

ELIZABETH II



1981 CHAPTER xxxv

An Act to empower the British Railways Board to construct works and to acquire lands; to empower Sealink U.K. Limited to construct works and to acquire lands; to confer further powers on the Board; and for other purposes.

[22nd December 1981]

WHEREAS—

(1) By the Transport Act 1962 the British Railways Board 1962 c. 46. (hereinafter referred to as “the Board”) were established:

(2) It is the duty of the Board under the said Act of 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 the Board 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:

(3) It is expedient that the Board should be empowered to construct the works authorised by this Act and to purchase the lands referred to in this Act:

(4) By the British Rail Shipping and Harbours Scheme 1979, made by the Board in exercise of their powers under section 7

1968 c. 73.

of the Transport Act 1968, there were transferred from the Board to Sealink U.K. Limited (a wholly-owned subsidiary of the Board and hereinafter referred to as "the company") on 1st January 1979 (inter alia) all the property, rights and liabilities comprised in those parts of the undertaking of the Board connected with their shipping and international services and harbours which immediately before that date were managed and directed by the Shipping and International Services Division of the Board:

(5) It is expedient that the company should be empowered to construct the further works authorised by this Act and to purchase the further lands referred to in this Act:

(6) It is expedient that the other powers in this Act contained should be conferred upon the Board, the company, the Tyne and Wear Passenger Transport Executive and the National Coal Board as therein provided, and that the other provisions in this Act contained should be enacted:

(7) 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 purchased 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 and with the proper officers of the Greater London Council and of the county councils of the several counties within which the said works will be constructed or the said lands are situated, 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:

(8) 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 British Railways (No. 2) Act 1981.

Interpretation.

2.—(1) In this Act, unless there be something in the subject or 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—

PART I
—cont.

- “ the Act of 1839 ” means the Highway (Railway Crossings) Act 1839; 1839 c. 45.
- “ the Act of 1842 ” means the Railway Regulation Act 1842; 1842 c. 55.
- “ 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 1963 ” means the British Railways Act 1963; 1963 c. xviii.
- “ the Act of 1967 ” means the British Railways Act 1967; 1967 c. xxx.
- “ the (No. 2) Act of 1975 ” means the British Railways (No. 2) Act 1975; 1975 c. xxix.
- “ the Act of 1976 ” means the British Railways Act 1976; 1976 c. xxv.
- “ the Act of 1977 ” means the British Railways Act 1977; 1977 c. xvii.
- “ the Board ” means the British Railways Board;
- “ 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 limits of deviation ” means the limits of deviation shown on the deposited plans;
- “ the specified enactments ” means the Act of 1839, section 9 of the Act of 1842, section 47 of the Act of 1845, sections 5, 6 and 7 of the Act of 1863 and any other provision to the same or similar effect incorporated with, or contained in, any enactment;
- “ telegraphic line ” has the meaning assigned to it by section 2 of the Telegraph Act 1878; 1878 c. 76.
- “ traffic sign ” has the meaning assigned to it by section 54 of the Road Traffic Regulation Act 1967; 1967 c. 76.
- “ the tribunal ” means the Lands Tribunal;
- “ the works ” means the works authorised by Part II (Works, etc.) of this Act.

(2) All directions, 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 direction, distance and length and distances between points on a railway shall be taken to be measured along the railway.

PART I
—cont.

(3) 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.

(4) References in this Act to reference points shall be construed as references to ordnance survey National Grid reference points.

Incorporation
of general
Acts.

3. The following enactments, 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 1, 7, 8, 9, 11, 12, 15, 17, 19, 20, 22 and 23 thereof, and Part I (relating to the construction of a railway), except sections 13 to 19 thereof, of the Act of 1863:

Provided that—

- (i) for the purposes of the provisions of the Act of 1845 and the Act of 1863, as incorporated with this Act—
 - (a) the expression “the company” where used in the said incorporated provisions means the Board;
 - (b) The existing railway, as defined in subsection (1) of section 6 (Railway at Westbury) of this Act, shall be deemed to be a railway authorised by the special Act;
- (ii) for the purposes of sections 16 and 30 to 44 of the Act of 1845, as incorporated with this Act, Works Nos. 11 and 12 shall be deemed to be railways authorised by the special Act;
- (iii) for the purposes of sections 30 to 44 of the Act of 1845, as incorporated with this Act, Work No. 13 shall be deemed to be a railway authorised by the special Act and the expression “the company” where used in the said sections 30 to 44 shall for the purposes of Work No. 13 mean Sealink U.K. Limited;
- (iv) the provisions of sections 18 and 21 of the Act of 1845, as incorporated with this Act, shall not extend to regulate the relations between the Board and any other person in respect of any matter or thing concerning which those relations are regulated in any respect by the provisions of—
 - (a) Part II of the Public Utilities Street Works Act 1950;
 - (b) section 33 (For protection of gas, water and electricity undertakers) of the Act of 1963, as incorporated with this Act; or
 - (c) section 45 (For further protection of certain gas, water and electricity undertakers) of the Act of 1967, as incorporated with this Act.

4.—(1) Part I of the Compulsory Purchase Act 1965 (except sections 4 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 purchase 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.

PART I
—cont.

Application
of Part I of
Compulsory
Purchase
Act 1965.
1965 c. 56.
1946 c. 49.

(2) In section 11 (1) of the Compulsory Purchase Act 1965 (which empowers the acquiring authority to enter on and take possession of land the subject of a notice to treat after giving not less than 14 days' notice), as so applied, for the words "fourteen days" there shall be substituted the words "three months".

(3) The Lands Clauses Consolidation Act 1845 shall not apply to the purchase of land under this Act.

PART II

WORKS, ETC.

5. Subject to the provisions of this Act, the Board may, in the lines or situations and within the limits of deviation 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
make works.

In the county of Bedfordshire—

In the borough of Luton—

Work No. 2 A railway (2,089 metres in length), being a deviation of the Luton and Dunstable railway, commencing by a junction with the said railway at a point 104 metres east of the level crossing whereby Chaul End Lane is crossed by that railway and terminating by a junction with the said railway at a point 68 metres west of the bridge carrying that railway over Dunstable Road:

(Deviation
railway at
Luton)

In the county of Derbyshire—

In the borough of Chesterfield—

In the parish of Staveley—

Work No. 3 A railway (531 metres in length) commencing by a junction with the Ireland Colliery and Clowne railway at a point 80 metres

(Railway at
Staveley)

PART II
—cont.

east of the bridge carrying Eckington Road over the said railway and terminating by a junction with the Arkwright Colliery railway at a point 18 metres south of the bridge carrying the road known as Lowgates over the last-mentioned railway:

In the county of Dyfed—

In the borough of Llanelli—

In the community of Kidwelly—

(Railway at
Kidwelly)

Work No. 4 A railway (542 metres in length) commencing at a point 25 metres east of the level crossing known as Kidwelly crossing whereby the road between Pembrey Road (A.484) and the foreshore of Carmarthen Bay is crossed by the railway between Carmarthen and Paddington and terminating by a junction with that railway at a point 566 metres south-east of the said level crossing:

(Railway at
Kidwelly)

Work No. 5 A railway (1,558 metres in length) commencing by a junction with the commencement of Work No. 4 and terminating by a junction with the Burry Port and Gwendraeth Valley railway at a point 801 metres east of the bridge carrying Pembrey Road (A.484) over the course of the former western continuation of that railway.

Railway at
Westbury.

1894
c. cxliii.

6.—(1) In this section “the existing railway” means so much of the railway in the parish of Westbury in the district of West Wiltshire in the county of Wiltshire (being the Stert and Westbury Line of the Board) authorised as Railway No. 8 by section 4 (Power to make new railways and works) of the Great Western Railway (No. 1) Act 1894 as was constructed outside the limits of deviation for that railway and is shown coloured pink on the deposited plans.

(2) The Board may maintain the existing railway which shall for all purposes form part of the undertaking of the Board.

