

ELIZABETH II



1972 CHAPTER xliv

An Act to empower the South East Lancashire and North East Cheshire Passenger Transport Executive and the British Railways Board to construct works and to acquire lands; and for other purposes.

[9th August 1972]

WHEREAS the South East Lancashire and North East Cheshire Passenger Transport Executive (hereinafter referred to as "the Executive") were established under the Transport Act, 1968:

1968 c. 73.

And whereas it is the general duty of the Executive under the said Act of 1968 so to exercise and perform their functions under Part II of that Act and section 24 (2) thereof with respect to the provision of passenger transport services as to secure or promote the provision of a properly integrated and efficient system of public passenger transport to meet the needs of their area, which comprises the cities of Manchester and Salford, the county boroughs of Bolton, Bury, Oldham, Rochdale and Stockport and

parts of the administrative counties of the county palatine of Chester, Derby, the county palatine of Lancaster and the West Riding of Yorkshire:

1962 c. 46.

And whereas it is the duty of the British Railways Board (hereinafter referred to as "the railways board") under the Transport Act, 1962 (inter alia) to provide railway services in Great Britain and, in connection with the provision of railway services, to provide such other services and facilities as appear to them to be expedient, and to have due regard as respects all those railway and other services and facilities, to efficiency, economy and safety of operation:

And whereas it is expedient that the Executive and the railways board should be empowered to construct the works authorised by this Act and to acquire the lands referred to in this Act:

And whereas it is expedient that the other powers in this Act contained should be conferred upon the Executive and the railways board and that the other provisions in this Act contained should be enacted:

And whereas plans and sections showing the lines or situations and levels of the works to be constructed under the powers of this Act and plans of the lands authorised to be acquired or used by this Act, and a book of reference to such plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands were duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons, with the clerk of the county council of the administrative county of the county palatine of Lancaster, with the town clerk of the city of Manchester and with the town clerks of the county boroughs of Bury and Stockport, which plans, sections and book of reference are respectively referred to in this Act as the deposited plans, the deposited sections and the deposited book of reference:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled and by the authority of the same, as follows:—

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the *Selnec (Manchester Central Area Railway, &c.) Act 1972*.

2. This Act is divided into Parts as follows:—

- Part I.—Preliminary.
- Part II.—Works.
- Part III.—Lands.
- Part IV.—Protective provisions.
- Part V.—Miscellaneous and general.

PART I
—*cont.*
Division of
Act into
Parts.

3.—(1) In this Act, unless there be something in the subject or Interpretation. context repugnant to such construction, the several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated herewith have in relation to the relative subject-matter the same respective meanings and—

“ the Act of 1845 ” means the Railways Clauses Consolidation Act, 1845; 1845 c. 20.

“ the Act of 1863 ” means the Railways Clauses Act, 1863; 1863 c. 92.

“ the Act of 1965 ” means the Compulsory Purchase Act, 1965 c. 56. 1965;

“ the appropriate authority ” means—

(a) in relation to the Executive’s works and in relation to any land in respect of which powers for compulsory acquisition are conferred upon the Executive by this Act, the Executive;

(b) in relation to the railways board’s works and in relation to any land in respect of which powers for compulsory acquisition are conferred upon the railways board, the railways board;

“ the city ” means the city of Manchester;

“ constructed in tunnel ” means constructed in tunnel in such manner as does not necessitate the cutting through or removal of the surface soil;

“ the corporation ” means the lord mayor, aldermen and citizens of the city acting by the council of the city;

“ enactment ” means any enactment, whether public general or local, and includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

“ the Executive ” means the South East Lancashire and North East Cheshire Passenger Transport Executive;

“ the Executive’s works ” means Works Nos. 1 and 2 and any works, apparatus or conveniences constructed or provided by the Executive as part of, or in connection with, or for the purposes of, those works or either of them;

PART I
—cont.

“land” includes land covered by water, any interest in land and any easement or right in, to or over land;

“the limits of deviation” means the limits of deviation shown on the deposited plans;

“the railways board” means the British Railways Board;

“the railways board’s works” means Works Nos. 3 to 9 and any works, apparatus or conveniences constructed or provided by the railways board as part of, or in connection with, or for the purposes of, those works or any of them;

“the river authority” means the Mersey and Weaver River Authority;

“the Secretary of State” means the Secretary of State for the Environment;

1878 c. 76.

“telegraphic line” has the same meaning as in the Telegraph Act, 1878;

“the tribunal” means the Lands Tribunal; and

“the underground railway” means such portions of the Executive’s works and any necessary works and conveniences connected therewith as are constructed in tunnel.

(2) Any reference in this Act to any enactment shall be construed as a reference to that enactment, as applied, extended, amended or varied by, or by virtue of, any subsequent enactment, including this Act.

(3) All distances and lengths stated in any description of works, powers or lands shall be construed as if the words “or thereabouts” were inserted after each such distance and length and distances between points on a railway shall be taken to be measured along the railway.

(4) Unless the context otherwise requires, any reference in this Act to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Act.

Incorporation
of Railways
Clauses Acts.

4. The following Act and Part of an Act, so far as the same are applicable for the purposes and are not inconsistent with or varied by the provisions of this Act, are incorporated with and form part of this Act, and this Act shall be deemed to be the special Act for the purposes of the said incorporated enactments:—

The Act of 1845, except sections 7, 8, 9, 11, 12, 13, 19, 20, 22 and 23 thereof, and Part I of the Act of 1863:

Provided that—

PART I
—cont.

(i) for the purposes of the provisions of the Act of 1845 and the Act of 1863, as incorporated with this Act, the expression “the company” where used in the said incorporated provisions means the appropriate authority;

(ii) the provisions of sections 18 and 21 of the Act of 1845 shall not extend to regulate the relations between the appropriate authority and any other person in respect of any matter or thing concerning which those relations are regulated in any respect—

(a) by the provisions of Part II of the Public Utilities Street Works Act, 1950; or 1950 c. 39.

(b) by the provisions of section 40 (For protection of certain statutory undertakers) of this Act.

5.—(1) Part I of the Act of 1965 (except sections 4, 24 (5) and 27 thereof and paragraph 3 (3) of Schedule 3 thereto), in so far as it is applicable for the purposes of this Act and is not inconsistent with the provisions thereof, shall apply to the compulsory acquisition of land under this Act as it applies to a compulsory purchase to which Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act, 1946, applies and as if this Act were a compulsory purchase order under the said Act of 1946. Application of Part I of Act of 1965. 1946 c. 49.

(2) Subsection (1) of section 11 of the Act of 1965, as so applied, shall have effect as if for the words “fourteen days” there were substituted, in respect of the lands referred to in Schedule 3 to this Act, the words “three months” and, in respect of the lands referred to in Schedule 4 to this Act, the words “one month”.

(3) The Lands Clauses Consolidation Act, 1845, shall not apply to the acquisition of land under this Act. 1845 c. 18.

PART II

WORKS

6. Subject to the provisions of this Act, the Executive may, in the lines or situations shown on the deposited plans and according to the levels shown on the deposited sections, make and maintain the works hereinafter described with all necessary works and conveniences connected therewith:— Power to Executive to make works.

Work No. 1 A railway (2 miles 1,349 yards in length) wholly in the city, commencing by a junction with the railway between Birmingham and Manchester at a

PART II
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point 13 yards north-west of the bridge carrying the railway between Birmingham and Manchester over Chancellor Lane and terminating at a point adjacent to the north face of Honey Street Footbridge;

Work No. 2 A moving pavement or footway (430 yards in length) wholly in the city, commencing at a point on the forecourt of Oxford Road Station and terminating at a point 30 yards south-east of the south-easterly corner of St. Peter's Square.

Power to
railways
board to
make
ancillary
works.

7.—(1) Notwithstanding the provisions of any other enactment, but subject to the provisions of this Act, the railways board may, in the lines or situations shown on the deposited plans and according to the levels shown on the deposited sections, make and maintain the works hereinafter described with all necessary works and conveniences connected therewith:—

Work No. 3 A railway (1,283 yards in length) wholly in the county borough of Stockport, in parts to be raised above existing rail level, including viaducts over the railway between Birmingham and Manchester and the railway between Northenden and Stockport, commencing at a point 398 yards north-west of the footbridge at Davenport Station and terminating at a point 252 yards south of Booth Street Bridge and including the diversion and alteration in the level of parts of Adswood Road and Stockholm Road;

Work No. 4 A railway (915 yards in length) wholly in the city, in parts to be raised above existing rail level, including a viaduct over the railway between Birmingham and Manchester commencing at the northern end of Levenshulme Station and terminating at a point 153 yards south of the bridge carrying the said railway over Stockport Road;

Work No. 5 A deviation railway (912 yards in length) wholly in the city, being a deviation of the railway between Birmingham and Manchester, commencing by a junction with the said railway at the northern end of Levenshulme Station and terminating by a junction with the said railway at a point 153 yards south of the bridge carrying the said railway over Stockport Road;

Work No. 6 A widening (160 yards in length) wholly in the city, of the viaduct carrying the railway between

Manchester (South Junction) and Altrincham commencing at a point 100 yards east of the centre of London Road Bridge and terminating at a point 60 yards west of the centre of London Road Bridge;

Work No. 7 A reconstruction and alteration in the level of part of the railway between Cheetham Hill Junction and Queens Road Junction and part of the railway between Manchester and Normanton (1,080 yards in length) wholly in the city, commencing at the termination of Work No. 1 and terminating by a junction with the railway between Manchester and Bury at a point 191 yards north of Queens Road Bridge, including a lengthening of the bridge carrying Queens Road over the railway between Cheetham Hill Junction and Queens Road Junction;

Work No. 8 A reconstruction and improvement of part of the tunnel (650 feet in length) wholly in the city, carrying the railway between Manchester and Bury beneath Heaton Park and a reconstruction in the borough of Prestwich of the bridge carrying Sheepfoot Lane (A.6044) over the said railway commencing at a point on the southern side of the said bridge and terminating at a point 290 yards north-west of the point of commencement;

Work No. 9 A railway (1 mile 880 yards in length) wholly in the borough of Radcliffe, commencing at a point 100 yards south of Church Street West and terminating at a point 807 yards west of Ainsworth Road.

(2) The railways board shall erect a good and sufficient fence on each side of the lengthened bridge comprised in Work No. 7 and on the southern side of the reconstructed bridge comprised in Work No. 8 and shall thereafter maintain such fences in good and substantial condition.

8. In the execution of the Executive's works or the railways board's works, as the case may be, or any part thereof, the appropriate authority may deviate from the lines or situations thereof shown on the deposited plans to the extent of the limits of deviation and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding 10 feet upwards and to such extent downwards as may be found necessary or convenient: Power to deviate.

Provided that—

(a) in the construction of so much of Work No. 3 as is between 1 and 2 furlongs and between 4 and 5 furlongs

PART II
—*cont.*

from the commencement of Work No. 3 (measured along the centre line of that work) the appropriate authority shall not deviate vertically from the levels shown on the deposited sections to a greater extent than 6 inches;

- (b) in the construction of so much of Work No. 3 as is between 3 and 3½ furlongs from the commencement of Work No. 3 (measured as aforesaid) the appropriate authority shall not deviate vertically from the levels shown on the deposited sections to any extent downwards.

Repair of roads where level not permanently altered.

9. Notwithstanding anything in section 46 of the Act of 1845, the appropriate authority shall not be liable to maintain the surface of any road or public highway under or over which the Executive's works or the railways board's works, as the case may be, shall be constructed or the immediate approaches thereto except so far as the level of such road, highway or approaches is permanently and prejudicially altered:

Provided that nothing in this section shall relieve the appropriate authority from any liability which they were under immediately before the passing of this Act for the maintenance of any such road, highway or approaches.

General provisions as to mode of construction of underground railway.

10. The following provisions shall apply to the construction of the underground railway:—

- (1) The Executive's works, where constructed in tunnel, shall be constructed in separate tunnels or cells for up and down traffic except at stations constructed by the cut-and-cover method and at cross-overs and junctions where they may be constructed or located in single tunnels or chambers of enlarged dimensions or diameter:
- (2) The underground railway shall be approached by means of stairs, inclines, subways, electric or other lifts or escalators:
- (3) (a) Except where the cut-and-cover method of construction is used, the tunnels comprised in the underground railway may be constructed by means of mechanically driven tunnelling equipment or shields driven forward by hydraulic or other pressure as the works proceed. In addition, and where special conditions apply, tunnelling by hand may be executed, which hand tunnelling may also be executed at station enlargements and at junction and other chambers. All such

tunnels, enlargements or chambers shall be lined with sufficient iron, steel in situ or precast concrete suitably jointed, abutted or bonded throughout;

- (b) Every permanent shaft shall be constructed either by underpinning or by sinking and shall be lined with brick, concrete, iron or other equally substantial and durable material;
- (c) The station tunnels of the underground railway shall not have an internal diameter exceeding 30 feet and the cross-over and junction tunnels and chambers shall not have an internal diameter exceeding 40 feet. The tunnels between stations shall not (except at cross-overs and junctions or where necessary for the adjustment of curves or for other constructional purposes) have an internal diameter exceeding 20 feet. The internal diameter of shafts shall not exceed 40 feet;
- (d) Except where the cut-and-cover method of construction is used, any space between the lining of the tunnels and chambers (including station, cross-over and junction tunnels) and the surrounding soil shall be properly filled up with lime or cement grouting or other suitable material placed therein under pressure:
- (4) If water is found to be present in the works on the underground railway in such quantity as to necessitate the employment of compressed air, the Executive shall immediately stop all excavating work at the point where the same is so found and the further driving of the tunnels at the working face at that point until the Executive shall have provided air-compressing machinery which will produce such a pressure of air as will prevent the inflow of any sand, water, gravel or soil and such machinery shall be maintained in full working order and the work at such working face carried on under compressed air as long as may be necessary; alternatively and permitting the omission of the use of compressed air and as may be expedient to stanch or limit any inflow into the tunnels from water bearing subsoil pockets or fissures, there shall be injected chemicals to secure consolidation of the ground or there shall be applied a freezing process which freezing of the subsoil shall be maintained until the tunnel lining is fully erected or secured in all respects:
- (5) Where during construction the incompleteness of any part of the underground railway will not permit an accumulation or flow of ground or other water to be conveyed to the existing permanent gravity drainage

PART II
—cont.

system, the same may be pumped or removed and disposed of by any means, and if at the ground surface, as may be previously agreed in writing with the corporation or other body or party as the location demands.

Plans, etc., to be approved by Secretary of State before Executive's works commenced.

11. The Executive shall as regards the Executive's works from time to time submit for the approval of the Secretary of State plans, sections and other details of their proposals with respect to—

- (a) permanent way, tunnels, platforms, stairs, lifts, escalators, moving pavements or footways and other communications;
- (b) rolling stock;
- (c) lighting; and
- (d) ventilation;

and any rolling stock and work included in the said proposals shall be constructed and maintained only in accordance with plans, sections and other details as approved by the Secretary of State.

Provisions as to use of electrical power.

