by the engineer including, in respect of permanent alterations and additions, a capitalised sum representing the increased or additional cost of maintaining, working and, when necessary, renewing any such alterations or additions:
- (12) 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 (5) above or in constructing any protective works under the provisions of paragraph (6) above including, in respect of any permanent

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- protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the employment of any inspectors, signalmen, watchmen and other persons whom it is reasonably necessary to appoint for inspecting, watching, lighting and signalling railway property and for preventing as far as may be all interference, obstruction, danger or accident arising from the construction, maintenance, renewal, 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, maintenance, renewal, repair or failure of the specified works and which may in the opinion of the engineer be required to be imposed 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;
 - (e) in respect of the approval by the engineer of plans submitted by the Executive and the supervision by him of the specified works:
- (13) If at any time after the completion of the specified works, not being works vested in the railways board, the railways board give notice to the Executive informing them that the state of repair of the specified works appears to be such as prejudicially to affect railway property, the Executive shall, on receipt of such notice, take such steps as may be reasonably necessary to put the specified works in such state of repair as not prejudicially to affect railway property and, if and whenever the Executive fail to do so, the railways board may make and do in and upon the land of the railways board or of the Executive all such works and things as are requisite to put the specified works in such state of repair as aforesaid and the cost and expenses reasonably incurred by the railways board in so doing shall be repaid to them by the Executive:
- (14) All temporary structures, erections, works, apparatus and appliances erected or placed by the Executive under the powers of this Act upon, over or under any railway of the railways board shall, as soon as reasonably practicable, be removed by the Executive at times to be agreed with, and to the reasonable satisfaction of, the engineer and in such a way as to cause as little damage to railway property and as little interference with, or delay or interruption to, the traffic on the railways of the railways board as may be; and if any damage to railway property or such interference, delay or interruption is caused by any such failure to remove any such temporary structures, erections, works, apparatus or appliances, the Executive shall forthwith make good such damage and pay to the railways board the reasonable costs and expenses to which they may be put and reasonable compensation for any loss which they may sustain by reason of such damage, interference, delay or interruption:
- (15) If it is necessary for the protection and safety of railway property for the railways board to purchase any minerals for the support of such property or to pay compensation for any minerals to be left unworked for the support thereof and the specified works also derive support from such minerals, the Executive shall repay to the railways board a reasonable proportion of the amount paid by the railways board for or in respect of such minerals and the costs and expenses incurred by the railways board in relation to any such purchase or payment of compensation:
- (16) Before providing any illumination or illuminated traffic sign on or in connection with the specified works or in the vicinity of any railway of the railways board, the Executive shall consult with the railways board and comply with their reasonable

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requirements in regard thereto with a view to ensuring that such illumination or illuminated sign could not be confused with any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway:

- (17) Any additional expense which the railways board may reasonably incur after giving 56 days' notice to the Executive in widening, altering, reconstructing or maintaining railway property under any powers existing at the passing of this Act by reason of the existence of the specified works shall be repaid by the Executive to the railways board:
- (18) 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 specified works or the failure thereof; or
 - (b) by reason of any act or omission of the Executive or of any persons in their employ or of their contractors or others whilst engaged upon the specified works;

and the Executive shall effectively indemnify and hold harmless the railways board from and against all claims and demands arising out of or in connection with 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 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 done without negligence on the part 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:

- (19) Section 42 (For further protection of British Railways Board) of the Greater Manchester (Light Rapid Transit System) Act 1988 shall have effect as if the references therein to the light rapid transit system included references to Works Nos. 1 and 5 and to any parts of the railways of the railways board transferred to, and vested in, the Executive by agreement with the railways board under this Act:
- (20) Any difference arising between the Executive and the railways board under this section (other than a difference as to the meaning or construction of this section) shall be referred to and settled by arbitration in the manner provided by section 47 of the Greater Manchester (Light Rapid Transit System) Act 1988.