(3) Subject to the provisions of this Act, the Board may, in the line and situation and within the limit of deviation shown on the deposited plans and according to the levels shown on the deposited sections, make and maintain the work hereinafter described with all necessary works and conveniences connected therewith:—

Work No. 10 A railway (483 metres in length), being a deviation of the existing railway, commencing by a junction with the railway between Taunton and Trowbridge at a point 25 metres north-east of the bridge carrying Station Road over the said railway and terminating by a junction with the existing railway at a point 10 metres west of the bridge carrying the existing railway over Slag Lane.

PART II
—cont.

(Deviation
railway)

7.—(1) Subject to the provisions of this Act (and, in so far as the same are shown on the deposited plans, in the lines or situations as shown), the Board may make and maintain the works described in this section with all necessary works and conveniences connected therewith and exercise the powers hereinafter mentioned:—

Further works
and powers.

(a) In Greater London—

In the London borough of Newham—

Stop up and discontinue so much of the footpath between Abbey Road and Bakers Row, Stratford, as crosses the railway between Stratford and North Woolwich by means of a footbridge between the points marked "A" and "B" on the deposited plans and substitute therefor a new footpath between the points marked "B" and "C" in the position shown on the deposited plans:

(b) In the metropolitan county of West Midlands—

In the borough of Dudley—

Stop up and discontinue so much of the footpath between St. Johns Road and Vauxhall Road, Stourbridge, as crosses the railway at Stourbridge Town station by means of a footbridge between the points marked "A", "B", "C", and "D" on the deposited plans and substitute therefor a new footpath between the points marked "A" and "E" in the position shown on the deposited plans:

(c) In the county of Essex—

In the district of Braintree—

Stop up and discontinue so much of the road known as Cut Throat Lane, Witham, which is crossed by the railway between Witham and Braintree stations at the level crossing known as Cut Throat Lane crossing (reference point TL 8221:1547), as lies within the boundaries of their property:

PART II
—cont.

(d) In the county of Oxfordshire—

In the parish of Steventon in the district of Vale of White Horse—

Stop up and discontinue so much of the footpath known as Little Lane which is crossed by the railway between Didcot and Swindon stations at the level crossing known as Little Lane crossing (reference point SU 4674:9162), as lies within the boundaries of their property.

(2) Notwithstanding anything in section CCLXXXI (Providing a Foot Bridge at the West Ham Abbey Lane) of the Act 7 & 8 Vict. c. lxxi (1844) intituled “An Act for making a Junction Railway from the Eastern Counties Railway at Stratford in the County of Essex to the River Thames, with a Branch Railway therefrom; and for constructing a Pier in the River Thames”, the Board shall not be required to maintain the footbridge referred to in paragraph (a) of subsection (1) of this section.

(3) (a) The stopping up under paragraph (c) of subsection (1) of this section of Cut Throat Lane crossing shall not affect the right of persons to use the same as a bridleway or on foot and the Board shall provide and maintain for the convenience of such persons wicket gates on both sides of the railway at the said crossing.

(b) The provisions of the specified enactments relating to Cut Throat Lane crossing shall cease to apply to that crossing as from the stopping up of that crossing under paragraph (c) of subsection (1) of this section.

Power to deviate.

8. In the execution of any, or any part, of the works the Board may deviate from the lines or situations thereof shown on the deposited plans to the extent of the limits of deviation of those works and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding 3 metres upwards and 3 metres downwards or to such further extent as may be found necessary or convenient and as may be sanctioned by the Secretary of State.

Stopping up roads, bridleways and footpaths without providing substitute.

9.—(1) Where this Act authorises the stopping up of a road, bridleway or footpath or portion thereof without providing a substitute, such stopping up shall not take place (except as to so much of the road, bridleway or footpath or portion thereof authorised to be stopped up as is bounded on both sides by lands of the Board) without the consent of the owners, lessees and occupiers of the houses and lands abutting on both sides thereof.

(2) After any such stopping up under subsection (1) of this section all rights of way over or along the road, bridleway or

footpath or portion thereof authorised to be stopped up shall be extinguished.

PART II
—cont.

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

10.—(1) Where this Act authorises—

(a) the diversion of an existing road, bridleway or footpath;
or

(b) the making of a new road, bridleway or footpath and the stopping up of an existing road, bridleway or footpath or portion thereof;

Stopping up
roads,
bridleways
and footpaths
in case of
diversion or
substitution.

the stopping up of the existing road, bridleway or footpath shall not in any case take place until the highway authority are satisfied that the new road, bridleway 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 Board 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 arbitration.

(2) Before referring a matter to arbitration under this section, the Board shall give to the highway authority seven days' notice in writing of their intention to do so.

(3) As from the completion to the satisfaction of the highway authority of the new road, bridleway or footpath, or as from the date of the determination by arbitration of any difference under subsection (1) of this section, as the case may be, all rights of way over or along the existing road, bridleway or footpath or portion thereof authorised to be diverted or stopped up shall be extinguished.

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

11. After a road, bridleway or footpath or portion thereof is diverted or stopped up under either section 9 (Stopping up roads, bridleways and footpaths without providing substitute) or section 10 (Stopping up roads, bridleways and footpaths in case of diversion or substitution) of this Act, the Board may, subject to the provisions of the Act of 1845 with respect to mines lying under or near the railway as far as the said road, bridleway or footpath or portion thereof is bounded on both sides by lands of the Board,

Appropriating
sites of roads,
bridleways
and footpaths.

PART II
—cont.

appropriate without making any payment therefor and use for the purposes of their undertaking the site thereof.

Repair of
roads,
bridleways
and footpaths.

12. Any road, bridleway or footpath or portion thereof made, diverted or altered under this Act (except the structure carrying any such road, bridleway or footpath over any railway of the Board, which structure shall, unless otherwise agreed, be maintained by and at the expense of the Board) shall when completed, unless otherwise agreed, be maintained by and at the expense of the highway authority.

Agreements
between
Board and
highway
authorities.

13.—(1) When a road, bridleway or footpath or portion thereof will be altered or stopped up or interfered with under this Act, the Board may enter into and carry into effect agreements with the highway authority in reference to the construction or contribution towards the costs of such alteration or of any new road, bridleway or footpath to be made under this Act and in reference to any other matters relating thereto.

(2) The Board may by agreement delegate to the highway authority the power of constructing and maintaining all or any of such alterations or new road, bridleway or footpath in which they may be interested including the structure of any bridge over or under any railway.

(3) The purposes of this section shall be deemed to be purposes for which a highway authority may incur expenditure and borrow money.

Temporary
stoppage of
roads,
bridleways
and footpaths.

14.—(1) The Board during and for the purpose of the execution of the works may temporarily stop up and divert and interfere with any road, bridleway or footpath 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 road, bridleway or footpath from passing along and using the same.

(2) The Board shall provide reasonable access for persons on foot bona fide going to or from any such land, house or building.

(3) The Board shall not exercise the powers of this section without the consent of the highway authority but such consent shall not be unreasonably withheld and any question as to whether such consent has been unreasonably withheld shall be referred to and settled by arbitration.

(4) The Board shall not exercise the powers of this section with respect to any road unless they have given not less than 21 days' previous notice in writing of their intention so to do to—

(a) the traffic commissioners in whose area the road is situate; and

(b) the operator over that road of a local service as defined in the Public Passenger Vehicles Act 1981;

PART II
—cont.

except in case of emergency when such notice as is practicable shall be given. 1981 c. 18.

(5) The exercise by the Board of the powers of this section in relation to any road, bridleway or footpath shall not prejudice or affect the right of British Telecommunications under the Telegraph Acts 1863 to 1916 to maintain, inspect, repair, renew or remove telegraphic lines or break open that road, bridleway or footpath for any of those purposes.

15.—(1) The Board at their own costs and charges may, subject as hereinafter provided, underpin or otherwise strengthen any house or building within 35 metres of any of the works and the following provisions shall have effect:— Underpinning
of buildings
near works.