12. The following provisions shall apply to the use of electrical power for the purposes of the Executive's works:—

- (1) The Executive shall employ either insulated returns or uninsulated metallic returns of low resistance:
- (2) The Executive shall take all reasonable precautions in constructing, placing and maintaining their electric lines and circuits and other works of all descriptions and also in working the said works so as not injuriously to affect by fusion or electrolytic action any gas, water or hydraulic power pipes or other metallic pipes, structures or substances or to interfere with the working of any wire, line or apparatus from time to time used for the purpose of transmitting electrical power or of telegraphic, telephonic or electric signalling communication or the currents in such wire, line or apparatus:
- (3) The electrical power shall be used only in accordance with the regulations and in such regulations provision shall be made for preventing fusion or injurious electrolytic action of or on gas, water or hydraulic power pipes or other metallic pipes, structures or substances and for minimising as far as is reasonably practicable injurious interference with the electric wires, lines and apparatus of other parties and the currents therein whether such lines do or do not use the earth as a return:

- (4) The Executive shall be deemed to take all reasonable and proper precautions against interference with the working of any wire, line or apparatus if and so long as they adopt and employ at the option of the Executive either such insulated returns or such uninsulated metallic returns of low resistance and such other means of preventing injurious interference with the electric wires, lines and apparatus of other parties and the currents therein as may be prescribed by the regulations and in prescribing such means the Secretary of State shall have regard to the expense involved in relation to the protection afforded:
- (5) The provisions of this section shall not operate to give any right of action in respect of injurious interference with any electric wire, line or apparatus or the currents therein unless in the construction, erection, maintaining and working of such wire, line and apparatus all reasonable and proper precautions including the use of an insulated return have been taken to prevent injurious interference therewith and with the currents therein by or from other electric currents:
- (6) If any difference arises between the Executive and any other party with respect to anything hereinbefore in this section contained, the difference shall, unless the parties otherwise agree, be determined by the Secretary of State or at his option by an arbitrator to be appointed by him, and the costs of such determination shall be in the discretion of the Secretary of State or of the arbitrator, as the case may be:
- (7) In this section “the regulations” means any regulations made by the Secretary of State which may for the time being be in force with respect to the railway comprised in the Executive’s works which regulations the Secretary of State is hereby authorised to make.

13.—(1) In addition to the provisions of any enactments incorporated with or applied by this Act with respect to compensation for lands taken or injuriously affected, the Executive shall make compensation to the owner, lessee and occupier of any land, house or building which shall be injuriously affected by reason of the working of the Executive’s works (including the working of lifts, escalators and any other works in connection therewith) notwithstanding that no part of the property of such owner, lessee or occupier is taken by the Executive: Compensation for damage by working.

Provided that all claims for compensation under this section shall be made within two years from the date of the opening for

PART II
—cont.

public traffic of that portion of the Executive's works which is alleged to cause such injurious affection and, failing agreement, shall be settled by arbitration.

(2) An arbitrator under this section may, with the consent of all parties concerned, hear together any class or group of claims under this section.

Further works
and powers of
Executive.

14. Subject to the provisions of this Act, the Executive may, in connection with Work No. 1 make and maintain the further works described in this section with all necessary works and conveniences connected therewith, and may exercise the powers hereinafter mentioned:—

In the city—

- (a) they may stop up and discontinue the footpath north-east of Collingham Street adjoining the railway between Manchester and Normanton between the points marked " Q " and " R " and between the points marked " R " and " S " on the deposited plans and may substitute therefor a new footpath between the points marked " Q " and " S " and between the points marked " S " and " T " on the deposited plans;
- (b) they may stop up and discontinue so much of the street known as Temperance Street and numbered 2 on the deposited plans as lies between the points thereon marked " A " and " B " and between the points thereon marked " C " and " D ";
- (c) they may stop up and discontinue the street known as Amory Street (or Arthur Street) and numbered 18 on the deposited plans;
- (d) they may stop up and discontinue the street known as Cotswold Street and numbered 38 on the deposited plans;
- (e) they may stop up and discontinue so much of the street known as Wyre Street and numbered 41 on the deposited plans as lies between the points thereon marked " G " and " H ";
- (f) they may with the consent of the corporation stop up and discontinue as a street the portions of St. Peter's Square and Albert Square shown hatched black on the deposited plans or any part or parts thereof.

15. Subject to the provisions of this Act, the railways board may, in connection with Works Nos. 3, 4, 5 and 6 make and maintain the further works described in this section with all necessary works and conveniences connected therewith, and may exercise the powers hereinafter mentioned:—

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—cont.

Further works and powers of railways board.

In the city—

- (a) they may stop up and discontinue so much of the street known as Altrincham Street and numbered 50 on the deposited plans as lies between the points thereon marked “AA” and “BB” and may substitute therefor a new street between the points marked “AA” and “CC” on the deposited plans;
- (b) they may stop up and discontinue so much of the street known as Belvoir Avenue and numbered 367 on the deposited plans as is within the limits of deviation;
- (c) they may stop up and discontinue so much of the street known as Woodfold Avenue and numbered 378 on the deposited plans as is within the limits of deviation.

In the county borough of Stockport—

- (d) they may stop up and discontinue so much of the streets known as Adswold Road and Stockholm Road and respectively numbered 8 and 9 and numbered 10 on the deposited plans as lies between the points thereon marked “U” and “V” and between the points thereon marked “W” and “X” and may substitute therefor new streets between the points marked “U” and “V” and between the points marked “X” and “Y” on the deposited plans.

16.—(1) Where this Act authorises the stopping up of a street or footpath or portion thereof without providing a substitute, such stopping up shall not take place (except as to so much of the street or footpath or portion thereof authorised to be stopped up as is situated upon or bounded on both sides by property of which either of the appropriate authorities are the owners in possession) without the consent of the owners, lessees and occupiers of the houses and lands abutting on both sides thereof.

Stopping up streets and footpaths without providing substitute.

(2) After such stopping up all rights of way over or along the street or footpath or portion thereof authorised to be stopped up shall be extinguished and the appropriate authority may, subject to the provisions of the Act of 1845 with respect to mines lying

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—cont.

under or near the railway, appropriate without making any payment therefor and use for the purposes of their undertaking the site of the street or footpath or portion thereof so stopped up.

(3) Any person who suffers loss by the extinguishment of any private right under this section shall be entitled to be paid by the appropriate authority compensation to be determined in case of dispute by the tribunal.

(4) Subsection (1) of this section and so much of subsection (2) of this section as authorises the appropriate authority to appropriate and use for the purposes of their undertaking the site of the street or footpath or portion thereof so stopped up shall not apply to the stopping up of any portion of St. Peter's Square or Albert Square in the city in accordance with paragraph (f) of section 14 (Further works and powers of Executive) of this Act.

Stopping
up streets and
footpaths
in case of
diversion or
substitution.

17.—(1) Where this Act authorises—

- (a) the diversion of an existing street or footpath; or
- (b) the making of a new street or footpath and the stopping up of an existing street or footpath or portion thereof;

the stopping up of the existing street or footpath shall not in either case take place until the highway authority are satisfied that the new street or footpath has been completed in accordance with their reasonable requirements and is open for public use or, in the case of any difference between the appropriate authority and the highway authority as to whether the said requirements have been complied with or as to their reasonableness, until the matter in dispute has been referred to and determined by the Secretary of State and he has certified that the new street or footpath has been completed in accordance with his determination.

(2) Before applying to the Secretary of State for his determination, the appropriate authority shall give to the highway authority seven days' notice in writing of their intention to apply for the same.

(3) As from the completion to the satisfaction of the highway authority of the new street or footpath, or as from the date of the said certificate (as the case may be), all rights of way over or along the existing street or footpath or portion thereof authorised to be diverted or stopped up shall be extinguished, and the appropriate authority may, subject to the provisions of the Act of 1845 with respect to mines lying under or near the railway,

appropriate without making any payment therefor and use for the purposes of their undertaking the site of the street or footpath or portion thereof diverted or stopped up as far as the same is bounded on both sides by lands of the appropriate authority.

PART II
—cont.

(4) Any person who suffers loss by the extinguishment of any private right under this section shall be entitled to be paid by the appropriate authority compensation to be determined in case of dispute by the tribunal.

18. Subject to the provisions of section 9 (Repair of roads where level not permanently altered) of this Act, any street or footpath or portion thereof made, diverted or altered under the authority of this Act shall, when completed, unless otherwise agreed, be maintained by and at the expense of the persons liable to maintain streets or footpaths of the same nature and in the same city or borough as the street or footpath or portion thereof so made, diverted or altered.

Provision as to repair of streets and footpaths.

19. Subject to the provisions of this Act, the appropriate authority may—

Power to open surface of streets.

(a) for the purpose of constructing the Executive's works or the railways board's works, as the case may be, enter upon, open, break up and interfere with so much of the surface of the streets referred to in column (1) of Schedule 1 to this Act and marked with the letter "x" in column (2) thereof and of any footpath as is within the limits of deviation;

(b) for the purpose of providing access to the Executive's works make and maintain permanent openings in the carriageways and footways of so much of the streets referred to in column (1) of the said Schedule 1 and marked with the letter "y" in column (2) thereof as is within the limits of deviation.

20.—(1) The appropriate authority during, and for the purpose of, the execution of the Executive's works or the railways board's works, as the case may be, may temporarily stop up and divert, and interfere with, so much of the streets referred to in column (1) of Schedule 1 to this Act and marked with the letter "z" in column (2) thereof and of any footpath as is within the limits of deviation and may for any reasonable time divert the traffic therefrom and prevent all persons other than those bona fide going to or from any land, house or building abutting on the said part of the street from passing along and using the same.

Temporary stoppage of streets.

PART II
—cont.

(2) The appropriate authority shall provide reasonable access for foot passengers bona fide going to or from any such land, house or building.

Alteration
of rights
of way.

21. As from the date on which the Executive complete so much of the Executive's works as is situate in any of the following streets, or parts of streets, in the city, all rights of way over that street, or part of a street, other than a right of way on foot only, shall be extinguished:—

- (a) so much of the street known as Hoyle Street and numbered 16 on the deposited plans as lies between the points thereon marked "E" and "F";
- (b) so much of the street known as Venice Street and numbered 78 on the deposited plans as lies between the points thereon marked "J" and "K";
- (c) so much of the street known as West Mosley Street and numbered 137 on the deposited plans as lies between the points thereon marked "L" and "M";
- (d) so much of the street known as Hanover Street and numbered 258 on the deposited plans as lies between the points thereon marked "N" and "P".

Underpinning
of houses near
works.

22. The appropriate authority, at their own costs and charges may, subject as hereinafter provided, underpin or otherwise strengthen any house or building within 100 feet of the Executive's works or the railways board's works, as the case may be, and the following provisions shall have effect:—

- (1) At least fourteen days' notice shall (except in case of emergency) be given to the owner, lessee and occupier of the house or building intended to be so underpinned or otherwise strengthened:
- (2) Each such notice shall be served in manner prescribed by section 30 of the Act of 1965, as applied by this Act:
- (3) If any owner, lessee or occupier of any such house or building shall, within ten days after the giving of such notice, give a counter-notice in writing that he disputes the necessity of such underpinning or strengthening, the question of the necessity shall be settled by arbitration:
- (4) In any case in which any house or building shall have been underpinned or strengthened under the powers of this section the appropriate authority may, from time to time after the completion of such underpinning or strengthening, and during the execution of the work in

connection with which such underpinning or strengthening was done, or within five years after the opening for traffic of the Executive's works, or the railways board's works, as the case may be, enter upon and survey such house or building and, after complying with the foregoing provisions of this section, do such further underpinning or strengthening as they may deem necessary or expedient:

PART II
—cont.

- (5) The appropriate authority shall be liable to compensate the owner, lessee and occupier of every such house or building for any loss or damage which may result to them by reason of the exercise of the powers granted by this section, provided that the claim for compensation in respect of such loss or damage is made within six months from either the date upon which any such owner, lessee or occupier first discovers the loss or damage or the date by which he ought reasonably to have discovered it, whichever is the earlier:
- (6) Nothing in this section nor any dealing with any property in pursuance of this section shall relieve the appropriate authority from the liability to compensate under subsection (2) of section 10 of the Act of 1965, as applied by this Act, or under any other enactment, in respect of loss or damage arising from the execution of any works, other than works of underpinning or strengthening authorised by this section:
- (7) Every case of compensation to be ascertained under this section shall be ascertained according to the provisions of the Land Compensation Act, 1961.

1961 c. 33.

23.—(1) The appropriate authority may use for the discharge of any water pumped or found by them during the construction of the Executive's works or the railways board's works, as the case may be, any available stream or watercourse, or any sewer or drain of the local authority, and for that purpose may lay down, make up and alter conduits, pipes and other works and may make any convenient connections with any such stream, watercourse, sewer or drain within the limits of deviation:

Use of sewers,
etc., for
removing
water.

Provided that—

- (a) the appropriate authority shall not discharge any water into any sewer or drain vested in or under the control of the local authority except with the consent of the local authority and subject to such terms and conditions as the local authority may reasonably impose; and

PART II
—cont.

(b) the appropriate authority shall not make any opening into any such sewer or drain save in accordance with plans reasonably approved by, and under the superintendence (if given) of, the local authority.

1951 c. 64.

(2) (a) Notwithstanding anything in subsection (7) of section 11 of the Rivers (Prevention of Pollution) Act, 1951, the discharge of any water under the powers of this section into any stream as defined in that section shall be subject to the provisions of section 2 of that Act.

1930 c. 44.

(b) In the exercise of their powers under this section the appropriate authority shall not without the consent of the river authority (which shall not be unreasonably withheld) damage or interfere with the bed of any watercourse forming part of the main river of the river authority or the banks thereof within the meaning of section 81 of the Land Drainage Act, 1930.

(3) The appropriate authority shall take all such steps as may reasonably be required to secure that any water discharged by them under the powers of this section shall be as free as may be reasonably practicable from any gravel, soil or other solid substance or matter in suspension.

(4) Any difference arising between the appropriate authority and the local authority or the river authority (as the case may be) under this section shall be settled by arbitration.

(5) In this section "local authority" means the local authority for the area in which the Executive's works or the railways board's works, as the case may be, are situated.

Power to
make
agreements
in regard to
Executive's
works.

24.—(1) The Executive and the railways board may enter into and carry into effect agreements with respect to the construction, maintenance, use and operation of the Executive's works or any part or parts thereof and as to any other matters incidental or subsidiary thereto or consequential thereon, including the defraying of or the making of contributions towards the cost of the matters aforesaid by the Executive or by the railways board or by the Executive and the railways board jointly.

(2) Any such agreement may provide (inter alia) for the exercise by the railways board, or the Executive and the railways board jointly, of all or any of the powers of the Executive in respect of the Executive's works or any part or parts thereof and for the

transfer to and vesting in the railways board, or the Executive and the railways board jointly, of the Executive's works or any part or parts thereof together with the rights and obligations of the Executive in relation thereto.

(3) The exercise by the railways board, or by the Executive and the railways board jointly, of any of the powers of this Act shall be subject to the like provisions in relation thereto as would apply if those powers were exercised by the Executive alone, and accordingly those provisions with any necessary modifications shall apply to the exercise of such powers by the railways board, or by the Executive and the railways board jointly.