19 For protection of telecommunications 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 street or footpath under section 23 (Temporary stoppage of streets and footpaths) of the Greater Manchester (Light Rapid Transit System) Act 1988 as applied for the purposes of this Act shall not affect the right of a telecommunications operator under paragraph 9 of the telecommunications

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code to inspect, maintain, adjust, repair or alter any apparatus which, at the time of the stopping up or diversion, is in that street or footpath.

20 For protection of Trustees of King Street Baptist Church, Oldham

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

(1) In this section—

“the Act of 1951” means the Baptist and Congregational Trusts Act 1951;

“the Association” means the Lancashire and Cheshire Association of Baptist Churches (Incorporated), whose registered office is at Latchford Baptist Church, Loushers Lane, Warrington WA4 2RP;

“the present lands” means the land delineated and numbered 23 in the borough on the deposited plans and described in the deposited book of reference as the King Street Baptist Church, Oldham;

“the prior works” means the construction to the reasonable satisfaction of the Trustees' architects of buildings and facilities ready for use and occupation comparable and reasonably equivalent to those erected on the present lands including, for the avoidance of doubt, comparable ground level accommodation and the capability of extending the accommodation by 66% of the total accommodation;

“the replacement lands” means lands in a location which is reasonably equivalent to the location of the present lands having regard to their amenity, their proximity to the central area of the borough and their suitability for the purposes hereinafter specified and of a size capable of providing the buildings and facilities to be constructed thereon with public highway, vehicular and pedestrian access and other rights and appurtenances similar to those now enjoyed by the present lands for an estate in fee simple or for the term of years now held subject only to the ground rents now prevailing;

“the Trustees” means the Association and such individuals as are for the time being trustees of the King Street Baptist Church, Oldham:

(2) Whereas the Trustees hold the present lands by virtue of a Memorandum of Choice and Appointment dated 19th September 1984 for the residue of two long leasehold estates existing until or beyond 15th October 2859 subject to ground rents aggregating £48.95 upon trust subject to the provisions of section 6 of the Act of 1951 for occupation, use or enjoyment for all or any of the following purposes namely:—

- (a) the public worship of God according to the principles and usages for the time being of Protestant Dissenters of the Baptist denomination;
- (b) the instruction of children or adults or the promotion of other religious or charitable purposes in accordance with the principles and usages aforesaid:

Now it is hereby provided that until at the cost and expense of the Executive—

- (i) the prior works have been completed and are ready for use and occupation on the replacement lands;
- (ii) the Trustees' architects have certified that they have approved the design and specification of the prior works and the contract for and the construction of the prior works and are satisfied that the payments due under the said contract have been made or secured and the warranties in the contract enure for the benefit of the Trustees; and

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- (iii) the prior works and the replacement lands have for the estate aforesaid been vested in the Trustees by way of Deed of Exchange of the present lands; the Executive shall not exercise in respect of the present lands the powers of this Act:

Provided that the issue of a certificate by the Trustees' architects shall not be unreasonably withheld and the completion of the said Deed of Exchange and the payment of the Trustees' architects' and legal fees shall be taken to satisfy the obligation of the Executive to pay compensation:

- (3) Until the provisions of sub-paragraphs (i), (ii) and (iii) above have been complied with—
- (a) none of the authorised works shall be constructed within 15 metres of the present lands;
 - (b) during the construction of any of the authorised works more than 15 metres from the present lands the Executive shall at all times—
 - (i) ensure reasonable access to and egress from the present lands for vehicles and pedestrians;
 - (ii) prevent the construction of the authorised works from interfering with acts of worship by noise and (so far as is reasonably practicable) by dust or other nuisance; and
 - (iii) use their best endeavours to avoid disturbing or interfering with use being made of the present lands:
- (4) Any difference arising between the Executive and the Trustees under this section (other than a difference as to the meaning or construction of this section) shall be referred to and settled by a single arbitrator to be agreed between the parties, or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Royal Institution of Chartered Surveyors.