(a) At least 14 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;

(b) Each such notice shall be served in manner prescribed by section 30 of the Compulsory Purchase Act 1965, 1965 c. 56. as applied by this Act;

(c) If any owner, lessee or occupier of any such house or building shall, within 10 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;

(d) In any case in which any house or building shall have been underpinned or strengthened under the powers of this section the Board 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 that work, 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;

(e) The Board 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 of this section;

(f) Nothing in this section nor any dealing with any property under this section shall relieve the Board from the liability to compensate under section 10 (2) of the Compulsory Purchase Act 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

PART II
—cont.

than works of underpinning or strengthening authorised by this section;

- (g) 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.

(2) The Board shall, so far as is reasonably practicable, so exercise the powers of this section as not to obstruct or render less convenient the access to any telegraphic line belonging to, or used by, British Telecommunications.

Use of sewers,
etc., for
removing
water.

16.—(1) In this section “relevant authority” means a water authority, an internal drainage board or a local authority and for that purpose “local authority” means a county council, the Greater London Council, a district council, a London borough council or the Common Council of the City of London.

(2) The Board may use for the discharge of any water pumped or found by them during the construction of the works any available stream or watercourse, or any sewer or drain of a relevant authority in or through whose area or district, as the case may be, the works may be constructed or pass, and for that purpose may lay down, take 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:

Provided that—

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

1951 c. 64.

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

1974 c. 40.

(b) On the coming into force of section 31 of the Control of Pollution Act 1974 paragraph (a) of this subsection shall cease to have effect and the said section 31 shall apply to, or to the consequence of, a discharge under the powers of this section into any relevant waters for the purposes of the said section 31 as if this section were excluded from the reference to any provision of a local Act mentioned in subsection (2) (b) (ii) of the said

section 31 and as if no matter so discharged were trade or sewage effluent or other matter mentioned in subsection (2) (e) of the said section 31.

PART II
—cont.

(c) In the exercise of their powers under this section the Board shall not damage or interfere with the bed of any watercourse forming part of the main river of a water authority or the banks thereof within the meaning of section 116 of the Land Drainage Act 1976 or forming part of a metropolitan watercourse within the meaning assigned to that expression by paragraph 1 of Schedule 5 to that Act. 1976 c. 70.

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

(5) Any difference arising between the Board and a relevant authority, as the case may be, under this section shall be settled by arbitration.

17.—(1) As from the passing of this Act—

Reduction in
status of
certain level
crossings.

(a) all rights of way over the level crossings referred to in Part I of Schedule 1 to this Act, other than a right for all persons to use those level crossings as a bridleway or on foot, shall be extinguished and the Board shall provide and maintain for the convenience of such persons gates on both sides of the railway at each of the said level crossings; and

(b) all rights of way over the level crossing referred to in Part II of the said schedule, other than a right for all persons to use that level crossing on foot, shall be extinguished and the Board shall provide and maintain for the convenience of such persons wicket gates or stiles on both sides of the railway at the said level crossing.

(2) The provisions of the specified enactments relating to the level crossings referred to in Schedule 1 to this Act shall cease to apply to those level crossings.

(3) As from the passing of this Act, the level crossings referred to in Schedule 1 to this Act (including the gates thereof, other than the gates provided under subsection (1) of this section) shall be deemed to be works provided by the Board at the passing of this Act under section 68 of the Act of 1845 for the accommodation of the owners and occupiers of the lands adjoining the railway and, for the purposes of this subsection, such owners and occupiers shall be deemed to include the owners and occupiers of any lands the use of which would have been interrupted if such level crossings had been closed at the passing of this Act.

PART II
—cont.

(4) If any part of the road crossed by the railway at the level crossings referred to in Schedule 1 to this Act shall in consequence of the provisions of this section cease to be a road over which the public have a right of way for the passage of vehicles, the owners and occupiers of the lands abutting on such part shall be deemed to have such rights of passage thereover as shall be necessary to enable them to pass and repass to and from the said lands from and to such level crossing.

(5) Any person who suffers loss by the extinguishment under this section of such private rights of way (if any) as may exist over the level crossings referred to in Schedule 1 to this Act shall be entitled to be paid by the Board compensation to be determined in case of dispute by the tribunal.

Sandscale
level crossing,
Barrow-in-
Furness.

18.—(1) (a) In this section “the level crossing” means the accommodation level crossing in the borough of Barrow-in-Furness in the county of Cumbria known as Sandscale crossing (reference point SD 1968:7363) whereby the accommodation road from the road between Thwaite Flat and Barrow-in-Furness known as Park Road to the premises of British Cellophane Limited on the west side of the railway between Askam and Barrow stations is crossed by that railway.

1967 c. 76.
1972 c. 20.

(b) For the purpose of the application of section 54 of the Road Traffic Regulation Act 1967 and section 22 of the Road Traffic Act 1972 to a traffic sign provided under subsection (3) of this section, the said accommodation road shall be deemed to be a road within the meaning of the said Acts of 1967 and 1972.

(2) Notwithstanding the provisions of sections 68 and 75 of the Act of 1845 or any other enactment, the Board may remove the vehicular gates at the level crossing.

(3) If the vehicular gates at the level crossing are removed under subsection (2) of this section the Board shall, subject to such requirements as the Secretary of State may from time to time lay down, provide, maintain and operate at or near the level crossing such road traffic lights, traffic signs and automatic or other devices and appliances as may be approved by the Secretary of State.

(4) Nothing in this section shall impose on a highway authority any liability in respect of a traffic sign provided under subsection (3) of this section.

PART III

LANDS

Purchase of
lands.

19.—(1) Subject to the provisions of this Act, the Board may purchase compulsorily 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 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 Board by subsection (1) of this section, the Board may, subject to the provisions of this Act, purchase compulsorily and use for the purposes specified in column (3) of Schedule 2 to this Act all or any of the lands referred to in columns (1) and (2) of that schedule.

(3) Subject to the provisions of this Act, the Board 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 mentioned in subsection (1) of this section without being required to purchase the same or any easement or other right therein or thereunder or to make any payment therefor.

20.—(1) In this section “new rights” in relation to any land means easements or other rights over such land which are not in existence at the passing of this Act. Purchase of rights over lands.

(2) The Board may, for the purpose of constructing, maintaining, altering, renewing and using the works, purchase compulsorily such new rights as they may require over any of the lands which may be purchased under section 19 (Purchase of lands) of this Act instead of purchasing those lands under that section.

(3) The Compulsory Purchase Act 1965, as applied by this Act, shall have effect with the modifications necessary to make it apply to the compulsory purchase of new rights under subsection (2) of this section as it applies to the compulsory purchase of land so that, in appropriate contexts, references in the said Act of 1965 to land are read as referring, or as including references, to the new rights or to land over which the new rights are, or are to be, exercisable, according to the requirements of the particular context. 1965 c. 56.

(4) Without prejudice to the generality of subsection (3) of this section, in relation to the purchase of new rights under subsection (2) of this section—

- (a) Part I of the Compulsory Purchase Act 1965 shall have effect with the modifications specified in Schedule 3 to this Act;
- (b) the enactments relating to compensation for the compulsory purchase of land shall apply with the necessary modifications as they apply to such compensation.

21.—(1) All private rights of way over any land which may be purchased compulsorily under this Act shall be extinguished on the purchase of the land, whether compulsorily or by agreement Extinction or suspension of private rights of way.

PART III
—cont.
1965 c. 56.

or on the entry on the land under section 11 (1) of the Compulsory Purchase Act 1965, as applied by this Act, whichever is sooner.

(2) All private rights of way over any land of which the Board may take temporary possession under this Act shall be suspended and unenforceable against the Board for so long as the Board shall remain in lawful possession thereof.

(3) Any person who suffers loss by the extinguishment or suspension of any right under this section shall be entitled to be paid by the Board compensation to be determined in case of dispute under and in accordance with the Land Compensation Act 1961.

1961 c. 33.

Purchase of
part of certain
properties.

22.—(1) Where a copy of this section is endorsed on, or annexed to, a notice to treat served under the Compulsory Purchase Act 1965, as applied by this Act, the following provisions of this section shall apply to the land subject to the notice instead of section 8 (1) 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 21 days after the day on which the notice is served on him, serves on the Board 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 Board 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 21 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 Board are authorised to purchase compulsorily under this Act.