25.—(1) The Secretary of State may, upon the application of the Executive, make an order authorising them to construct or alter and to maintain and operate, within the area of the Executive for the time being designated under section 9 of the Transport Act, 1968, moving pavements or footways and works connected therewith and the order may contain such incidental, consequential and supplementary provisions as the Secretary of State thinks necessary or expedient.

(2) An order under this section may authorise the Executive to acquire compulsorily any land required for the construction or alteration of moving pavements or footways or works connected therewith.

(3) (a) The provisions of Part I of Schedule 2 to this Act shall apply to the making of applications and orders under this section.

(b) The provisions of Part II of the said Schedule 2 shall have effect in relation to an order under this section which authorises the compulsory acquisition of land.

PART III

LANDS

26.—(1) Subject to the provisions of this Act, the Executive may enter upon, take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as they may require for the purposes of the Executive's works and the railways board may enter upon, take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as they may require for the purposes of the railways board's works or for any purpose connected with or ancillary to their undertaking.

PART III
—cont.

(2) Without prejudice to the generality of the powers conferred upon the railways board by subsection (1) of this section, the railways board may, subject to the provisions of this Act, enter upon, take and use for the purpose of carrying out a widening and improvements of the railway between Manchester and Bury all or any of the lands numbered on the deposited plans 1 in the county borough of Bury.

(3) Subject to the provisions of this Act, the Executive may enter upon, use and appropriate so much of the subsoil and under-surface of any public street, road, footway or place delineated on the deposited plans and described in the deposited book of reference as shall be necessary for the purposes of the Executive's works without being required to purchase the same or any easement therein or thereunder or to make any payment therefor.

(4) The Executive shall not under the powers of this section enter upon, take or use the lands delineated on the deposited plans and described in the deposited book of reference and therein numbered 101, 219, 325, 326 and 331 in the city or any part of those lands.

Correction of
errors in
deposited
plans and
book of
reference.

27.—(1) If the deposited plans or the deposited book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the appropriate authority after giving not less than ten days' notice to the owner, lessee and occupier of the land in question may apply to two justices having jurisdiction in the place where the land is situated for the correction thereof.

(2) If on any such application it appears to the justices that the misstatement or wrong description arose from mistake, the justices shall certify the fact accordingly and shall in their certificate state in what respect any matter is misstated or wrongly described.

(3) The certificate shall be deposited in the office of the Clerk of the Parliaments, and a copy thereof in the Private Bill Office, House of Commons, with the clerk of the county council of the administrative county of the county palatine of Lancaster, with the town clerk of the city and with the town clerks of the county boroughs of Bury and Stockport and the town clerks of the boroughs of Prestwich and Radcliffe and thereupon the deposited plans and the deposited book of reference shall be deemed to be corrected according to the certificate, and it shall be lawful for the appropriate authority to take the land and execute the works in accordance with the certificate.

(4) A person with whom a copy of the certificate is deposited under this section shall keep it with the other documents to which it relates.

PART III

—cont.

Acquisition of
part only of
certain
properties.

28.—(1) Where a copy of this section is endorsed on, or annexed to, a notice to treat served under the Act of 1965, as applied by this Act, the following provisions of this section shall apply to the land subject to the notice instead of subsection (1) of section 8 of that Act.

(2) Where the land subject to the notice is part only of a house, building or factory, or part only of land consisting of a house, together with any park or garden belonging thereto, then, if the person on whom the notice is served, within twenty-one days after the day on which the notice is served on him, serves on the appropriate authority a counter-notice objecting to the sale of the part and stating that he is willing and able to sell the whole (hereinafter in this section referred to as “the land subject to the counter-notice”), the question whether he shall be required to sell the part shall, unless the appropriate authority agree to take the land subject to the counter-notice, be referred to the tribunal.

(3) If the said person does not serve such a counter-notice as aforesaid within twenty-one days after the day on which the notice to treat is served on him, or if on such a reference to the tribunal the tribunal determine that the part subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, in the case of part of land consisting of a house, together with a park or garden belonging thereto, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the said person shall be required to sell the part.

(4) If on such a reference to the tribunal the tribunal determine that part only of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the notice to treat shall be deemed to be a notice to treat for that part.

(5) If on such a reference to the tribunal the tribunal determine that the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice but that the material detriment is confined to a part of the land subject to the counter-notice, the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the appropriate authority are authorised to acquire compulsorily under this Act.

PART III
—cont.

(6) If the appropriate authority agree to take the land subject to the counter-notice, or if the tribunal determine that—

(a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and

(b) the material detriment is not confined to a part of the land subject to the counter-notice;

the notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice, whether or not the whole of that land is land which the appropriate authority are authorised to acquire compulsorily under this Act.

(7) In any case where, by virtue of a determination by the tribunal under subsection (4), (5) or (6) of this section, a notice to treat is deemed to be a notice to treat for part of the land specified in the notice or for more land than is specified in the notice, the appropriate authority may, within six weeks after the tribunal make their determination, withdraw the notice to treat, and if they do so shall pay to the said person compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice, to be determined in default of agreement by the tribunal.

(8) Where a person is required under this section to sell part only of a house, building or factory, or of land consisting of a house, together with any park or garden belonging thereto, the appropriate authority shall pay him compensation for any loss sustained by him due to the severance of that part in addition to the value of his interest therein.

Disregard of
recent
improvements
and interests.

29. In determining a question with respect to compensation claimed in consequence of the compulsory acquisition of land under this Act, the tribunal shall not take into account any interest in land, or any enhancement of the value of any interest in land, by reason of any building erected, works executed or improvement or alteration made, whether on the land acquired or on any other land with which the claimant is, or was at the time of erection, executing or making of the building, works improvement or alteration, directly or indirectly concerned, if the tribunal are satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration, as the case may be, was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

PART III
—cont.

30.—(1) All private rights of way over any land that may be acquired compulsorily under this Act shall be extinguished on the acquisition of the land, whether compulsorily or by agreement, or on the entry on the land in pursuance of subsection (1) of section 11 of the Act of 1965, as applied by this Act, whichever is the sooner.

Extinction of private rights of way.

(2) Any person who suffers loss by the extinguishment of any right under this section shall be entitled to be paid by the appropriate authority compensation to be determined in case of dispute by the tribunal.

31.—(1) Notwithstanding anything in this Act, the appropriate authority may, for the purposes of constructing, maintaining, protecting, renewing and using the Executive's works or the railways board's works, as the case may be, enter upon, take and use so much of the subsoil and under-surface of or may acquire such easements or rights as they may require in, under or over—

Power to acquire subsoil or easements only in certain cases.

(a) any railway, river, canal, navigation, watercourse, aqueduct, drain, dyke or sewer; or

(b) any of the lands described in Schedule 3 to this Act ;

without being obliged to acquire any greater interest in, under or over the same respectively, and may give notice to treat in respect of such entry, taking and using and the acquisition of any such easements or rights, describing the nature thereof and (subject to the foregoing provisions of this section and to the other provisions of this Act) the provisions of Part I of the Act of 1965, as applied by this Act, shall extend and apply in relation to the acquisition of such easements or rights as if they were lands within the meaning of those provisions.

(2) (a) If, in any case where the appropriate authority enter upon, take and use the subsoil and under-surface of, or require an easement or right in or under, any of the lands described in the said schedule, they also require to take, use and pull down or open any cellar, vault, arch or other construction forming part of any such lands, they may enter upon, take and use such cellar, vault, arch or other construction for the purposes of the Executive's works or the railways board's works, as the case may be, and (subject to the provisions of this Act) the provisions of the Act of 1965, as applied by this Act, shall extend and apply in relation to the purchase thereof as if such cellar, vault, arch or other construction were lands within the meaning of those provisions.

(b) Section 28 (Acquisition of part only of certain properties) of this Act shall apply in respect of the acquisition by the appropriate authority under this subsection of any cellar, vault, arch or other construction as if the same were a part of land to which that section applies.

PART III
—cont.

Subsoil or easements only to be acquired under certain lands.

32.—(1) In this section—

“the specified lands” means the lands referred to in Schedule 4 to this Act; and

“the level of the surface of the specified lands” means ground surface level or, in the case of a building on the specified lands, means the level of the surface of the ground adjoining the building, or in the case of a river, dock, canal, navigation, watercourse or other water area, means the level of the surface of the adjoining ground which is at all times above water level.

(2) (a) Notwithstanding the provisions of subsection (1) of section 26 (Power to acquire lands) of this Act, the Executive shall not acquire compulsorily under the powers of this Act any part of the specified lands, except as provided in paragraph (b) of this subsection.

(b) The Executive may, within the limits of lateral deviation prescribed by this Act in respect of the Executive's works, enter upon, take and use so much of the subsoil and under-surface of the specified lands as they may require for the purpose of constructing, maintaining, protecting, renewing and using those works and any necessary works and conveniences connected therewith, or acquire such easements and rights in the subsoil and under-surface of the specified lands as they may require for the said purposes without in either case being obliged or compellable to acquire any greater interest in, under or over the specified lands, and may give notice to treat in respect of such entry, taking and using and the acquisition of such easements or rights describing the nature thereof and (subject to the foregoing provisions of this section and to the other provisions of this Act) the provisions of the Act of 1965, as applied by this Act, shall extend and apply in relation to the acquisition of such easements or rights as if they were lands within the meaning of those provisions:

Provided that for the purposes of this section the subsoil and under-surface of the specified lands shall be deemed not to include any such subsoil or under-surface which is within 30 feet of the level of the surface of the specified lands.

Grant of easements by persons under disability.

33.—(1) Any person empowered by the Act of 1965, as applied by this Act, to sell and convey or release lands may, if he thinks fit, subject to the provisions of the Act of 1965, grant to the appropriate authority any easement or right required for the purposes of this Act in or over the lands:

Provided that nothing in this section shall be construed as empowering persons to grant any easement or right of water in which any other person has an interest, unless that other person concurs in the grant.

PART III
—cont.

(2) The provisions of the Act of 1965 with respect to lands and rentcharges so far as they are applicable shall extend and apply to any such grant and to any such easement or right as aforesaid.

34. Nothing in this Act shall authorise the Executive to enter upon, take or use (except by agreement) any cellar or vault in or under any street belonging to or connected with any building unless such cellar or vault or the building with which it is connected is described in the deposited book of reference.

As to cellars under streets not referenced.

35.—(1) The powers of the Executive and the railways board for the compulsory acquisition of the lands and easements which they are authorised to acquire by this Part of this Act shall not be exercised after 31st December, 1978.

Period for compulsory purchase of lands or easements.

(2) The powers of the Executive and the railways board for the compulsory acquisition of the said lands and easements shall for the purposes of this section be deemed to have been exercised if before 31st December, 1978, notice to treat has been served in respect of those lands and easements.

PART IV

PROTECTIVE PROVISIONS

36. Nothing in this Act affects prejudicially any estate, right, power, privilege or exemption of the Crown and in particular and without prejudice to the generality of the foregoing nothing in this Act authorises the appropriate authority to take, use or in any manner interfere with any land or hereditaments or any rights of whatsoever description belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners or 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 those commissioners on behalf of Her Majesty or, as the case may be, the consent in writing of that government department first had and obtained for that purpose.

Crown rights.

PART IV
—cont.
Saving rights
of Duchy of
Lancaster.

37. In particular, and without prejudice to the general law concerning the applicability of statutes to the Duchy of Lancaster, nothing in this Act contained shall extend or operate to authorise the appropriate authority to take, use, enter upon or in any manner interfere with any land, soil, water or any manorial rights or any other rights of whatsoever description belonging to Her Majesty in right of Her Duchy of Lancaster without the consent in writing of the Chancellor for the time being of the said duchy first had and obtained (which consent may be given either unconditionally or subject to such conditions and upon such terms as the said Chancellor shall deem necessary or appropriate) or take away, prejudice or diminish any estate, right, privilege, power or authority vested in or enjoyed or exercisable by Her Majesty, Her Heirs and Successors in right of Her said duchy.

As to
St. Peter's
Square and
Albert Square.

38.—(1) In this section “the protected square” means each of the following squares in the city, that is to say, St. Peter's Square and Albert Square.

(2) The Executive shall not under the powers of this Act acquire any interest in the protected square other than—

- (a) such easements under or in the protected square as may be required by the Executive for the construction of the underground railway and the construction and maintenance of permanent openings therein for the purpose of providing access to the underground railway within the limits of deviation relative thereto;
- (b) a right to construct and permanently maintain a ventilating shaft in the protected square;
- (c) such interests as the Executive may require to enable them to make use of the surface and subsoil of the protected square as a temporary working site for the purpose of constructing the underground railway and the works connected therewith.

(3) Before exercising their powers under this Act with respect to the surface of the protected square the Executive shall consult the corporation as to the extent of the surface of the protected square which it may be reasonably necessary for the Executive to occupy for the purposes of paragraph (c) of subsection (2) of this section and as to the conditions under which such powers shall be exercised and the surface of the protected square shall not be occupied and such powers shall not be exercised except to such extent and except in accordance with such conditions as may be agreed between the Executive and the corporation or, failing such agreement, as may be determined in accordance with subsection (8) of this section.

(4) Without prejudice to the generality of subsection (3) of this section, the conditions referred to therein may include conditions—

- (a) relating to the reinstatement of the protected square by the Executive, or by the corporation in lieu of the Executive, in such manner as the corporation may reasonably require and at the expense of the Executive and the corporation in such proportions as may be agreed between them or, failing such agreement, as may be determined in accordance with subsection (8) of this section;
- (b) specifying the period during which any such reinstatement is to be completed;
- (c) providing for the removal of the Cross and the Cenotaph from St. Peter's Square and the Albert Memorial and the existing statues from Albert Square, their safe custody and the re-erection thereof, by the Executive or the corporation, at the expense of the Executive, in St. Peter's Square or in Albert Square or in such other place within the city as the corporation may require.

(5) Where, for the purpose of carrying out the reinstatement of the protected square in accordance with such conditions as may be agreed between the Executive and the corporation, or failing such agreement, as may be determined by the Secretary of State under subsection (8) of this section, the Executive with the consent of the corporation stop up and discontinue as a street the portion of St. Peter's Square or, as the case may be, the portion of Albert Square shown hatched black on the deposited plans, or any part or parts thereof, the said portion or such part or parts thereof, as the case may be, shall, as from the date of such stopping up and discontinuance, vest in the corporation.

(6) It is hereby declared that notwithstanding anything contained in the Manchester Churches Act, 1906, but subject to the provisions of this Act, it shall be lawful in connection with the reinstatement of St. Peter's Square in accordance with such conditions as are referred to in paragraph (a) of subsection (4) of this section, to use the site of the former Church of St. Peter for any purpose. 1906 c. lxix.

(7) The Executive shall consult the corporation as to the situation, design and external appearance of any ventilating shaft to be constructed in the protected square and shall comply with such reasonable requirements as the corporation may make with regard to the situation, design and external appearance and the construction and maintenance thereof.