(6) If the Board 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 the land is land which the Board are authorised to purchase 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 Board 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 Board 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.

23. In determining a question with respect to compensation claimed in consequence of the compulsory purchase of land under this Act, the tribunal shall not take into account—

Disregard of recent improvements and interests.

- (a) any interest in land; or
- (b) any enhancement of the value of any interest in land;

PART III
—cont.

by reason of any building erected, works executed or improvement or alteration made (whether on the land purchased or on any other land with which the claimant is, or was at the time of the 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.

Correction of errors in deposited plans and book of reference.

24.—(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 Board after giving not less than 10 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 of the House of Commons, and with the proper officer or chairman of a local authority with whom a copy of the deposited plans (or so much thereof as includes the land to which the certificate relates) has been deposited in accordance with the Standing Orders of the Houses of Parliament, or who has the custody of any such copy so deposited; 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 Board 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.

Cellars under streets not referenced.

25. Nothing in this Act shall authorise the Board to purchase compulsorily or use (except by agreement) any cellar or vault in or under any street belonging to or connected with any building unless the cellar or vault or the building with which it is connected is described in the deposited book of reference.

Time for purchase of lands and rights over lands.

26. The powers of the Board for the compulsory purchase of the lands and rights over lands which they are authorised by this Act to purchase shall cease on 31st December 1986.

PART IV

PROTECTIVE PROVISIONS

27. The following provisions of the under-mentioned Acts are incorporated with, and form part of this Part of, this Act:—

Incorporation
of protective
provisions.

The Act of 1963—

Section 33 (For protection of gas, water and electricity undertakers);

The Act of 1967—

Section 45 (For further protection of certain gas, water and electricity undertakers):

Provided that—

(i) the definition of "undertakers" in paragraph (1) of the said section 33 of the Act of 1963 and in paragraph (1) of the said section 45 of the Act of 1967, as so incorporated, shall be construed as including a water authority in their capacity as an authority authorised by an enactment to carry on an undertaking for the supply of water within their area and in their capacity as the authority having the duties, within their area, imposed by section 10 of the Water Act 1973, and paragraph (b) of the definition of "apparatus" in the said sections 33 and 45 shall be construed accordingly; 1973 c. 37.

(ii) in the said section 45 of the Act of 1967, as so incorporated—

(a) the reference in paragraph (2) thereof to section 11 (Underpinning of houses near works) of the Act of 1967 shall be construed as a reference to section 15 (Underpinning of buildings near works) of this Act;

(b) the reference in paragraph (3) thereof to section 12 (Temporary stoppage of roads and footpaths) of the Act of 1967 shall be construed as a reference to section 14 (Temporary stoppage of roads, bridleways and footpaths) of this Act;

(c) for the reference in paragraph (4) thereof to section 17 (Use of sewers, etc., for removing water) of the Act of 1963 as incorporated by section 13 (Incorporation of provisions of Act of 1963 relating to works) of the Act of 1967 there shall be substituted a reference to section 16 (Use of sewers, etc., for removing water) of this Act.

PART IV
—cont.For
protection of
British Gas
Corporation.

28. For the protection of the British Gas Corporation (in this section referred to as "the corporation") the following provisions shall, unless otherwise agreed in writing between the Board and the corporation, apply and have effect:—

(1) In this section—

"the drainage works" means the drainage improvements to the railway on or in the scheduled lands;

"the main" means the corporation's 15-inch gas main situate in lands adjacent to the scheduled lands;

"plans" includes sections, specifications and particulars;

"the railway" means the Board's railway between Taunton and Bristol;

"the scheduled lands" means the lands referred to in columns (1) and (2) of Schedule 2 to this Act:

(2) (a) Not less than 28 days before commencing to carry out the drainage works the Board shall submit to the corporation for their reasonable approval plans thereof;

(b) If the corporation do not within 28 days after the submission to them of any such plans indicate in writing to the Board any objections thereto or make any requirement with reference thereto, they shall be deemed to have approved thereof;

(c) The corporation may require such modifications to be made in the said plans as may be reasonably necessary to secure the main against interference or risk of damage and to provide and secure proper and convenient means of access to the main:

(3) The drainage works shall not be carried out otherwise than in accordance with such plans as may be approved by the corporation (or, if such approval be refused, as may be settled by arbitration) and in accordance with such reasonable conditions as may be imposed by the corporation:

(4) Any difference arising between the Board and the corporation under this section shall be settled by arbitration.

For
protection
of British
Telecom-
munications.

29. For the protection of British Telecommunications (in this section referred to as "the corporation") the following provisions shall, unless otherwise agreed in writing between the Board and the corporation, apply and have effect:—

(1) As soon as practicable after the whole or part of a road has been stopped up and discontinued by the Board

under the powers conferred by paragraph (c) of subsection (1) of section 7 (Further works and powers) of this Act, the Board shall send by post to the corporation a notice informing it of such stopping up and discontinuance:

- (2) Where under the said section 7 the Board stop up or discontinue the whole or any part of a road the following provisions of this paragraph shall have effect in relation to so much of any telegraphic line belonging to or used by the corporation as is under, in, upon, over or across the land which by reason of the stopping up and discontinuance ceases to be a road (in this paragraph referred to as "the affected line"):

(a) the power of the corporation to remove the affected line shall be exercisable notwithstanding the stopping up and discontinuance 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 (1) of this section unless before the expiration of that period the corporation has given notice to the Board of its intention to remove the affected line or that part thereof, as the case may be, within such reasonable period as may be specified in the said notice given to the Board;

(b) the corporation may by notice in that behalf to the Board 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 corporation has removed it or given notice of its intention to remove it;

(c) the corporation shall be entitled to recover from the Board 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 it may reasonably require;

(d) where under sub-paragraph (b) of this paragraph the corporation has abandoned the whole or any part of the affected line it shall vest in the Board and the provisions of the Telegraph Acts 1863 to 1916 shall not apply in relation to it as respects anything done or omitted after the abandonment thereof.

PART IV
—cont.For
protection
of National
Coal Board.

30. For the protection of the coal board, the following provisions shall, unless otherwise agreed in writing between the Board and the coal board, apply and have effect:—

(1) In this section—

“ the coal board ” means the National Coal Board;

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

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

(2) (a) Whenever any unworked coal vested in the coal board is encountered in the course of the construction or maintenance of the works the Board shall give notice thereof to the coal board;

(b) The Board 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 coal board so require, shall make the coal available to the coal board at a place convenient for the purpose;

(c) The Board may dispose of any coal which the coal 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 coal board:

(3) The Board shall discharge all duties and obligations of the coal board under section 151 of the Mines and Quarries Act 1954, relating to shafts and outlets of mines where such shafts and outlets are in or on land purchased under section 19 (Purchase of lands) of this Act or occupied under section 20 (Purchase of rights over lands) of this Act:

Provided that—

(i) this paragraph shall only apply to a shaft or outlet which is in or on land occupied permanently by the Board for the purpose of the works;

(ii) where any such shaft or outlet has not been covered or fenced by the coal board under the said section 151 the coal board shall pay to the Board such sum as represents the reasonable cost to the coal board of discharging their duties and obligations under that section in relation to such shaft or outlet:

(4) Any difference arising between the Board and the coal board under this section shall be referred to and settled by arbitration.

1946 c. 59.

1954 c. 70.

31. For the protection of the Welsh Water Authority the following provisions shall, unless otherwise agreed in writing between the Board and the authority, apply and have effect:—

PART IV
—cont.

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

For
protection
of Welsh
Water
Authority.

“ the authority ” means the Welsh Water Authority;

“ banks ” has the same meaning as in the Land Drainage Act 1976;

1976 c. 70.

“ construction ” includes execution, placing and altering and, in relation to temporary works, includes removal; and “ construct ” and “ constructed ” shall be construed accordingly;

“ plans ” means detailed plans, drawings, sections and specifications;

“ sewer ” means a sewer within the meaning of the Public Health Act 1936 vested in or under the jurisdiction or control of the authority and includes any manholes, ventilating shafts, pumps or other accessories belonging to or forming part of a sewer;

1936 c. 49.

“ specified work ” means so much of Works Nos. 4 and 5, or any work (whether temporary or permanent) forming part of, or constructed in connection with, those works under the powers of this Act as will or may interfere with or affect (either directly or indirectly) a watercourse, and includes the maintenance or renewal of any specified work;

“ watercourse ” includes a main river and any other river and any stream, ditch, drain, cut, culvert, dyke, sluice, sewer (other than a public sewer within the meaning of the Public Health Act 1936 vested in or under the jurisdiction or control of the authority) or passage through which water flows and the banks thereof;

(b) The plans to be submitted under this section shall describe the exact position and manner in which, and the level at which, any specified work is proposed to be constructed:

(2) (a) No specified work shall be constructed so as to diminish the width between the banks of any watercourse except with the consent in writing of the authority which consent shall not be unreasonably withheld;

(b) In the construction and maintenance of the specified works the Board shall provide, to the reasonable satisfaction of the authority, such culverts and other drainage works as may be reasonably required for land drainage and the protection of watercourses:

PART IV
—cont.

- (3) The Board shall not commence any specified work until they shall have given to the authority two months' previous notice in writing of their intention to commence the same, by leaving such notice at the principal office of the authority with plans, and until the authority shall have signified their approval of the plans:
- Provided that such approval shall not be unreasonably withheld and if, within two months after the submission of the plans, the authority have not signified to the Board their approval or disapproval thereof, they shall be deemed to have approved the plans:
- (4) The Board shall comply with and conform to all reasonable orders, directions and regulations of the authority in the execution of any specified work and shall provide new, altered or substituted works in such manner as the authority shall reasonably require for the proper protection of, and for preventing injury or impediment to any watercourse by reason of any specified work and shall save harmless the authority against all expenses to be occasioned thereby:
- (5) (a) The specified works and all such new, altered or substituted works shall be constructed only in accordance with such plans as may be approved or be deemed to be approved by the authority as aforesaid or settled by arbitration, subject however to any modification of those plans from time to time agreed upon between the engineer of the Board and the engineer of the authority, and be constructed to the reasonable satisfaction of the authority who shall be given reasonable notice of the date and time on and at which any new, altered or substituted works are to be commenced;
- (b) The Board shall indemnify the authority against all costs, charges and expenses which the authority may reasonably incur or have to pay or which they may sustain in the preparation or examination of plans:
- (6) 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 authority in relation to any watercourse but all such rights, powers and authorities shall be as valid and effectual as if this Act had not been passed:
- (7) The Board shall indemnify the authority against all claims, demands, costs, expenses, damages or loss which may be made on or against the authority or which the authority may incur or have to pay or which

they may sustain in consequence of the construction, maintenance or renewal of a specified work or of the failure or want of repair thereof or any subsidence caused by the construction of any specified work or in consequence of any act or omission of the Board, their contractors, agents, workmen or servants, whilst engaged upon the specified work:

PART IV
—cont.

Provided that—

(i) the authority shall give to the Board reasonable notice of any such claim or demand as aforesaid and no settlement or compromise thereof shall be made without the agreement in writing of the Board; and

(ii) nothing in this paragraph shall impose any liability on the Board with respect to any claim, demand, costs, expenses, damage or loss which is attributable to the act, neglect or default of the authority or their servants or agents:

(8) Notwithstanding the temporary stopping up or diversion of any road or footpath under the powers of section 14 (Temporary stoppage of roads, bridleways and footpaths) of this Act, the authority shall be at liberty at all times to execute and do all such works and things in, upon or under any such road, bridleway or footpath as may be reasonably necessary or desirable to enable them to inspect, repair, maintain, renew, remove or use any sewer which at the time of the stopping up or diversion was in that road, bridleway or footpath:

(9) In the exercise of the powers conferred on them by section 16 (Use of sewers, etc., for removing water) of this Act the Board shall not (without prejudice to their obligations under paragraph (c) of subsection (3) of the said section 16) damage or interfere with the bed of any watercourse (other than a main river) or the banks thereof within the meaning of section 116 of the Land Drainage Act 1976:

1976 c. 70.

(10) It shall be lawful for an officer of the authority duly appointed for the purpose at any reasonable time to enter upon and inspect any specified work or any other work constructed under the powers of this section:

(11) The fact that any specified work has been executed in accordance with plans approved or not objected to by the authority or to their satisfaction or in accordance

PART IV
—cont.

with any directions or award of an arbitrator shall not relieve the Board from any liability under the provisions of this section:

- (12) As soon as reasonably practicable after the completion of the construction of a specified work the Board shall deliver to the authority a plan and section showing the position and level of that work as constructed:
- (13) Any difference arising between the Board and the authority under this section shall be settled by arbitration.

Notice of
interference
with roads.

32. Before breaking up or otherwise interfering with any road to which the public has access in connection with the construction of any works under the powers of this Act, the Board shall (except in case of emergency) give 14 days' notice in writing to the chief officer of police and make such arrangements with him as may be reasonably necessary so as to cause as little interference with the traffic in such road during the construction of such works as may be reasonably practicable.

Crown
rights.

33.—(1) Nothing in this Act affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing in this Act authorises the Board to take, use, enter upon or in any manner interfere with, any land or hereditaments or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary)—

- (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those commissioners; or
- (b) belonging to Her Majesty in right of Her Duchy of Lancaster, without the consent in writing of the Chancellor for the time being of the said duchy; or
- (c) belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.

(2) A consent under subsection (1) of this section may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.

PART V

PARKESTON QUAY

Interpretation

34. In this Part of this Act—

Interpretation
of Part V.

“ the appropriate authority ” means—

(a) in relation to the Board's works and to any land in respect of which powers for compulsory purchase are conferred upon the Board by section 35 (Power to Board to make works and purchase lands) of this Act, the Board;

(b) in relation to the company's works and to any land in respect of which powers for compulsory purchase are conferred upon the company by section 36 (Power to Sealink U.K. Limited to make works and purchase lands) of this Act, the company;

“ the Board's works ” means Works Nos. 11 and 12 and any works, apparatus or conveniences constructed or provided by the Board as part of, or in connection with, or for the purposes of, those works or either of them;

“ the company ” means Sealink U.K. Limited;

“ the company's works ” means Work No. 13 and any works, apparatus or conveniences constructed or provided by the company as part of, or in connection with, or for the purposes of, that work;

“ the conservancy board ” means the Harwich Harbour Conservancy Board;

“ the designated works ” means the Board's works or the company's works, as the case may be;

“ the existing quay ” means the western end (known as West Fisher berth) of Parkeston Quay West of the company;

“ the level of high water ” means the level of mean high-water springs;

“ the Parkeston works ” means the Board's works and the company's works or any part of either of those works and includes the filling in and reclamation of the foreshore and bed of the river authorised by subsection (3) of section 35 (Power to Board to make works and purchase lands), subsection (3) of section 36 (Power to Sealink U.K. Limited to make works and purchase lands) and section 39 (Power to use certain land) of this Act;

“ the river ” means the river Stour;

PART V
—cont.

1980 c. 43.

“the statutory maximum” means the prescribed sum as defined in section 32 (9) of the Magistrates’ Courts Act 1980;

“tidal work” means so much of the Parkeston works as is on, under or over tidal waters or tidal lands below the level of high water;

1968 c. 59.

“vessel” means every description of vessel, however propelled or moved, including a hovercraft (within the meaning of the Hovercraft Act 1968), a hydrofoil vessel and anything constructed or used to carry persons or goods by water.

Works, lands, etc.

Power to Board to make works and purchase lands.