PART IV
—cont.

(8) (a) Any difference between the Executive and the corporation as to the apportionment of expense under paragraph (a) of subsection (4) of this section shall be determined by an arbitrator to be appointed by the President of the Royal Institution of Chartered Surveyors.

(b) Except as provided in paragraph (a) of this subsection any difference arising between the Executive and the corporation under this section shall be determined by the Secretary of State.

Removal of
human
remains.

1906 c. lxix.

39.—(1) In this section “the church site” means the site of the former Church of St. Peter and the lands attached thereto which were vested in the corporation by virtue of section 5 (Confirming and carrying out scheduled agreement) of the Manchester Churches Act, 1906, and “grave” includes a grave space, vault, niche or urn.

(2) (a) Before the Executive begin to use any part of the church site for any purpose they shall remove, or cause to be removed, therefrom the remains of all deceased persons interred therein and before proceeding to remove any such remains they shall give notice of their intention so to do.

(b) The notice referred to in paragraph (a) of this subsection shall be published by the Executive once in each of two successive weeks in a newspaper circulating in the city and shall have embodied in it the substance of subsections (3), (4), (5), (6), (7) and (8) of this section and a like notice shall be displayed by the Executive in a conspicuous place on the church site.

(3) At any time within two months 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 church site, may give notice in writing to the Executive of his intention to undertake the removal of such remains, and thereupon he shall be at liberty to cause such remains to be removed to and re-interred in any burial ground or cemetery in which burials may legally take place, or to be removed to and cremated in any crematorium.

(4) 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, the question shall be determined on the application of either party in a summary manner by the Manchester County Court who shall have power to make an order specifying who shall remove the remains and as to the payment of the costs of the application.

(5) The expenses of such removal and re-interment or cremation (not exceeding in respect of remains removed from any one grave the sum of seventy-five pounds) shall be defrayed by the Executive, such sum to be apportioned if necessary equally according to the number of remains in the grave.

(6) If within the aforesaid period of two months no such notice as aforesaid shall have been given to the Executive in respect of the remains in any grave, or if after such notice has been given the person giving the same shall fail within one month to cause such remains to be removed in compliance with the provisions of this section, the Executive shall remove the remains of the deceased person and cause them to be re-interred in such other 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 fit.

(7) Upon any removal of remains from the church site a certificate of removal and re-interment or cremation shall be sent to the Registrar General by the Executive giving the dates of removal and re-interment or cremation respectively and identifying the place from which the remains were removed and the place in which they were re-interred or cremated, showing the particulars of each removal separately.

(8) The removal of the remains of any deceased person under this section shall be carried out in accordance with any directions that may be given by the Secretary of State for the Home Department.

(9) The corporation shall contribute towards the expenses incurred by the Executive under subsection (5) of this section such sum as may be agreed between the Executive and the corporation or, failing such agreement, as may be determined by an arbitrator appointed by the President of the Royal Institution of Chartered Surveyors.

40. For the protection of the undertakers, the following provisions shall, unless otherwise agreed in writing between the appropriate authority and the undertakers, apply and have effect:—

For protection of certain statutory undertakers.

(1) In this section, unless the subject or context otherwise requires—

“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 works (as respectively defined in the Electric Lighting Act, 1882) belonging to or maintained by the Central Electricity Generating Board or the North Western Electricity Board; or

1882 c. 56

(b) mains, pipes or other apparatus belonging to or maintained by the Bolton Corporation, the

PART IV
—cont.

corporation, the Gas Council, the North Western Gas Board or the Stockport and District Water Board;

(not being apparatus in respect of which the relations between the appropriate authority and the undertakers are regulated by the provisions of Part II of the Public Utilities Street Works Act, 1950) and includes any structure for the lodging therein of apparatus;

1950 c. 39.

“ the Bolton Corporation ” means the mayor, aldermen and burgesses of the county borough of Bolton;

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

“ the undertakers ” means the Bolton Corporation, the Central Electricity Generating Board, the corporation, the Gas Council, the North Western Gas Board, the North Western Electricity Board and the Stockport and District Water Board, or any of them, as the case may be:

- (2) Notwithstanding anything in this Act or shown on the deposited plans, the appropriate authority shall not acquire any apparatus under the powers of this Act otherwise than by agreement:
- (3) If the appropriate authority 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 nor shall any right of the undertakers to use, maintain, repair, renew or inspect any apparatus in that land be extinguished until any necessary adequate alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the undertakers:
- (4) If the appropriate authority, for the purpose of executing any of the Executive's works or the railways board's works, as the case may be, in, on or under any lands acquired, held, appropriated or used under this Act, require the removal of any apparatus placed in those lands, and shall give to the undertakers 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 appropriate authority shall afford to the undertakers the necessary facilities and rights for the construction of any necessary adequate alternative apparatus in other lands of the appropriate authority and thereafter for the maintenance, repair, renewal and inspection of such apparatus:

PART IV
—cont.

Provided that if the alternative apparatus or any part thereof is to be constructed elsewhere than in other lands of the appropriate authority and the appropriate authority are unable to afford such facilities and rights as aforesaid, the undertakers shall, on receipt of a written notice to that effect from the appropriate authority, forthwith use their best endeavours to obtain the necessary facilities and rights:

- (5) (a) Any alternative apparatus to be constructed in lands of the appropriate authority in pursuance of paragraph (4) of this section shall be constructed in such manner and in such line or situation as may be agreed between the undertakers and the appropriate authority or, in default of agreement, settled 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 settled by arbitration as aforesaid, and after the grant to the undertakers of any such facilities and rights as are referred to in paragraph (4) of this section, proceed with all reasonable dispatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the appropriate authority to be removed under the provisions of this section and, in default, the appropriate authority may remove the apparatus;
- (6) Notwithstanding anything in paragraph (5) of this section, if the appropriate authority give notice in writing to the undertakers that they desire themselves to execute 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, as will be situate in any lands of the appropriate authority, such work, in lieu of being executed by the undertakers, shall be executed by the appropriate authority with all reasonable dispatch under the superintendence (if given) and to the reasonable satisfaction of the undertakers:

PART IV
—cont.

Provided that nothing in this paragraph shall authorise the appropriate authority to execute the actual placing, erection, installation, bedding, packing, removal, connection or disconnection of any apparatus or any filling around the apparatus (where the apparatus is laid in a trench) to within 12 inches above the apparatus:

- (7) Where, in accordance with the provisions of this section, the appropriate authority afford to the undertakers facilities and rights for the construction, maintenance, repair, renewal and inspection in lands of the appropriate authority 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 appropriate authority and the undertakers or, in default of agreement, determined by arbitration:

Provided that—

(a) in determining such terms and conditions as aforesaid in respect of alternative apparatus to be constructed across or along the Executive's works or the railways board's works, as the case may be, the arbitrator shall—

(i) give effect to all reasonable requirements of the appropriate authority for ensuring the safety and efficient operation of the Executive's works or the railways board's works, as the case may be, and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any such work; and

(ii) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to any terms and conditions applicable to the apparatus constructed across or along the Executive's works or the railways board's works, as the case may be, for which the alternative apparatus is to be substituted;

(b) if the facilities and rights to be afforded by the appropriate authority in respect of any alternative apparatus, 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 appropriate authority by or to the undertakers in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the particular case:

- (8) (a) Not less than twenty-eight days before commencing to execute any such works as are referred to in paragraph (4) of this section and are near to or will or may affect any apparatus the removal of which has not been required by the appropriate authority under the said paragraph (4), the appropriate authority shall submit to the undertakers a plan, section and description of the works to be executed;
- (b) Such works shall be executed 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 execution of such works:

Provided that, if the undertakers within fourteen days after the submission to them of any such plan, section and description shall, in consequence of the works proposed by the appropriate authority, reasonably require the removal of any apparatus and give written notice to the appropriate authority of such requirement, the foregoing provisions of this section shall apply and have effect as if the removal of such apparatus had been required by the appropriate authority under paragraph (4) thereof:

Provided also that nothing in this sub-paragraph shall preclude the appropriate authority from submitting at any time, or from time to time, but in no case less than twenty-eight days before commencing the execution 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 this paragraph shall apply to and in respect of such new plan, section and description;

- (c) The appropriate authority shall not be required to comply with sub-paragraph (a) of this paragraph in a case of emergency but, in such a case, they shall give to the undertakers notice as soon as reasonably practicable and a plan, section and description of the works as soon as reasonably practicable thereafter and shall comply with sub-paragraph (b) of this paragraph so far as reasonably practicable in the circumstances:

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- (9) If in consequence of the exercise of the powers of this Act the access to any apparatus is materially obstructed the appropriate authority shall provide alternative means of access to such apparatus:
- (10) Where, in consequence of this Act, any part of any street or footpath in which any apparatus is situated ceases to be part of a street or footpath the undertakers may exercise the same rights of access to such apparatus as they enjoyed immediately before the passing of this Act, but nothing in this paragraph shall prejudice or affect any right of the appropriate authority or of the undertakers to require removal of such apparatus under this section or the power of the appropriate authority to execute works in accordance with paragraph (8) of this section:
- (11) The appropriate authority shall repay to the undertakers the reasonable expenses incurred by the undertakers in or in connection with—
- (a) 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;
 - (b) the cutting off of any apparatus from any other apparatus; and
 - (c) any other work or thing rendered reasonably necessary in consequence of the exercise by the appropriate authority of any of the powers of this Act:

1950 c. 39.

Provided that subsections (3) and (4) of section 23 of the Public Utilities Street Works Act, 1950, shall so far as applicable extend and apply to any payment to be made by the appropriate authority under this paragraph as if the works hereinbefore in this paragraph 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 40 (For protection of certain statutory undertakers) of the *Selne*c (Manchester Central Area Railway, &c.) Act 1972":

- (12) If by reason or in consequence of the execution, user or failure of any of the Executive's works or the railways board's works, as the case may be, or any subsidence resulting from any of those works any damage to any apparatus (other than apparatus the repair of which

is not reasonably necessary in view of its intended removal for the purposes of those works) or property of the undertakers or any interruption in the supply of electricity, gas or water, as the case may be, by the undertakers shall be caused, the appropriate authority shall bear and pay the cost reasonably incurred by the undertakers in making good such damage, or restoring the supply, and shall—

(a) make reasonable compensation to the undertakers for any loss sustained by them; and

(b) 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:

Provided that—

(i) nothing in this paragraph shall impose any liability on the appropriate authority with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of the undertakers, their officers, servants, contractors or other agents;

(ii) the undertakers shall give to the appropriate authority reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the appropriate authority:

(13) Notwithstanding the temporary stopping up or diversion of any street under the powers of section 20 (Temporary stoppage of streets) of this Act, the undertakers shall be at liberty at all times to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable 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 street:

(14) The appropriate authority shall so far as is reasonably practicable so exercise the powers conferred by section 22 (Underpinning of houses near works) of this Act as not to obstruct or render less convenient the access to any apparatus:

(15) (a) Any difference which may arise between the appropriate authority and the undertakers under this section shall be determined by arbitration;

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- (b) In settling any difference under this section the arbitrator may, if he thinks fit, require the appropriate authority 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.

For protection
of Post
Office.

41.—(1) For the protection of the Post Office, the following provisions shall, unless otherwise agreed in writing between the Executive and the Post Office, apply and have effect in relation to Work No. 1:—

- (a) Notwithstanding anything shown upon the deposited plans and sections or contained in this Act, the Executive shall not without the consent in writing of the Post Office enter upon, take or use, either permanently or temporarily, the underground property (which in this subsection means the existing deep level underground works of the Post Office in the vicinity of Work No. 1 and the works or property of the Post Office connected with the said deep level underground works):

Provided that nothing in this subsection shall be deemed to prohibit the Executive from acquiring the subsoil under or over the underground property for the purposes of constructing, maintaining, protecting, renewing and using or altering Work No. 1 or from acquiring such easements and rights in the said subsoil as they may require for the said purposes:

- (b) The Executive shall carry out Work No. 1 so as not to interfere with the underground property:
- (c) The Executive in constructing Work No. 1 under or over or within 50 feet of the underground property (in this section called “the prescribed distance”) shall not deviate more than 5 feet downwards from the levels shown on the deposited sections without the consent of the engineer of the Post Office, which consent shall not be unreasonably withheld:
- (d) The Executive shall, not less than twenty-one days before commencing the construction of Work No. 1 within the prescribed distance, furnish to the Post Office plans, sections and specifications of the work proposed to be carried out by the Executive within the prescribed distance and such plans, sections and specifications shall be settled and agreed upon between the engineer of the Executive and the engineer of the Post Office and such work shall be carried out only in accordance with the plans, sections and specifications so agreed upon or,

in the event of failure to agree, settled by arbitration in accordance with subsection (7) of this section. The Executive shall give to the Post Office not less than twenty-one days' notice (except in case of emergency) before commencing any structural alterations or renewal of Work No. 1 within the prescribed distance with a sufficient description of such works. In case of emergency the Executive shall give to the Post Office the longest notice which they can reasonably give having regard to the urgency of the work to be executed and such notice shall be accompanied by a sufficient description of the work proposed to be carried out under the supervision (if the same shall be given) and to the reasonable satisfaction of the engineer of the Post Office:

- (e) The Executive shall at all times maintain Work No. 1, so far as the same shall be within the prescribed distance, in substantial repair and good order and condition, and if and whenever the Executive fail so to do, the Post Office may make and do all such works and things on and to the underground property as may be reasonably requisite for the protection thereof in that behalf and the reasonable amount of expenditure in that behalf shall be repaid to the Post Office by the Executive:
- (f) If it shall at any time appear to the engineer of the Post Office either before or during the construction or after completion of Work No. 1 within the prescribed distance that any further or other works or appliances or measures of precaution are required either by way of addition to the underground property or in connection with or in relation to the method of construction of Work No. 1 so as to prevent subsidence or injury happening to the underground property owing to or in consequence of the execution of Work No. 1 or any part thereof, the Executive shall, on being thereunto required in writing under the hand of the engineer of the Post Office, within the prescribed distance make and carry out at their own expense and according to plans, sections and specifications to be reasonably approved by the said engineer such further works or take such measures of precaution, including the use of compressed air or the temporary cessation of the construction of Work No. 1 or the carrying on of the construction of Work No. 1 without cessation, as the said engineer shall reasonably require:
- (g) If during and as a result of the construction of Work No. 1 the underground property shall be injured or

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damaged the Post Office may forthwith make good such injury or damage and execute such protective works elsewhere than on the property of the Executive as the engineer of the Post Office shall reasonably consider necessary for ensuring the safety of the underground property and the expense properly incurred by the Post Office in so doing shall be repaid to the Post Office by the Executive:

- (h) The Executive shall not, in making and maintaining Work No. 1, in any manner obstruct, hinder or interfere with the free, uninterrupted and safe user of the underground property:
- (i) The Executive shall, during the construction of any part of Work No. 1 which shall come within the prescribed distance, bear and on demand pay to the Post Office the reasonable expense of the employment by the Post Office of a sufficient number of inspectors and watchmen for inspecting and watching the underground property with reference to and during such construction and for preventing as far as may be all interference, obstruction, danger or accident from any of the operations of the Executive or from the acts or defaults of their contractors or of any person or persons in their employ or otherwise:
- (j) Notwithstanding anything in this Act, the Executive shall be responsible for and make good to the Post Office all costs, losses, damages, charges and expenses which may be occasioned to the Post Office by the construction or failure of Work No. 1 or of any act or omission of the Executive or of any person in their employ or of their contractors or others, and the Executive shall effectually indemnify and hold harmless the Post Office from all claims and demands upon or against it by reason of such construction or failure or of any such act or omission:
- (k) The Executive shall from time to time repay to the Post Office any additional expenses to which the Post Office may be put in maintaining the underground property by reason or in consequence of the construction of Work No. 1.