35.—(1) Subject to the provisions of this Act, the 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, and may purchase compulsorily and use such of the lands delineated on the deposited plans relating to the said works and described in the deposited book of reference as they may require for the purposes of the said works or for any purpose connected with or ancillary to their undertaking:—

In the county of Essex—

In the district of Tendring—

Partly in the parish of Ramsey and Parkeston and partly on the foreshore and bed of the river adjacent to the said parish—

(Embankment at Parkeston Quay)

Work No. 11 An embankment commencing at a point on the embankment of the railway between Manningtree and Parkeston Quay 1,200 metres south-west of the south-western corner of the existing quay and extending in a north-westerly direction for a distance of 50 metres, thence proceeding in a generally northerly direction for a distance of 795 metres and terminating at a point in the river 810 metres north of the point of commencement;

(Quay wall and link span at Parkeston Quay)

Work No. 12 A marine installation comprising—

(a) a quay wall commencing by a junction with the termination of Work No. 11 and extending in a south-easterly direction for a distance of 18 metres, thence

proceeding in a north-easterly direction for a distance of 305 metres, thence curving to a south-westerly direction for a distance of 65 metres, thence proceeding in a south-easterly direction for a distance of 37 metres and terminating at a point on the shoreline 239 metres north-east of the point of commencement; and

- (b) a link span commencing at the point of commencement of the quay wall and extending in a north-easterly direction for a distance of 116 metres and there terminating.

PART V
—cont.

(2) The Board may, within the limits of deviation of Works Nos. 11 and 12, from time to time extend, enlarge, alter, renew, replace or reconstruct temporarily or permanently Works Nos. 11 and 12.

(3) The Board may for the purposes of the Board's works fill in and reclaim from the foreshore and bed of the river and may hold and use as part of their undertaking so much of the foreshore and bed of the river as is situated within the limits of deviation of Works Nos. 11 and 12 and is required for or in connection with the Board's works.

36.—(1) Subject to the provisions of this Act, the company 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 work hereinafter described with all necessary works and conveniences connected therewith, and may purchase compulsorily and use such of the lands delineated on the deposited plans relating to the said work and described in the deposited book of reference as they may require for the purposes of the said work or for any purpose connected with or ancillary to their undertaking:—

In the county of Essex—

In the district of Tendring—

Partly in the parish of Ramsey and Parkeston and partly on the foreshore and bed of the river adjacent thereto—

Work No. 13 An extension of the existing quay (Quay comprising a continuation of the said quay, from its western end, in a westerly direction for a distance varying between 150 and 172 metres. extension at Parkeston Quay)

(2) The company may, within the limit of deviation of Work No. 13, from time to time extend, enlarge, alter, renew, replace or reconstruct temporarily or permanently Work No. 13.

PART V
—cont.

(3) The company may for the purposes of the company's works fill in and reclaim from the foreshore and bed of the river and may hold and use as part of their undertaking so much of the foreshore and bed of the river as is situated within the limit of deviation of Work No. 13 and is required for or in connection with the company's works.

Power to make
subsidiary
works.

37. The appropriate authority may, in connection with the designated works, from time to time construct or place and maintain in, under or over any of the lands delineated on the deposited plans relating to the designated works and described in the deposited book of reference, all such works and conveniences subsidiary or ancillary to the designated works and all such appliances, machinery and apparatus as they may from time to time deem necessary or convenient for any purpose of, or in connection with, the designated works, or the accommodation of vessels and traffic thereat.

Power to
dredge.

38.—(1) The appropriate authority may from time to time deepen, dredge, scour, cleanse, alter and improve the bed, channel and foreshore of the river in the vicinity of the Parkeston works and the approaches thereto, and may blast any rock therein, for the purpose of constructing and maintaining the designated works and obtaining, preserving and improving the uninterrupted access to and from the designated works or any of them.

(2) Any materials taken up or collected in the course of such operations shall (subject to the consent required by section 33 (Crown rights) of this Act, as applied to the designated works) be the property of the appropriate authority and may be used, sold, removed, deposited or otherwise disposed of as the appropriate authority may think fit:

Provided that no such materials shall be deposited below the level of high water, except in such places and in accordance with such conditions and restrictions as may be approved or prescribed by the Secretary of State.

Power to use
certain land.

39.—(1) Subject to the provisions of this Act, the appropriate authority may, for the purposes of or in connection with the designated works, fill in and reclaim from the foreshore and bed of the river and hold and use as part of their undertaking so much of the foreshore and bed of the river as is situated within the line marked "Limit of land to be used" shown on the deposited plans.

(2) Upon the completion of the filling in and reclamation authorised by subsection (1) of this section, the appropriate authority may lay out and provide on the land so reclaimed such

roads and other works as they may require for or in connection with the construction and use of the designated works.

PART V
—cont.

40. In the execution of any, or any part, of the designated works the appropriate authority may deviate from the lines or situations thereof shown on the deposited plans to the extent of the limits of deviation of those works and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding 3 metres upwards and to such extent downwards as may be found necessary or convenient.

Power to deviate for designated works.

41.—(1) In this section—

“ the Board ” includes any subsidiary of the Board;

“ the company ” includes any subsidiary of the company;

“ subsidiary ” has the same meaning as in section 154 of the Companies Act 1948.

Agreements between Board and Sealink U.K. Limited. 1948 c. 38.

(2) The Board and the company may enter into and carry into effect agreements—

(a) as to the construction, maintenance and operation of the designated works and as to any other matters incidental thereto or consequential thereon;

(b) as to the defraying of, or the making of contributions towards, the cost of the matters referred to in paragraph (a) of this subsection by the Board or by the company, or by the Board and the company jointly; and

(c) for the transfer to and vesting in the Board of the company's works or in the company of the Board's works, as the case may be, or any part thereof on such terms as may be agreed between the Board and the company.

(3) Any agreement made under paragraphs (a) and (b) of subsection (2) of this section may provide (inter alia) for the exercise by the Board or the company, as the case may be, of all or any of the powers of the other in connection with the designated works subject to the like provisions in relation thereto as would apply if those powers were exercised by the other.

(4) As from the vesting in the Board or the company, as the case may be, of the works transferred under an agreement made under paragraph (c) of subsection (2) of this section, all the rights and liabilities of the transferor in respect of the works or any part thereof so transferred and vested as aforesaid shall be transferred to, and become the rights and liabilities of, the transferee.

PART V
—*cont.*
Tidal works
not to be
executed
without
approval of
Secretary of
State.

42.—(1) A tidal work shall not be constructed, extended, enlarged, altered, renewed, replaced or reconstructed except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of State before the work is begun.

(2) If a tidal work is constructed, extended, enlarged, altered, renewed, replaced or reconstructed in contravention of this section or of any condition or restriction imposed under this section—

- (a) the Secretary of State may by notice in writing require the appropriate authority at their own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition; and if, on the expiration of 30 days from the date when the notice is served upon the appropriate authority, they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; or
- (b) if it appears to the Secretary of State urgently necessary so to do, he may himself remove the tidal work or part of it and restore the site to its former condition;

and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the appropriate authority.

Survey of
tidal works.

43. The Secretary of State may at any time if he deems it expedient order a survey and examination of a tidal work, or of the site upon which it is proposed to construct the work, and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable from the appropriate authority.

Lights on
tidal works
during
construction,
etc.

44.—(1) The appropriate authority shall at or near a tidal work during the whole time of the construction, extension, enlargement, alteration, renewal, replacement or reconstruction thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Secretary of State and the conservancy board, or as, failing agreement between them, the Secretary of State, shall from time to time direct.

(2) If the appropriate authority fail to comply in any respect with a direction given under this section they shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

Permanent
lights on
tidal works.

45.—(1) After the completion of a tidal work the appropriate authority shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the conservancy board shall from time to time direct.

(2) If the appropriate authority fail to comply in any respect with a direction given under this section they shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

PART V
—cont.

46.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the appropriate authority at their own expense either to repair and restore the work, or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Secretary of State may think proper.

Abatement of works abandoned or decayed.

(2) Where a work authorised by this Part of this Act and consisting partly of a tidal work and partly of works on or over land above the level of high water is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water is in such condition as to interfere, or to cause reasonable apprehension that it may interfere, with the right of navigation or other public rights over the foreshore, the Secretary of State may include that part of the work, or any portion thereof, in any notice under this section.