(2) Any electrical works or equipment constructed, erected, laid down, maintained, worked or used pursuant to the powers conferred by this Act shall be so constructed, erected or laid down and so maintained, worked and used that any electricity generated or conveyed by or used in or in connection with any such works or equipment does not cause interference (whether by induction

or otherwise) with any telegraphic line belonging to or used by the Post Office or with telecommunication by means of any such line:

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Provided that this subsection shall not apply to any telegraphic line laid down or placed by the Post Office in or along Work No. 1 or Work No. 2.

(3) (a) Where in pursuance of section 14 (Further works and powers of Executive) or section 15 (Further works and powers of railways board) of this Act the appropriate authority stop up and discontinue the whole of any street or footpath the following provisions of this paragraph shall, unless otherwise agreed in writing between the appropriate authority and the Post Office, have effect in relation to so much of any telegraphic line as is in the land which by reason of the stopping up ceases to be a street or footpath or part of a street or footpath (in this paragraph referred to as “ the affected line ”), that is to say:—

- (i) The power of the Post Office to remove the affected line shall be exercisable notwithstanding the stopping up so, however, that the said power shall not be exercisable as respects the whole or any part of the affected line after the expiration of a period of three months from the date of the sending of the notice referred to in paragraph (b) of this subsection unless, before the expiration of that period, the Post Office has given notice to the appropriate authority of its intention to remove the affected line, or that part thereof, as the case may be:
- (ii) The Post Office may, by notice in that behalf to the appropriate authority, abandon the affected line, or any part thereof, and shall be deemed, as respects the affected line, or any part thereof, to have abandoned it at the expiration of the said period of three months unless, before the expiration of that period, the Post Office has removed it or given notice of its intention to remove it:
- (iii) The Post Office shall be entitled to recover from the appropriate authority the expense of providing in substitution for the affected line, and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the affected line, a telegraphic line in such other place as the Post Office may require:
- (iv) Where under sub-paragraph (ii) of this paragraph the Post Office has abandoned the whole or any part of the affected line, it shall vest in the appropriate authority and the provisions of the Telegraphic Acts, 1863 to 1916, shall not apply in relation to it as respects anything done or omitted after the abandonment thereof.

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(b) As soon as practicable after the whole or any portion of a street or footpath has been stopped up under the powers referred to in paragraph (a) of this subsection, the appropriate authority shall send by post to the Post Office a notice informing it of such stopping up.

(4) The exercise of the powers conferred by section 20 (Temporary stoppage of streets) of this Act in relation to a street shall not affect the powers of the Post Office under the Telegraph Acts, 1863 to 1916, to place, maintain, inspect, repair, renew or remove telegraphic lines or to open or break up that street for any of those purposes.

(5) Nothing in section 21 (Alteration of rights of way) of this Act shall affect the powers of the Post Office under the Telegraph Acts, 1863 to 1916, to maintain, inspect, repair, renew or remove telegraphic lines or to open or break up a street for any of those purposes or to use vehicles for any of those purposes.

1878 c. 76.

(6) The expression "Act of Parliament" in section 7 of the Telegraph Act, 1878, shall be construed as including any order made under section 25 (Moving pavements) of this Act.

(7) Any difference (including failure to agree) which may arise from time to time under the provisions of this section between the appropriate authority and the Post Office shall be settled by arbitration.

For protection
of sewers of
corporation.

42. For the protection of the sewers of the corporation the following provisions shall, unless otherwise agreed in writing between the appropriate authority and the corporation, apply and have effect:—

- (1) The appropriate authority shall not commence the specified works until they shall have given to the corporation twenty-eight days' previous notice in writing of their intention to commence the same together with plans as described in paragraph (8) of this section (in this section referred to as "the said plans") for their reasonable approval:

Provided that if, within twenty-eight days after the submission of the said plans, the corporation have not approved or disapproved them, they shall be deemed to have approved the said plans:

- (2) The appropriate authority shall comply with and conform to all reasonable orders, directions and regulations of the corporation in the execution of the said works and shall provide new, altered or substituted works in such manner as the corporation shall reasonably require for the proper protection of, and for preventing injury or

impediment to, such sewer by reason of the specified works and shall save harmless the corporation against all expenses to be occasioned thereby:

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- (3) All such new, altered or substituted works shall, where so required by the corporation, be done by or under the direction, superintendence and control of an officer of the corporation duly appointed for the purpose at the costs, charges and expenses in all respects of the appropriate authority and all costs, charges and expenses to which the corporation may be put 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 corporation by the appropriate authority on demand:
- (4) When any such new, altered or substituted works or any work of defence connected therewith shall be completed by or at the costs, charges and expenses of the appropriate authority under the provisions of this section the same shall thereafter be as fully and completely under the direction, jurisdiction and control of the corporation as any sewers or works now or hereafter may be:
- (5) Nothing in this Act shall extend to prejudice, diminish, alter or take away any of the rights, powers or authorities vested or to be vested in the corporation in relation to sewers but all such rights, powers and authorities shall be as valid and effectual as if this Act had not been passed:
- (6) The corporation may require the appropriate authority in constructing the specified works to make any reasonable deviation within the limits of deviation from the line or levels shown upon the said plans for the purpose of avoiding injury or risk of injury to the sewers of the corporation and the appropriate authority shall in constructing such works deviate accordingly:
- (7) It shall not be lawful for the appropriate authority in the exercise of the powers of subsection (3) of section 11 of the Act of 1965, as applied by this Act, to make any trial holes so as to interfere with any sewer of the corporation:
- (8) The plans to be submitted to the corporation 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 proposed to be constructed and shall

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accurately describe the position of all sewers of the corporation within the limits of deviation (for which purpose the corporation shall allow the appropriate authority access to plans in their possession and to any of their sewers in order to enable the appropriate authority to obtain reliable information) and shall comprise detailed drawings of every alteration which the appropriate authority may propose to make in any such sewer:

- (9) The corporation may require such modifications to be made in the said plans as may be reasonably necessary to secure the main drainage system of the city against interference or risk of damage and to provide and secure a proper and convenient means of access to the said sewers:
- (10) The appropriate authority shall be liable to make good, or, if the corporation so decide, to bear any expense incurred by the corporation in making good, all injury or damage caused by or resulting from the construction of the specified works to any sewers, drains or works vested in the corporation and the corporation shall from time to time have power to recover any expense so incurred by them from the appropriate authority in any court of competent jurisdiction:
- (11) If the appropriate authority in the construction of the specified works or any new, altered or substituted works or any work of defence connected therewith provided in accordance with this section damage or, without the consent of the corporation, alter or in any way interfere with any existing sewer of the corporation the appropriate authority shall—
 - (a) from time to time pay to the corporation any additional expense to which the corporation may be put in the maintenance, 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 corporation full, free and uninterrupted access at all times to any such new, altered or substituted sewer and every reasonable facility for the inspection, maintenance, alteration and repair thereof:
- (12) It shall be lawful for an officer of the corporation duly appointed for the purpose at any reasonable time to enter upon and inspect the specified works or any other works constructed under the powers of this section:

- (13) The approval by the corporation of any plans or the superintendence by them of any work under the provisions of this section shall not exonerate the appropriate authority from any liability or affect any claim for damages under this section or otherwise:
- (14) The approval of the corporation under this section shall be in writing and may be given under the hand of the town clerk of the city, but shall not be unreasonably withheld:
- (15) Any difference arising between the appropriate authority and the corporation under this section shall be settled by arbitration:
- (16) In this section the expression “sewer” includes any pipe subway (not being apparatus forming part of the water undertaking of the corporation to which section 40 (For protection of certain statutory undertakers) of this Act applies) vested in the corporation and the expression “the specified works” means any part of the Executive’s works or the railways board’s works, as the case may be, which will or may be situated over or within 50 feet measured in any direction of any sewer of the corporation.

43. The following provisions shall, unless otherwise agreed in writing between the appropriate authority and the corporation, apply and have effect:— As to highways, traffic, etc.

- (1) In this section “highway” means a highway vested in or repairable or maintained by the corporation:
- (2) The Executive shall not without the consent of the corporation construct any part of the Executive’s works which will be within 25 feet of the surface of any highway except in accordance with plans and sections submitted to and approved by the corporation:

Provided that if within twenty-eight days after such plans and sections have been submitted the corporation have not approved or disapproved them they shall be deemed to have approved the plans and sections as submitted:

- (3) In the construction of any part of the Executive’s works under a highway no part thereof shall, except with the consent of the corporation, be so constructed as to interfere with the provision of proper means of drainage of the surface of the highway or be nearer than 6 feet to the surface of the highway:

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- (4) Before commencing to construct any part of the Executive's works or the railways board's works, as the case may be, which will involve interference with a highway or the traffic in any highway or before temporarily stopping up any highway the appropriate authority shall consult the corporation as to the time when such part shall be commenced, and as to the extent of the surface of the highway which it may be reasonably necessary for the appropriate authority to occupy or the nature of the interference which may be caused to the said traffic in the construction of such part or (as the case may be) as to the time during which and the extent to which such highway shall be stopped up, and as to the conditions under which such part shall be constructed or (as the case may be) such 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 such part shall not be constructed and the surface of the highway shall not be occupied by the appropriate authority or (as the case may be) such highway shall not be stopped up and the said interference with traffic shall not be caused except at the time, to the extent, and in accordance with conditions agreed between the appropriate authority and the corporation:
- (5) At least fourteen days before commencing to make any vertical holes from the surface of any part of any highway the appropriate authority shall serve notice in writing on the corporation of their intention to commence the same and such notice shall describe the place or places at which such holes are intended to be made and if within fourteen days after the receipt of such notice any objection is made by the corporation the matter shall (unless otherwise agreed) be settled by arbitration before the making of the hole is commenced but if no such objection is made the making of the hole may be proceeded with:
- (6) Except with the consent of the corporation the Executive shall not open or make any permanent openings or any ventilators, air-shafts or other similar openings in, or erect or construct any structure or erection above, the surface of the carriageway or footway of any highway, and in constructing, maintaining and operating the said ventilators, air-shafts or other similar openings the Executive shall take all steps which are reasonably practicable to avoid causing a nuisance:
- (7) The Executive shall secure that so much of the Executive's works as is constructed under or so as to affect any highway shall be designed, constructed and maintained

so as to carry the appropriate loading determined, at the time of construction of such works, by the engineer of the corporation or, in the event of disagreement between the Executive and the engineer of the corporation regarding the appropriate loading, determined by the Secretary of State and the Executive shall indemnify the corporation against and make good to the corporation all expenses which the corporation may reasonably incur or be put to in the maintenance or repair of any highway or any tunnels, sewers, drains or apparatus therein by reason of any non-compliance by the Executive with the provisions of this paragraph:

- (8) It shall be lawful for the engineer or surveyor or other officer of the corporation duly appointed for the purpose at all reasonable times to enter upon and inspect any part of the Executive's works or the railways board's works, as the case may be, which is in or under any highway, or which may affect any highway or any property or work of the corporation, during the execution thereof and the appropriate authority shall give to such engineer or surveyor or officer all reasonable facilities for such inspection and if he shall be of opinion that the construction of such works is attended with danger to any highway or to any sanitary convenience, refuge, sewer, drain, lamp column, traffic sign, bollard, bin for refuse or road materials or apparatus connected therewith or any property or work belonging to or under the jurisdiction or control of the corporation on or under any highway the appropriate authority shall adopt such measures and precautions as may be reasonably necessary for the purpose of preventing any damage or injury thereto:
- (9) The appropriate authority shall not 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 property or work belonging to or under the jurisdiction or control of the corporation on or under any highway or repairable by them or the access thereto without the consent of the corporation and any alteration, diversion, replacement or reconstruction of any such sanitary convenience, refuge, sewer, drain, lamp column, traffic sign, bollard, bin for refuse or road materials or apparatus connected therewith or any property or work as aforesaid which may be necessary shall be made by the corporation or the appropriate authority as the corporation shall think fit and any costs, charges and

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expenses reasonably incurred by the corporation in so doing shall be repaid to the corporation by the appropriate authority:

- (10) The appropriate authority shall not remove any soil or material from any highway except such as must be excavated in the carrying out of the works:
- (11) If any extra expense be reasonably incurred by the corporation for the repair of any highway by reason of the diversion thereto of traffic from a road of a higher classification or in the signposting of traffic diversions in consequence of the making or construction of the Executive's works or the railways board's works, as the case may be, the appropriate authority shall repay the amount of such reasonable expense to the corporation:
Provided that notice of the diversion is given to the appropriate authority as soon as practicable:
- (12) The appropriate authority shall not, except with the consent of the corporation, deposit any soil, subsoil or materials or stand any vehicle or plant on or over any highway so as to obstruct or render less safe the use of such highway by any person or except with the like consent deposit any soil, subsoil or materials on any such highway except within a hoarding:
- (13) All reasonable costs, charges and expenses incurred by the corporation in removing any soil, subsoil or materials deposited on any highway in contravention of this section shall be a debt due to the corporation and shall on demand be paid by the appropriate authority to the corporation:
- (14) The appropriate authority shall, if reasonably so required by the corporation, provide and maintain to the reasonable satisfaction of the corporation, during such time as the appropriate authority may occupy any part of a highway for the purpose of the construction of any part of the Executive's works or the railways board's works, as the case may be, temporary bridges and temporary ramps for vehicular traffic or pedestrian traffic, or both, over any part of the Executive's works or the railways board's works, as the case may be, or in such other position as may be necessary to prevent interference with the flow of traffic in any highway:
- (15) Where any part of any highway shall have been temporarily broken up or disturbed by the appropriate authority the appropriate authority shall make good

the subsoil, foundations and surface of such part of the highway to the reasonable satisfaction of the corporation and maintain the highway in a condition satisfactory to the engineer and surveyor of the corporation until permanent reinstatement is carried out:

Provided that the reinstatement of such part of the highway shall in the first instance be of a temporary nature only and the permanent reinstatement thereof shall be carried out by the corporation as soon as reasonably practicable after the completion of the temporary reinstatement and the reasonable costs, charges and expenses incurred by the corporation in so doing shall be repaid by the appropriate authority to the corporation:

- (16) It shall not be lawful for the appropriate authority to place any hoardings on any part of any highway except for such period as may be necessary and then only in such manner as shall be reasonably necessary and the provisions of the Highways Act, 1959, relating to hoardings shall apply to any hoarding erected on any part of any highway and for the purposes of the application of section 147 of the said Act of 1959 any such hoarding shall be deemed to have been erected in compliance with subsection (1) of that section: 1959 c. 25.
- (17) The appropriate authority shall make compensation to the corporation for any subsidence of or damage to any 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 property or work belonging to or under the jurisdiction or control of the corporation on or under any highway or repairable by them which may be caused by or in consequence of any act or default of the appropriate authority, their contractors, servants or agents and whether such damage or subsidence shall happen during the construction of the Executive's works or the railways board's works, as the case may be, or at any time thereafter:
- (18) Within three months after the completion of any of the Executive's works or the railways board's works, as the case may be, or such longer period as the corporation may agree, the appropriate authority shall remove or to the reasonable satisfaction of the corporation demolish or otherwise dispose of all temporary buildings and structures erected at, above or immediately below surface level for the purposes of or in connection with the construction of that work and shall remove all

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surplus materials, plant, machinery and appliances provided or approved in connection therewith and shall, so far as is reasonably practicable, to the like satisfaction restore and make good the surface of the ground on which any temporary buildings and structures or any surplus materials, plant, machinery and appliances as aforesaid have been placed or which may have been occupied for the purpose of or in connection with that work:

- (19) The Executive shall where possible so design their works that the entrances to and exits from the underground railway may be used also as pedestrian subways under adjoining highways and shall consult the corporation on the design of any subways and stations:
- (20) As soon as reasonably practicable after the completion of any part of the Executive's works or the railways board's works, as the case may be, the appropriate authority shall furnish the corporation with a plan and section showing the position and level of such part of the Executive's works as constructed:
- (21) The corporation may require that the Executive's works or the railways board's works, as the case may be, so far as they involve any serious interference with the movement of traffic in any highway, shall be carried on, so far as reasonably practicable, continuously day and night and the appropriate authority shall take all such steps as may be reasonably necessary to reduce so far as possible the period of such interference:
- (22) The appropriate authority shall not without the consent of the corporation make any communication between the Executive's works or the railways board's works, as the case may be, and the interior of any building, other than a building wholly used by the appropriate authority for transport purposes:
- (23) Wherever in this section provision is made with respect to the approval or consent of the corporation such approval or consent shall be in writing and may be given under the hand of the town clerk of the city subject to such reasonable terms and conditions as the corporation may require, but shall not be unreasonably withheld:
- (24) Any difference arising between the appropriate authority and the corporation under this section shall be settled by arbitration.

44. For the protection of the corporation, the following provisions shall, unless otherwise agreed in writing between the appropriate authority and the corporation, apply and have effect:—

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—cont.

For further
protection
of
corporation.

(1) In this section—

“highway” means a highway vested in or repairable or maintained by the corporation;

“plans” means plans, sections and particulars:

(2) Before undertaking any of the Executive’s works the Executive shall—

(a) consult the corporation with regard to their programme for the construction of the Executive’s works so as to secure, so far as may be reasonably practicable, that the duration of any disturbance occasioned by or in connection with such construction shall be reduced to a minimum;

(b) consult the corporation with regard to the lands to be occupied and used by the Executive as temporary working sites for the purpose of constructing the Executive’s works and without prejudice to paragraph (4) of this section and to section 38 (As to St. Peter’s Square and Albert Square) of this Act any such consultation shall include consultation as to the period for which and the manner in which each site shall be used and the steps to be taken by the Executive to mitigate injury to amenity:

(3) (a) Without prejudice to anything in the Town and Country Planning Act, 1971, the Executive shall submit to the corporation for their approval particulars of the proposed manner and method of disposing of any spoil or waste material resulting from the carrying out of any operation in connection with such works in so far as such disposal applies to a site within the city and no such spoil or waste material shall be disposed of otherwise than in such manner and method as shall be described in particulars approved by the corporation as aforesaid or, if such approval be withheld, as may be determined by the Secretary of State: 1971 c. 78.

Provided that if within twenty-eight days after the submission to them of particulars under this subparagraph the corporation do not signify to the Executive their approval or disapproval thereof they shall be deemed to have approved thereof;

(b) Without prejudice to anything in the Town and Country Planning Act, 1971, or section 38 (As to St. Peter’s

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Square and Albert Square) of this Act the Executive shall consult the corporation as to the situation, design and external appearance of any ventilating shaft forming part of the Executive's works:

(4) The Executive shall consult the corporation—

(a) for the purpose of securing that the Executive's works shall be as unobtrusive as possible upon the surrounding development or rendering any part of the Executive's works as inconspicuous as possible including the measures to be taken for landscaping the Executive's works and the laying of turf, the sowing of grass seed and the planting of trees, bushes and plants;

(b) with regard to the transporting and disposal of any spoil or waste material in the city;

(c) with regard to the routes in the city to be used by vehicles, machinery and plant travelling to or from any part of the Executive's works under construction:

(5) (a) In the construction of Work No. 2 the Executive shall if required by the corporation and if it is reasonably practicable to do so construct and maintain such works as may be reasonably required to provide one access to and from Work No. 2 at a point approximately 500 feet from the termination of Work No. 2 near St. Peter's Square from and to any land or buildings in which the corporation may have an interest abutting on or adjoining Oxford Street in the city and shall permit the use of Work No. 2 by the corporation and any person desiring access to or egress from the said lands and buildings:

Provided that—

(i) any works to be constructed under the provisions of this sub-paragraph shall be constructed in such position and in such manner as the Executive shall reasonably approve;

(ii) the corporation shall repay to the Executive the expenses incurred by the Executive in or in connection with the construction and maintenance of such works;

(b) The Executive shall, if it is reasonably practicable to do so, permit the corporation without charge to connect any means of access to and from any lands and property in which the corporation have an interest to any subway of the Executive to which the public have free access during the operation of the underground railway and

the Executive shall permit the use without charge of the subway by the corporation and any persons desiring access to or egress from the said lands and buildings:

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Provided that any works to be constructed under the provisions of this sub-paragraph shall be constructed at the expense of the corporation and in such position and in such manner as the Executive shall reasonably approve:

- (6) (a) The entrances and exits to and from any subway, booking-hall or station including any permanent openings in the highway shall be so designed and of such extent as to secure the least practicable inconvenience to the public traffic in the adjoining highways and before the Executive commence to construct such entrances, exits or openings plans thereof shall be submitted to the corporation for their reasonable approval;
- (b) If within twenty-eight days of the submission to them of plans of the entrances and exits in Albert Square in the city to and from any subway, booking-hall or station the corporation require the Executive before commencing the construction of any such entrances and exits to erect dummy entrances and exits on the carriageway or footway to show the positions where the Executive propose to erect such entrances and exits, the Executive shall comply with such requirement and shall give notice to the corporation of the erection thereof;
- (c) If the corporation do not within twenty-eight days of the submission to them of any plans or the receipt of notice of the erection of dummy entrances and exits under this paragraph express their approval or disapproval of such plans they shall be deemed to have approved thereof;
- (d) The Executive shall not construct any entrances or exits in respect of which they are required by this paragraph to submit plans to the corporation for their approval otherwise than in accordance with such plans as may be so approved by the corporation or, if such approval be refused, as may be settled by arbitration and all such entrances and exits shall be constructed to the reasonable satisfaction of the corporation;
- (e) The Executive shall provide to the satisfaction of the corporation such temporary kerbing as may be reasonably necessary in connection with the erection of dummy entrances and exits and shall ensure that such dummies and temporary kerbs are adequately guarded and lighted in such manner as to give proper warning to the public during the hours of darkness as defined in the Road Transport Lighting Act, 1957;

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(f) The Executive shall provide on and above the entrances to any subway, booking-hall or station such signs as are necessary or desirable to indicate the Executive's works and any subway, public lavatory and telephone and other facilities provided in connection therewith and such signs shall be subject to the approval of the corporation:

(7) Except with the previous consent of the corporation the Executive shall not under any part of any street in the city used or appropriated under this Act (except under land owned or acquired by them) construct or permit to be constructed any shop, stall, shop front or other erection other than telephone boxes or shops, stalls or other erections for the sale of commodities reasonably required for the needs of the travelling public:

(8) (a) In this paragraph, "the existing lavatory" means the existing public lavatories and conveniences situated in and under Albert Square in the city;

(b) The Executive shall not demolish or render unusable the existing lavatory until they shall have reached agreement with the corporation or, in default of agreement, until a decision of the arbitrator has been given, with regard to the construction by the Executive, at their own expense and to the reasonable satisfaction of the corporation, of either (at the corporation's option):—

(i) a new lavatory to replace the existing lavatory and with the same accommodation and facilities as those now provided; or

(ii) two new lavatories (one in and under Albert Square and the other in and under St. Peter's Square) to replace the existing lavatory each with such accommodation and with such facilities as the corporation may reasonably require and having an aggregate cubic capacity not less than the cubic capacity of the existing lavatory,

and with adequate means of ventilation and in such position or (as the case may be) such respective positions within the limits of deviation as may be agreed between the Executive and the corporation or, in default of agreement, as may be determined by arbitration and in accordance with plans reasonably approved by the corporation:

Provided that—

(A) if the corporation do not within twenty-eight days from the submission to them of any such plans express in writing their approval or disapproval thereof they shall be deemed to have approved thereof; and

(B) if in consequence of the exercise of the corporation's option under this paragraph the Executive are required to construct two lavatories as provided by sub-paragraph (ii) and the expense reasonably incurred in construction of the same exceeds the expenses which would have been incurred in constructing one new lavatory in accordance with sub-paragraph (i), the amount of such excess shall be repaid by the corporation to the Executive;

- (c) If, not less than six months before the commencement of so much of the Executive's works as will be situated in Albert Square, the corporation give to the Executive notice in writing requesting the Executive when constructing the new lavatory to provide at and in connection therewith additional public lavatory accommodation to that provided at the existing lavatory or other improvements the Executive shall when carrying out such work of construction provide such additional public lavatory accommodation and improvements as may be reasonably practicable and the corporation shall repay to the Executive the expenses incurred by the Executive in so doing;
- (d) Before providing any additional public lavatory accommodation or improvements under the foregoing provisions of this paragraph the Executive shall submit to the corporation an estimate of the expense which the corporation will be liable to repay to the Executive under this paragraph;
- (e) So soon as the said new lavatory or new lavatories and such additional public lavatory accommodation or other improvements as aforesaid (if any) shall have been completed, the same shall be taken over by and for all purposes be the property of the corporation who shall thereafter at their own expense cleanse, maintain, ventilate and light the same;
- (f) The Executive shall repay to the corporation the cost reasonably incurred by them in providing temporary sanitary conveniences during the construction of so much of the Executive's works as is situated in Albert Square:
- (9) (a) In this paragraph—
- “ new bridge ” means a bridge or the extension or alteration of an existing bridge carrying any part of the new works over any highway in the city or a bridge or the extension of an existing bridge for carrying any highway in the city over any part of the new works;

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“new works” means any part of the Executive’s works or the railways board’s works;

and references to the headroom of a new bridge are references to the clear headroom between the underside of the superstructure thereof and the carriageway;

- (b) Before commencing the construction of any new bridge or the carrying out of any work in connection therewith which involves interference with a highway the appropriate authority shall submit to the corporation for their reasonable approval plans relating thereto and such new bridge shall not be constructed and such works shall not be carried out otherwise than in accordance with such plans as may be approved by the corporation as aforesaid or, if such approval be refused, as may be settled by arbitration and any part of the construction of a new bridge or any part of any work as aforesaid which may involve interference with a highway in the city shall be carried out under the supervision (if given) and to the reasonable satisfaction of the corporation:

Provided that if within twenty-eight days after the submission to them of plans under this paragraph the corporation do not signify to the appropriate authority their approval or disapproval thereof they shall be deemed to have approved thereof;

- (c) Each bridge which carries any part of the new works over any highway shall be constructed in such manner as to prevent so far as may be reasonably practicable the dripping of water;
- (d) The appropriate authority in constructing any new bridge or in the carrying out of any work in connection with any new bridge which involves interference with any highway shall make good all damage or injury whatsoever which shall happen to be caused to the said highway by reason or in consequence of the construction of the new bridge or the carrying out of such work;
- (e) The corporation may at the cost of the appropriate authority provide and place such lamps and apparatus as may from time to time be reasonably necessary for efficiently lighting any highway under or in the vicinity of a new bridge and keep the same sufficiently lighted;
- (f) (i) the appropriate authority shall not construct any piers, abutments or other works in connection with a new bridge within a highway:

Provided that—

(A) in constructing the new bridge for carrying Work No. 1 over the highway known as Mancunian Way, the Executive may construct a pier or piers

in the central reservation of that highway so that there is a clearance of not less than 3 feet between the face of any such pier and the kerb above kerb level enclosing the central reservation;

(B) in constructing the new bridge for carrying Work No. 1 over the highway known as Temperance Street, the Executive may construct a pier or piers within the said highway on the north side of Temperance Street in such manner that any such pier shall be as close as practicable to the existing railway viaduct and any pier or piers required to be constructed in the highway shall be constructed in such manner as to leave such space for both vehicular and pedestrian traffic as the engineer and surveyor of the corporation shall reasonably determine;

(C) in constructing the new bridge for carrying Work No. 1 over the highways known as Union Street, River Street and Chapelfield Road, the Executive may construct a pier or piers in the footpaths of those highways in such locations as the city engineer and surveyor shall reasonably determine in order to provide adequate accommodation for pedestrian traffic but there shall in any case be a clearance of not less than 3 feet between the face of any such pier and the footpath kerb;

(D) in constructing the new bridge for carrying Work No. 1 over the highway known as Hoyle Street, the Executive may construct a pier or piers within the said highway in such manner that a pedestrian right of way can be provided along the section of the highway beneath the new bridge;

- (ii) the Executive shall in constructing Work No. 1 construct the new bridge for carrying Work No. 1 over the highway known as Mancunian Way with a headroom of not less than 16 feet 9 inches above the existing level of the highway;
- (iii) the railways board shall in constructing Work No. 6 construct the new bridge for carrying Work No. 6 over the highway known as London Road with a headroom of not less than 20 feet 3 inches above the existing level of the highway;
- (10) Before using any explosives in the construction of the Executive's works or the railways board's works, as the case may be, the appropriate authority shall consult the corporation as to the times and arrangements for such use:

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- (11) (a) The Executive shall carefully preserve and remove all objects of geological or antiquarian interest discovered by them in the execution of the Executive's works and, subject to the rights of the Crown and except so far as the same may be proved to be the property of any other person, any such objects discovered shall be deposited with the corporation as the property of the corporation;
- (b) The Executive shall afford to any officer of the corporation all facilities to inspect any objects discovered by them in the execution of the Executive's works:
- (12) The appropriate authority shall be responsible for and make good to the corporation, all claims, demands, costs, charges, damages, expenses and losses not otherwise provided for in section 40 (For protection of certain statutory undertakers), section 42 (For protection of sewers of corporation) and section 43 (As to highways, traffic, etc.) of this Act and in this section which may be made against, occasioned to, suffered by or reasonably incurred by the corporation—

(a) by reason of the Executive's works or the railways board's works, as the case may be, or the failure thereof; or

(b) by reason of any act or omission of the appropriate authority or of any person in their employ or of their contractors or others whilst engaged upon the construction, use, maintenance, renewal or alteration of the Executive's works or the railways board's works, as the case may be;

and the appropriate authority shall indemnify and hold harmless the corporation from all claims, demands, costs, expenses, damages or loss which may be made on or against them or which they may incur or have to pay or which they may sustain in consequence of the construction, use, maintenance, renewal or alteration of the Executive's works or the railways board's works, as the case may be, or the failure or want of repair thereof, or any subsidence caused during the construction thereof or at any time thereafter, or in consequence of any act or omission of the appropriate authority, their contractors, agents, workmen or servants and the fact that any act or thing may have been done by the corporation on behalf of the appropriate authority or in accordance with plans approved by the engineer and surveyor of the corporation or in accordance with any requirement of the said engineer and surveyor or under his supervision shall not (if it was done without negligence on

the part of the corporation or of any person in their employ) excuse the appropriate authority from any liability under the provisions of this section:

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Provided that the corporation shall give to the appropriate authority reasonable notice of any claim or demand as aforesaid, and no settlement or compromise thereof shall be made without the prior consent of the appropriate authority:

- (13) Wherever in this section provision is made with respect to the approval or consent of the corporation, such approval or consent shall be in writing and may be given under the hand of the town clerk of the city subject to such reasonable terms and conditions as the corporation may require, but shall not be unreasonably withheld:
- (14) Except as provided in sub-paragraph (a) of paragraph (3) of this section any difference arising between the appropriate authority and the corporation under this section shall be settled by arbitration.

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

For protection
of railways
board.

(1) In this section—

“ 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 works ” means so much of the Executive’s works as may be situated upon, across, under or over or may in any way affect railway property and includes the construction of such works;

“ construction ” includes reconstruction and for the purposes of paragraphs (8), (11) and (13) of this section includes maintenance and repair of the works;

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

“ plans ” includes sections, drawings and particulars:

- (2) The Executive shall not under the powers of this Act acquire compulsorily any property of the railways board but they may in accordance with the provisions of section 31 (Power to acquire subsoil or easements only in certain cases) of this Act acquire such easements and

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rights as they may reasonably require for the purposes of the works in any such property delineated on the deposited plans:

- (3) The Executive shall, before commencing the works, furnish to the railways board proper and sufficient plans thereof for the reasonable approval of the engineer and shall not commence the works until plans thereof have been approved in writing by the engineer or settled by arbitration:
Provided that if within twenty-eight days after such plans have been furnished to the railways board the engineer shall not have intimated his disapproval thereof and the grounds of his disapproval he shall be deemed to have approved the same:
- (4) If within twenty-eight days after such plans have been furnished to the railways board the railways board shall give notice to the Executive that the railways board desire themselves to construct any part of the works which in the opinion of the engineer will or may affect the stability of railway property and the safe operation of the railways board's railway, then if the Executive desire such part of the 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 (hereafter in this section referred to as "the approved plans"):
- (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 the commencement of the 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 with all reasonable dispatch and the Executive shall not commence the construction of the works until the engineer shall have notified the Executive that the protective works have been completed:
- (6) The Executive shall give to the engineer twenty-eight days' notice of their intention to commence the construction of any of the works and also, except in 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 works in so far as such works of repair or maintenance affect or interfere with railway property:

- (7) The works shall when commenced be carried out with all reasonable dispatch in accordance with the approved plans and under the supervision (if given) and to the reasonable satisfaction of the engineer, and in such manner as to cause as little damage to railway property as may be and as little interference as may be with the conduct of traffic on the railways of the railways board and the use by passengers of railway property, and if any damage to railway property or any such interference shall be caused by the carrying out of the works 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 or interference:

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

- (8) The Executive shall at all times afford reasonable facilities to the engineer for access to the works during their construction and shall supply him with all such information as he may reasonably require with regard to the 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, either permanent or temporary, to railway property shall be reasonably necessary during the construction of the works or during a period of twelve months after the completion thereof in consequence of the construction of the works, such alterations and additions may be effected by the railways board after 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:

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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 may 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 works on behalf of the Executive as provided by paragraph (4) of this section or in constructing any protective works under the provisions of paragraph (5) of this section including, in respect of any permanent protective works, a capitalised sum representing the cost to the railways board of 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, watching, lighting and signalling railway property and for preventing, as far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of the works;
 - (c) in respect of any special traffic working resulting from any speed restrictions which may, in the opinion of the engineer, require to be imposed and which may be due to the construction or failure of the works or from the substitution 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 works, being lighting made reasonably necessary during and by reason of the construction or failure of the works;
 - (e) in respect of the supervision by the engineer of the works:
- (12) Any additional expense which the railways board shall reasonably incur after giving twenty-eight days' notice to the Executive in altering, reconstructing or maintaining railway property in pursuance of any powers existing at the passing of this Act by reason of the existence of the works shall be repaid by the Executive to the railways board:
- (13) 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—

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- (a) by reason of the 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 construction of the 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 construction of the 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 whilst engaged upon the construction of the works) 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:

- (14) 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 settled by arbitration.

46. For the protection of the Stockport Corporation, the following provisions shall, unless otherwise agreed in writing between the railways board and the Stockport Corporation, apply and have effect:—

For protection
of Stockport
Corporation.

- (1) In this section—

“ the Stockport Corporation ” means the mayor, aldermen and burgesses of the county borough of Stockport;

“ the substituted streets ” means the new streets which, under the provisions of paragraph (d) of section 15 (Further works and powers of railways board) of this Act, are to be substituted for portions of Adswold Road and Stockholm Road as part of Work No. 3:

- (2) Subject to the provisions of this paragraph, for the period of twelve months from the completion of the

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substituted streets by the railways board to the satisfaction of the Stockport Corporation in accordance with the provisions of section 17 (Stopping up streets and footpaths in case of diversion or substitution) of this Act or from the date of the certificate referred to in subsection (1) of that section, as the case may be, the reasonable costs, charges and expenses incurred by the Stockport Corporation in the maintenance of the highways comprised in the substituted streets shall be repaid by the railways board to the Stockport Corporation:

Provided that the Stockport Corporation may, in lieu of the foregoing provisions of this paragraph, require that, in the construction of Work No. 3 by the railways board, the reinstatement of the highways comprised in the substituted streets shall in the first instance be of a temporary nature only and if the Stockport Corporation make such a requirement the permanent reinstatement thereof shall be carried out by the Stockport Corporation as soon as reasonably practicable after the completion of the temporary reinstatement (but not before the railways board have signified to the Stockport Corporation in writing that they have completed the viaduct over the railway between Birmingham and Manchester (part of Work No. 3)) and the reasonable costs, charges and expenses incurred by the Stockport Corporation in so doing shall be repaid to the Stockport Corporation by the railways board:

- (3) Any difference arising between the railways board and the Stockport Corporation under this section shall be settled by arbitration.

For protection
of British
Waterways
Board.

47. For the protection of the waterways board, the following provisions shall, unless otherwise agreed in writing between the railways board and the waterways board, apply and have effect:—

- (1) In this section—

“the waterways board” means the British Waterways Board;

“waterways property” means the Manchester, Bolton and Bury Canal, the adjoining towing path and any works connected therewith for the maintenance or operation of which the waterways board are responsible and includes any lands held or used by the waterways board for the purposes of such works;

“ the works ” means so much of the railways board’s works as may be situated upon, across, under or over or may in any way affect waterways property and includes the construction of such works;

“ construction ” includes reconstruction and for the purposes of paragraphs (8), (11) and (12) of this section include maintenance and repair of the works;

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

“ plans ” includes sections, drawings and particulars:

(2) The railways board shall not under the powers of this Act acquire compulsorily any property of the waterways board but they may in accordance with the provisions of section 31 (Power to acquire subsoil or easements only in certain cases) of this Act acquire such easements and rights as they may reasonably require for the purposes of the works in any such property delineated on the deposited plans:

(3) The railways board shall, before commencing the works, furnish to the waterways board proper and sufficient plans thereof for the reasonable approval of the engineer and shall not commence the works until plans thereof have been approved in writing by the engineer or settled by arbitration:

Provided that if within twenty-eight days after such plans have been furnished to the waterways board the engineer shall not have intimated his disapproval thereof and the grounds of his disapproval he shall be deemed to have approved the same:

(4) If within twenty-eight days after such plans have been furnished to the waterways board the waterways board shall give notice to the railways board that the waterways board desire themselves to construct any part of the works which in the opinion of the engineer will or may affect the stability of waterways property, then if the railways board desire such part of the works to be constructed the waterways board shall construct it with all reasonable dispatch on behalf of and to the reasonable satisfaction of the railways board in accordance with the plans approved or deemed to be approved or settled as aforesaid (hereafter in this section referred to as “ the approved plans ”):

(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 the commencement of the works to

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ensure the safety or stability of waterways property and such protective works as may be reasonably necessary for those purposes shall be constructed by the waterways board with all reasonable dispatch and the railways board shall not commence the construction of the works until the engineer shall have notified the railways board that the protective works have been completed:

- (6) The railways board shall give to the engineer twenty-eight days' notice of their intention to commence the construction of any of the works and also, except in 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 works in so far as such works of repair or maintenance affect or interfere with waterways property:
- (7) The works shall when commenced be carried out with all reasonable dispatch in accordance with the approved plans and under the supervision (if given) and to the reasonable satisfaction of the engineer, and in such manner as to cause as little damage to waterways property as may be, and if any damage to waterways property shall be caused by the carrying out of the works the railways board shall, notwithstanding any such approval as aforesaid, make good such damage and shall on demand pay to the waterways 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:

Provided that nothing in this paragraph shall impose any liability on the railways board with respect to any damage, costs, expenses or loss which is attributable to the act, neglect or default of the waterways board or their servants, contractors or agents:
- (8) The railways board shall at all times afford reasonable facilities to the engineer for access to the works during their construction and shall supply him with all such information as he may reasonably require with regard to the works or the method of construction thereof:
- (9) The waterways board shall at all times afford reasonable facilities to the railways board and their agents for access to any works carried out by the waterways board under this section during their construction and shall supply the railways board 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, either permanent or temporary, to waterways property shall be reasonably

necessary during the construction of the works or during a period of twelve months after the completion thereof in consequence of the construction of the works, such alterations and additions may be effected by the waterways board after notice has been given to the railways board and the railways board shall pay to the waterways 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 and, when necessary, renewing any such alterations or additions:

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

(11) The railways board shall repay to the waterways board all costs, charges and expenses reasonably incurred by the waterways board—

(a) in constructing any part of the works on behalf of the railways board as provided by paragraph (4) of this section or in constructing any protective works under the provisions of paragraph (5) of this section including, in respect of any permanent protective works, a capitalised sum representing the cost to the waterways board of maintaining and renewing such works;

(b) in respect of any additional temporary lighting of waterways property in the vicinity of the works, being lighting made reasonably necessary during and by reason of the construction or failure of the works;

(c) in respect of the supervision by the engineer of the works:

(12) The railways board shall be responsible for and make good to the waterways board all costs, charges, damages and expenses not otherwise provided for in this section which may be occasioned to or reasonably incurred by the waterways board—

(a) by reason of the works or the failure thereof;
or

(b) by reason of any act or omission of the railways board or of any persons in their employ or of their contractors or others whilst engaged upon the construction of the works;

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and the railways board shall effectively indemnify and hold harmless the waterways board from and against all claims and demands arising out of or in connection with the construction of the works or any such failure, act or omission as aforesaid and the fact that any act or thing may have been done by the waterways board or behalf of the railways board, 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 waterways board or of any person in their employ or of their contractors or agents whilst engaged upon the construction of the works) excuse the railways board from any liability under the provisions of this section:

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

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

For protection
of National
Coal Board.

48. For the protection of the board, the following provisions shall, unless otherwise agreed in writing between the appropriate authority and the board, apply and have effect:—

- (1) In this section, unless the subject or context otherwise requires—

“ the board ” means the National Coal Board;

“ coal ” has the meaning given to it by subsection (1) of section 63 of the Coal Industry Nationalisation Act, 1946;

“ mine ” has the meaning given to it by subsection (1) of section 180 of the Mines and Quarries Act, 1954;

“ the works ” means the Executive’s works or the railways board’s works, as the case may be:

- (2) (a) Whenever any unworked coal vested in the board is encountered in the course of the construction or maintenance of the works the appropriate authority shall give notice thereof to the board;
- (b) The appropriate authority may take and carry away any coal in respect of which they have given such notice and if, within seven days of the giving of such notice the board so require, shall make the coal available to the board at a place convenient for the purpose;

1946 c. 59.

1954 c. 70.

- (c) The appropriate authority may dispose of any coal which the board have not, within the said period of seven days, required to be made available to them, but, except as aforesaid, shall not under the powers conferred by this Act acquire, take, carry away or use any coal vested in the board:
- (3) The appropriate authority shall discharge all duties and obligations of the board under section 151 of the Mines and Quarries Act, 1954, or otherwise relating to shafts and outlets of mines where such shafts and outlets are in or on the land entered upon, taken or used under the powers of this Act or are encountered in the course of the making or maintenance of the works: 1954 c. 70.
- (4) The board shall not be liable under the Coal-Mining (Subsidence) Act, 1957, or otherwise for any damage to the works caused at any time by the withdrawal of support from land in connection with the working and getting of coal, or of coal and other minerals worked therewith, or the getting of any product from coal in the course of working it, before the passing of this Act. 1957 c. 59.

49. Subject to the provisions of section 23 (Use of sewers, etc., for removing water) of this Act, nothing in this Act shall authorise the Executive to acquire, use, alter, disturb or in any way interfere with the river Medlock or the banks thereof or with the culvert carrying the river Irk under Victoria Station without the consent of the river authority, but such consent shall not be unreasonably withheld and any question arising whether any such consent is unreasonably withheld shall be settled by arbitration. For protection of river authority.

PART V

MISCELLANEOUS AND GENERAL

50.—(1) The Executive may make byelaws regulating the use and working of, and travel on, their railway, the maintenance of order on their railway and railway premises, including stations, the approaches to stations and any moving pavement or footway constructed by them, and the conduct of all persons, including their officers and servants, while on those premises, and in particular byelaws— Byelaws.

- (a) with respect to tickets issued for entry on their railway premises or travel on their railway or moving pavements or footways and the evasion of payment of fares and other charges;
- (b) with respect to interference with or obstruction of the working of their railway or moving pavements or footways;

PART V
—cont.

- (c) with respect to the smoking of tobacco in railway carriages and elsewhere and the prevention of nuisances
- (d) with respect to the receipt and delivery of goods; and
- (e) for regulating the passage of bicycles and other vehicles on footways and other premises controlled by the Executive and intended for the use of those on foot.

(2) Any byelaws made under this section may provide that any person contravening them shall be liable on summary conviction to a fine not exceeding twenty-five pounds for each offence.