(3) If, on the expiration of 30 days from the date on which a notice under this section is served upon the appropriate authority, they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice, and any expenditure incurred by him in so doing shall be recoverable from the appropriate authority.

47.—(1) In case of injury to or destruction or decay of a tidal work, or any part thereof, the appropriate authority shall forthwith notify the conservancy board and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the conservancy board shall from time to time direct.

Provision against danger to navigation.

(2) If the appropriate authority fail to notify the conservancy board as required by this section or to comply in any respect with a direction given under this section, they shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

48. The Parkeston works shall be deemed to form part of Parkeston Quay and the provisions of the Great Eastern Railway Act 1874 and all other enactments relating to Parkeston Quay shall (so far as the same are applicable and are not inconsistent with or varied by the provisions of this Act) apply to the Parkeston works as if the same had been authorised by the said Act of 1874:

Works to form part of Parkeston Quay.
1874
c. cxxviii.

Provided that, in its application to Work No. 12 the expression "the prescribed limits" in the Harbours, Docks and Piers

PART V
—cont.

1847 c. 27.

Application of provisions relating to works and lands.

Clauses Act 1847 shall mean a distance of 300 metres measured from any part of the limit of deviation of Work No. 12.

49.—(1) The provisions of this Act mentioned in subsection (2) of this section shall apply to the lands authorised to be purchased under this Part of this Act as if any reference therein to the Board were a reference to the appropriate authority.

(2) The provisions referred to in subsection (1) of this section are—

- Section 15 (Underpinning of buildings near works);
- Section 16 (Use of sewers, etc., for removing water);
- Section 21 (Extinction or suspension of private rights of way);
- Section 23 (Disregard of recent improvements and interests);
- Section 24 (Correction of errors in deposited plans and book of reference);
- Section 26 (Time for purchase of lands and rights over lands).

Defence of due diligence.

50.—(1) (a) In proceedings for an offence under any provision of this Act mentioned in paragraph (b) of this subsection it shall be a defence for the appropriate authority to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(b) The provisions referred to in paragraph (a) of this subsection are—

- Section 44 (Lights on tidal works during construction, etc.);
- Section 45 (Permanent lights on tidal works);
- Section 47 (Provision against danger to navigation).

(2) If in any case the defence provided by paragraph (a) of subsection (1) of this section involves the allegation that the commission of the offence was due to the act or default of another person, the appropriate authority shall not, without leave of the court, be entitled to rely on that defence unless, within a period of seven clear days before the hearing, they have served on the prosecutor a notice in writing giving such information identifying, or assisting in the identification of, that other person as was then in their possession.

Works to be within parish of Ramsey and Parkeston, etc.

51. So much of the Parkeston works as is beyond mean low water shall be deemed to be within—

- (a) the parish of Ramsey and Parkeston;
- (b) the petty sessional division of Harwich;
- (c) the Parkeston electoral ward; and
- (d) the Ramsey and Parkeston ward.

*Part V protective provisions*PART V
—cont.

52.—(1) The provisions of the Act of 1963 and of the Act of 1967, as incorporated with Part IV of this Act, and of this Act mentioned in subsection (2) of this section shall apply to the designated works as if any reference therein to the Board were a reference to the appropriate authority.

(2) The provisions referred to in subsection (1) of this section are—

In the Act of 1963—

Section 33 (For protection of gas, water and electricity undertakers);

In the Act of 1967—

Section 45 (For further protection of certain gas, water and electricity undertakers);

In this Act—

Section 33 (Crown rights).

53. For the further protection of British Telecommunications (in this section referred to as “the corporation”) the following provisions shall, unless otherwise agreed in writing between the appropriate authority and the corporation, apply and have effect:—

(1) In this section “cable” means any sub-aqueous cable belonging to, or used by, the corporation:

(2) (a) Before the appropriate authority exercise any of their powers under section 38 (Power to dredge) of this Act within 50 metres of a cable, they shall give to the corporation in writing as long notice as is practicable of their intention to do so and, except in case of emergency, such notice shall be not less than 28 days;

(b) No materials shall be laid down or deposited under the said section 38 in any place or manner so as to cover a cable or unreasonably to impede the inspection, maintenance, removal or renewal of a cable:

Provided that the protection afforded by this paragraph shall only apply to a cable the position of which has been notified in writing by the corporation to the appropriate authority and which lies within the area of jurisdiction of the conservancy board:

(3) Any difference arising between the appropriate authority and the corporation under this section shall be settled by arbitration.

PART V
—cont.
For
protection of
conservancy
and
navigation
in Harwich
Harbour.
1874 c. cxxviii.

54. The following provisions shall have effect unless otherwise agreed between the appropriate authority and the conservancy board in place of the proviso to section 8 of the Great Eastern Railway Act 1874 applied by section 48 (Works to form part of Parkeston Quay) of this Act:—

- (1) In this section “plans” includes sections, drawings and specifications, and reference to the plans of any tidal work includes reference to plans of any dredging or other operations affecting tidal waters to be carried out for the purposes of the construction of that work and of obtaining access thereto:
- (2) Before commencing the construction of any tidal work the appropriate authority shall supply to the conservancy board plans of that work for their reasonable approval:
Provided that in the case of any work to be carried out under section 37 (Power to make subsidiary works) of this Act, being a work which is required in an emergency, the appropriate authority shall not be required to submit plans of that work before its commencement but shall give immediate notice of the work to the conservancy board and shall submit plans of the work to the conservancy board as soon as reasonably practicable after its commencement:
- (3) The conservancy board may disapprove plans submitted to them under this section or approve them conditionally or unconditionally, and, if the conservancy board do not within 56 days of the submission to them of any plans notify the appropriate authority in writing of their approval of those plans (conditionally or unconditionally), they shall be deemed to have approved the plans:
- (4) A tidal work, and any dredging or other operations to be carried out for the purpose thereof, shall not be constructed or, as the case may be, carried out, except in accordance with such plans as may have been approved (conditionally or unconditionally) by the conservancy board under this section or, in the event of the disapproval or a conditional approval of plans which is unacceptable to the appropriate authority, settled by arbitration:
- (5) The appropriate authority shall give to the conservancy board not less than 28 days’ notice of the commencement of any of the Parkeston works:
- (6) Plans of a tidal work shall not be submitted by the appropriate authority to the Secretary of State for his approval under section 42 (Tidal works not to be executed without

approval of Secretary of State) of this Act until plans of that work have been approved by the conservancy board or settled by arbitration under this section and, if on the submission of plans to him the Secretary of State requires the alteration of the plans of any work so approved or settled under this section, the appropriate authority shall, not less than 28 days before commencing the work, notify the conservancy board of the alteration:

PART V
—cont.

- (7) Subject to compliance with paragraph (6) of this section, if there shall be any inconsistency between the plans of any tidal work approved or settled under this section and the plans approved by the Secretary of State under the said section 42, the work shall be constructed in accordance with the plans approved by the Secretary of State:
- (8) The exercise by the appropriate authority of the powers of section 38 (Power to dredge) of this Act for the purpose of improving access to and from the designated works shall not, for the purpose of section 19 (Restriction on works, dredging and moorings) of the Harwich Harbour Act 1974, be taken to be specifically authorised by any 1974 c. i. enactment:
- (9) Any difference arising between the appropriate authority and the conservancy board under this section shall be settled by arbitration.

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

For protection of Harwich Harbour Conservancy Board.