(3) Without prejudice to the taking of proceedings under the last foregoing subsection, if the contravention of any byelaw having effect under this section is attended with danger or annoyance to the public, or hindrance to the Executive in the lawful use of their railway, it shall be lawful for the Executive summarily to interfere to obviate or remove the danger, annoyance or hindrance.

1962 c. 46

(4) The provisions of subsections (5) to (12) of section 67 of the Transport Act, 1962, shall apply to any byelaws made by the Executive under this section as if for references to the board or to the board in question, there were substituted references to the Executive.

Power to
raise money
abroad.

51.—(1) Any method by which the Executive are empowered by any enactment to raise any money which they are authorised to borrow shall, notwithstanding anything in such enactment, be deemed to include the raising of money either alone or jointly with the council of a county, county borough or county district by that method outside the United Kingdom or in any foreign currency.

(2) The powers conferred by the foregoing subsection shall not be exercised except with the consent of the Treasury and subject to such conditions as the Treasury may impose.

(3) The enactments empowering the Executive to raise money shall have effect in relation to a transaction authorised by this section for the raising of money in a foreign currency as if for any reference in those enactments to sterling there were substituted a reference to the foreign currency and for any reference therein to a sum expressed in terms of sterling there were substituted a reference to the sum expressed in terms of the foreign currency (adjusted, where necessary, to produce an amount which the Executive consider appropriate having regard to all the circumstances of the transaction).

(4) For the purposes of this section the Executive may, with the consent of the Treasury and subject to such conditions as the Treasury may impose, raise money by means of the issue of bearer bonds or other securities to bearer.

(5) Nothing in this section shall be taken as exempting the Executive from the provisions of any order under section 1 of the Borrowing (Control and Guarantees) Act, 1946, and for the purposes of that Act and any such order the Executive shall be deemed to be a local authority within the meaning of that Act.

PART V
—cont.

1946 c. 58.

(6) It shall not be lawful to exercise the powers conferred by this section except in compliance with the Exchange Control Act, 1947.

1947 c. 14.

52.—(1) Section 289 of the Town and Country Planning Act, 1971 (which for the avoidance of doubt declares that the provisions of that Act and any restrictions or powers thereby imposed or conferred in relation to land apply to land notwithstanding that provision is made by any local Act passed before or during the Session of 10 & 11 Geo. 6 for authorisation or regulation of development of the land) shall apply to this Act as if it had been passed during that Session; and accordingly the Town and Country Planning Act, 1971, and orders, regulations, rules, schemes and directions made or given thereunder shall apply to development authorised by this Act.

Saving for
Town and
Country
Planning Act.

1971 c. 78.

(2) In their application to development authorised by this Act, article 3 of, and Class XII in Schedule 1 to, the Town and Country Planning General Development Order, 1963 (which permit development authorised by private Act designating specifically both the nature of the development thereby authorised and the land on which it may be carried out), shall have effect as if the authority to develop given by this Act in respect of Works Nos. 1 to 9 were limited to development begun within ten years after the passing of this Act.

(3) In this section the reference to article 3 of, and Class XII in Schedule 1 to, the Town and Country Planning General Development Order, 1963, includes a reference to corresponding provisions of any general order superseding that order made under section 24 of the Town and Country Planning Act, 1971, or any corresponding provision of an Act repealing that section.

53. Where under this Act any difference (other than a difference to which the provisions of the Act of 1965, as applied by this Act, apply) is to be referred to or settled by arbitration, then, unless otherwise provided, such difference 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 Institution of Civil Engineers.

Arbitration.

54. All costs, charges and expenses of and incident to the preparing for, obtaining and passing of this Act, or otherwise in relation thereto, shall be paid by the Executive and may in whole or in part be defrayed out of revenue.

Costs of Act.

SCHEDULES

SCHEDULE 1

Sections 19
and 20.

Street (1)	Marking (2)
In the city—	
Adeline Street	X, Z.
Albert Square	X, Y, Z.
Altrincham Street	X, Z.
Amory Street (or Arthur Street)	X.
Back Acton Street	X, Z.
Baring Street	X, Z.
Beaver Street	X, Y.
Belvoir Avenue	X.
Berry Street	X, Z.
Brazil Place	X, Z.
Britain Street	Z.
Buxton Street	X, Z.
Calderwood Street	X, Z.
Carston Street	X, Z.
Cartledge Street	X, Z.
Chapelfield Road	X, Z.
Cobourg Street	X, Z.
Corporation Street	X, Y, Z.
Cotswold Street	X.
County Street	X, Y, Z.
The Crescent	X, Z.
Crofts Court	X, Z.
Cross Street	X, Z.
Dickinson Street	Z.
Fairfield Street	X, Y, Z.

Street (1)	Marking (2)
Galbraith Street	x, z.
Granby Row	x, z.
Hall Street	x, y, z.
Hanover Street	x, y, z.
Haworths Gates	x, z.
Hoyle Street	x, z.
Lloyd Street	x, y, z.
London Road	x, y, z.
Long Millgate	x, z.
Longridge Place	x, y, z.
Mancunian Way	x.
Market Street	x, y, z.
Minshull Street South	x, z.
Mount Street	x.
New Market Place	x, z.
Old Bank Street	x, y, z.
Oxford Road Station Approach	x, z.
Oxford Street	x, y, z.
Park Grove	z.
Peter Street	x.
Princess Street	x, z.
Queens Road	x, z.
Queen Street	x, z.
River Street	x, z.
Roadways in Heaton Park	x, z.
Sackville Street	x.
St. Peter's Square	x, y, z.
Samuel Ogden Street	x, z.
South Pump Street	x, z.

SCH. 1
—cont.

Street (1)	Marking (2)
Temperance Street	X, Z.
Travis Place	X, Z.
Travis Street	X, Z.
Union Street	X, Z.
Venice Street	X, Y, Z.
Warren Street	X, Z.
West Mosley Street	X, Y, Z.
Whitworth Street	X, Z.
Whitworth Street West	X, Y, Z.
Wyre Street	X, Z.
The unnamed street near the southern end of Adlington Street	Z.
In the county borough of Stockport—	
Adswold Road	X, Z.
Stockholm Road	X, Z.
In the borough of Radcliffe—	
Ainsworth Road	X, Z.
Belgrave Street	X, Z.
Cemetery Road	X, Z.
Church Street West	X, Z.
Spring Lane	X, Z.
In the borough of Prestwich—	
Sheepfoot Lane	X, Z.

SCHEDULE 2

Section 25.

PART I

1. Where the Executive apply to the Secretary of State for an order under section 25 of this Act the Executive shall submit to the Secretary of State a draft of the order, and shall publish at least once in each of two successive weeks, in one or more newspapers circulating in the area affected by the order a notice—

- (a) stating the general effect of the order as prepared in draft;
- (b) specifying a place in the said area where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times during the period of twenty-eight days beginning with the date of the first publication of the notice; and
- (c) stating that any person may, within that period, by notice in writing to the Secretary of State object to the making of the order.

2. Not later than the date on which the notice is first published in pursuance of the preceding paragraph the Executive shall serve a copy of the notice on every local authority within whose area any moving pavement or footway and other works are to be constructed.

3. The Executive shall also publish a notice in the London Gazette stating that the draft order has been submitted to the Secretary of State, naming every local authority on whom a notice is required to be served under the last preceding paragraph, specifying a place where a copy of the draft order and of any relevant map or plan may be inspected, and giving the name of the newspaper in which the notice under paragraph 1 of this Schedule was published and the date of an issue containing the notice.

4. The Executive shall, at the request of any person, furnish him with a copy of the draft order on payment of such charge, not exceeding 10p, as the Executive think reasonable.

5. The Secretary of State may make the order either in the terms of the draft order or in those terms as altered in such manner as he thinks fit; but where he proposes to make any alteration, and considers that any persons are likely to be adversely affected by it, the Executive shall give and publish such additional notices, and in such manner, as the Secretary of State may require.

6. If before the end of the period of twenty-eight days referred to in paragraph 1 of this Schedule, or of twenty-five days from the publication in the London Gazette of the notice under paragraph 3 of this Schedule, or of any period specified in notices under the last preceding paragraph, notice in writing of an objection is received by the Secretary of State from any person on whom a notice is required to be served

SCH. 2
—cont.

under this Schedule, or from any other person appearing to the Secretary of State to be affected by the order as prepared in draft or as proposed to be altered, and the objection is not withdrawn, the Secretary of State, before making the order, shall either—

- (a) cause a local inquiry to be held; or
- (b) afford to the objector and to the Executive an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

1968 c. 73. 7. In this Schedule the expression “area affected by the order” means the area of the Executive designated under section 9 of the Transport Act, 1968.

PART II

1968 c. 23. 8.—(1) In addition to the bodies on whom, under paragraph 2 of this Schedule, a copy of the notice referred to in that paragraph is required to be served, the Executive shall serve a copy of the notice aforesaid on every owner, lessee or occupier (except tenants for a month or for any period less than a month and statutory tenants within the meaning of the Rent Act, 1968) of any land comprised in the draft order as land authorised to be compulsorily acquired.

(2) Where any such land as aforesaid is ecclesiastical property (that is to say land belonging to any ecclesiastical benefice, or being or forming part of a church subject to the jurisdiction of the bishop of any diocese or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction) a copy of the notice aforesaid shall also be served as aforesaid on the Church Commissioners.

9. Where any objection received by the Secretary of State under paragraph 6 of this Schedule relates to any powers of compulsory acquisition, the Secretary of State may require the objector to state in writing the grounds of his objection; and if the Secretary of State is satisfied that the objection relates exclusively to matters that can be dealt with in the assessment of compensation, he may disregard the objection for the purposes of paragraph 6 of this Schedule.

10. Notwithstanding anything in paragraph 5 of this Schedule, the order shall not, unless all interested parties consent, confer on the Executive powers to acquire compulsorily any land which they would not have been empowered to acquire by virtue of the order if the order had been made in the terms of the draft submitted by them.

11. Part III of Schedule 1 to the Act of 1946 shall apply to the order as it applies to a compulsory purchase order within the meaning of that Act.

12. The order shall incorporate the Act of 1965 and that Act and the enactments relating to the compensation payable in respect of the compulsory acquisition of land shall apply accordingly subject to such exceptions and modifications (if any) as may be specified in the order.

13. As soon as may be after the order has been made, the Executive shall publish, in one or more newspapers circulating in the locality where the land in respect of which the powers of compulsory acquisition

are conferred is situated, a notice describing that land and stating that the order has been made conferring powers of compulsory acquisition in respect of that land, and naming a place where a copy of the order as made may be inspected at all reasonable hours, and the Executive shall serve a like notice and copy of the order on every such owner, lessee or occupier as is mentioned in paragraph 8 of this Schedule.

14.—(1) Subject to the provisions of sub-paragraph (5) of this paragraph, if any person aggrieved by the order, or by a certificate under the special land provisions, desires to question—

- (a) the validity of the order, or of any provision of the order, on the grounds that any powers of compulsory acquisition conferred by the order are not authorised by section 25 of this Act to be so conferred, or that any of the relevant requirements have not been complied with in relation to the order; or
- (b) the validity of the certificate, on the grounds that any of the relevant requirements have not been complied with in relation to the certificate;

he may, at any time before the end of the period of six weeks beginning with the date on which notice of the making of the order is first published in accordance with the last preceding paragraph or, as the case may be, notice of the giving of the certificate is first published in accordance with the special land provisions, make an application for the purpose to the High Court.

(2) On any application under this paragraph, the High Court—

- (a) may by interim order suspend the operation of the order, or any provision of the order, or of the certificate, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings;
- (b) if satisfied that any powers of compulsory acquisition conferred by the order are not authorised by section 25 of this Act to be so conferred, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation to the order or the certificate, may quash the order, or any provision of the order, or the certificate, either generally or in so far as it affects any property of the applicant.

(3) Except as provided by the preceding provisions of this paragraph, the validity of—

- (a) the order, in so far as it confers any powers of compulsory acquisition; or
- (b) any certificate given in connection with the order under the special land provisions;

shall not, either before or after the order or certificate has been made or given, be questioned in any legal proceedings whatsoever.

(4) Subject to the preceding provisions of this paragraph, the order (except where it is subject by virtue of the special land provisions to special parliamentary procedure) and any certificate given in connection

SCH. 2
—cont.

with the order under the special land provisions shall become operative on the date on which notice of the making or giving thereof is published as mentioned in sub-paragraph (1) of this paragraph.

(5) Where the order is subject to special parliamentary procedure, sub-paragraphs (1) to (3) of this paragraph—

1945 c. 18.
(9 & 10 Geo. 6.)

(a) shall not apply to the order if it is confirmed by Act of Parliament under section 6 of the Statutory Orders (Special Procedure) Act, 1945; and

(b) in any other case, shall have effect as if the reference in sub-paragraph (1) of this paragraph to the date on which notice of the making of the order is published as therein mentioned were a reference to the date on which the order becomes operative under the said Act of 1945.

(6) In this paragraph “the special land provisions” means the provisions of Part III of Schedule 1 to the Act of 1946 as applied by virtue of this Schedule, and “the relevant requirements”, in relation to an order or certificate, means any requirements of this Schedule or of the special land provisions which are applicable to that order or certificate.

1946 c. 49.

15. In this Part of this Schedule “the Act of 1946” means the Acquisition of Land (Authorisation Procedure) Act, 1946.

SCHEDULE 3

Section 31.

DESCRIBING LANDS IN RESPECT OF WHICH SUBSOIL OR EASEMENTS MAY
 BE TAKEN AS PROVIDED BY SECTION 31 (POWER TO ACQUIRE SUBSOIL OR
 EASEMENTS ONLY IN CERTAIN CASES) OF THIS ACT

Area (1)	No. on deposited plans (2)
The city	2 to 12, 14 to 19, 21, 22, 26, 30 to 38, 41 to 44, 49, 50, 50A, 50B, 51 to 76, 78 to 83, 85, 87 to 93, 95 to 99, 103, 108 to 111, 116, 129, 130, 132, 134 to 137, 139, 143, 145 to 148, 192, 193, 197 to 203, 205 to 207, 209, 210, 217, 218, 220 to 224, 249 to 265, 268 to 293, 306, 307, 321 to 324, 327 to 330, 332 to 339, 341 to 344, 385 to 387.
The county borough of Stockport ...	2 to 15.
The borough of Prestwich	1.
The borough of Radcliffe	2, 4, 6, 8, 13, 15, 18, 20, 22.

Section 32.

SCHEDULE 4

LANDS REFERRED TO IN SECTION 32 (SUBSOIL OR EASEMENTS ONLY TO BE
ACQUIRED UNDER CERTAIN LANDS) OF THIS ACT

Area (1)	No. on deposited plans (2)
The city	77, 84, 86, 94, 100, 104 to 107, 114, 115, 117 to 128, 131 133, 138, 140 to 142, 144, 149 to 191, 194 to 196, 204, 208 211 to 216, 225 to 248, 266 267, 294 to 305, 308 to 320

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 PRINTED IN ENGLAND BY OYEZ PRESS LTD.

FOR C. H. BAYLIS, C.B.

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

Selnece (Manchester Central Area Railway, &c.) Act 1972

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