- (1) In this section “ the protected area ” means so much of the river Stour as is now eastward of the west boundary of Parkeston Anchorage and westward of the Guard Buoy and the area within the limits of Felixstowe Dock with the navigational approaches thereto:
- (2) (a) If, during the construction of the Parkeston works on the foreshore or bed of the river Stour or of any temporary structures in connection therewith respectively or within five years after the completion of such works or after the removal of such temporary structures, any accumulation of silt or other material shall be created within the protected area in consequence of—
- (i) the construction of the Parkeston works or such temporary structures; or
- (ii) dredging carried out to afford access for vessels to the Parkeston works;

PART V
—cont.

which shall cause an impediment to the free navigation of the protected area, the appropriate authority, if so requested by the conservancy board within the period of five years after such completion, shall remove such accumulation of silt or other material, and, if they refuse or fail to do so, the conservancy board may recover from the appropriate authority the reasonable cost of any work which they cause to be done for that purpose;

- (b) Should any such accumulation arise within the said period of five years and be removed in accordance with the provisions of sub-paragraph (a) of this paragraph, then any recurrence of such accumulation shall from time to time be removed as aforesaid during a period of 10 years after the completion of the Parkeston works or the removal of such temporary structures, as the case may be:
- (3) Any difference arising between the appropriate authority and the conservancy board under this section shall be settled by arbitration.

Saving for
Trinity House.

56. Nothing in this Part of this Act shall prejudice or derogate from any of the rights or privileges or the jurisdiction or authority of the Corporation of Trinity House of Deptford Strond.

PART VI

MISCELLANEOUS

Powers of
police as to
search and
arrest.
1962 c. 46.
1949 c. xxix.

57. In its application to the Board and British Transport Hotels Limited under Part III of Schedule 2 to the Transport Act 1962, subsection (3) of section 54 (Powers of police as to search and arrest) of the British Transport Commission Act 1949 in relation only to subsection (1) of that section, as amended by section 18 (Powers of police as to search and arrest) of the Act of 1977, shall have effect as if for the words "one thousand nine hundred and eighty-two" there were substituted "one thousand nine hundred and eighty-five".

Former
railway
between
Jesmond and
Manors.

58.—(1) In this section—

"the Executive" means the Tyne and Wear Passenger Transport Executive;

"the Jesmond-Manors Section" means so much of the former Blyth and Tyne railway of the Board between Jesmond and Manors in the city of Newcastle upon Tyne in the metropolitan county of Tyne and Wear as is shown coloured pink on the map marked "British

Railways (No. 2) Bill: Jesmond-Manors Section", one copy of which was, on or before 20th November 1980, deposited in the office of the Clerk of the Parliaments, one in the Private Bill Office of the House of Commons, one in the principal office of the Executive and one in the principal office of the Board, including all works connected therewith belonging to or maintainable by the Board but excluding the overbridges numbered 2A, 3, 3A and 5 marked on the said map.

PART VI
—cont.

(2) As from the passing of this Act all the rights, powers and obligations of the Board in respect of the Jesmond-Manors Section shall be transferred to, and become the rights, powers and obligations of, the Executive.

59.—(1) In this section "the bridge" means the bridge numbered 41 of the Board formerly carrying the Denaby Colliery railway over the river Don situate at Conisbrough in the borough of Doncaster in the metropolitan county of South Yorkshire and includes all works connected therewith belonging to or maintainable by the Board. Bridge over river Don at Conisbrough.

(2) As from the passing of this Act all the powers and obligations of the Board in respect of the bridge shall be transferred to, and become the powers and obligations of, the National Coal Board.

60. Notwithstanding anything in section XVIII (Company to erect Station at Points of crossing) of the Great North of England and Bedale Branch Railway Act 1846, the Board shall not be required permanently to maintain either a station or a lodge at the level crossing in the parish of Aiskew in the district of Hambleton in the county of North Yorkshire known as Aiskew crossing, Leeming Bar, whereby the road between Bedale and Northallerton (A.684) is crossed by the railway between Castle Hills junction, Northallerton, and Bedale (Goods) station. Aiskew level crossing, Leeming Bar. 1846 c. xcvi.

61. The enactments specified in columns (1) and (2) of Schedule 4 to this Act are hereby repealed to the extent mentioned in column (3) of that schedule. Repeals.

62.—(1) In this section "Class XII development" means development authorised by Article 3 of, and Class XII in Schedule 1 to, the Town and Country Planning General Development Order 1977 (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). Planning permission. S.I. 1977/289.

(2) Subject to the provisions of subsection (3) of this section, in its application to development authorised by this Act, the

PART VI
—cont.

planning permission granted for Class XII development shall have effect as if the authority to develop given by this Act were limited to development begun within 10 years after the passing of this Act.

(3) Subsection (2) of this section shall not apply to the carrying out of any development consisting of the alteration, maintenance or repair of works authorised by this Act or the substitution of new works therefor.

Arbitration.

1965 c. 56.

63. Where under any provision of this Act any difference (other than a difference to which the provisions of the Compulsory Purchase Act 1965, as applied by this Act, apply or as to the meaning or construction of any such provision) is to be referred to or settled by arbitration, then 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.

Costs of Act.

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

SCHEDULES

SCHEDULE 1

Section 17.

LEVEL CROSSINGS REFERRED TO IN SECTION 17
(REDUCTION IN STATUS OF CERTAIN LEVEL CROSSINGS) OF THIS ACT

PART I

In the county of Gloucestershire—

In the parish of Woolaston in the district of Forest of Dean—

The level crossing known as Woolaston crossing (reference point ST 6007:9907) whereby the road between Plusterwine and the banks of the river Severn is crossed by the railway between Chepstow and Lydney stations.

In the county of Lincolnshire—

In the district of North Kesteven—

In the parishes of Swinderby and Eagle and Swinethorpe—

The level crossing known as Meardsall crossing (reference point SK 8664:6421) whereby the road connecting the road between South Scarle and Swinderby with the road between Eagle Barnsdale and the A.46 road is crossed by the railway between Swinderby and Collingham stations.

In the parish of Leasingham—

The level crossing known as Leasingham Moor crossing (reference point TF 0880:4903) whereby the road connecting the A.153 road with property in the area of White House is crossed by the railway between Ruskington and Sleaford stations.

PART II

In the county of North Yorkshire—

In the parish of South Milford in the district of Selby—

The level crossing known as Hagg Lane crossing (reference point SE 5312:3162) whereby the road connecting Hagg Lane with Common Lane is crossed by the railway between South Milford and Selby stations.

SCHEDULE 2

Section 19 (2).

LANDS REFERRED TO IN SUBSECTION (2) OF SECTION 19
(PURCHASE OF LANDS) OF THIS ACT

Area (1)	No. on deposited plans (2)	Purposes for which lands may be used (3)
In the county of Avon— District of Woodspring— Parish of Bleadon	1, 2	To carry out drainage improvements to the railway between Taunton and Bristol.

Section 20.

SCHEDULE 3

MODIFICATION OF PART I OF
COMPULSORY PURCHASE ACT 1965

1965 c. 56.

1. In the Compulsory Purchase Act 1965 (hereafter in this Schedule referred to as "the 1965 Act") for section 7 (which relates to compensation) there shall be substituted the following:—

" 7.—(1) In assessing the compensation to be paid by the Board under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is purchased is depreciated by the purchase but also to the damage, if any, to be sustained by the owner of the land by reason of injurious affection of other land of the owner by the exercise of the right.

1973 c. 26.

(2) The modifications subject to which subsection (1) of section 44 of the Land Compensation Act 1973 is to have effect, as applied by subsection (2) of that section to compensation for injurious affection under this section, are that for the words 'land is acquired or taken' there shall be substituted 'a right over land is purchased' and for the words 'acquired or taken from him' there shall be substituted 'over which the right is exercisable'."

2. For section 8 of the 1965 Act (which relates to cases in which a vendor cannot be required to sell part only of a building or garden) there shall be substituted the following:—

" 8.—(1) Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (hereafter in this subsection referred to as 'the relevant land')—

(a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Lands Tribunal (hereafter in this section referred to as 'the Tribunal'); and

(b) before the Tribunal has determined that question the person satisfies the Tribunal that he has an interest which he is able and willing to sell in the whole of the relevant land and—

(i) where that land consists of a house, building or manufactory, that the right cannot be purchased without material detriment to that land; or

(ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs;

the British Railways (No. 2) Act 1981 shall, in relation to that person, cease to authorise the purchase of the right and be deemed to authorise the purchase of that person's interest in the whole of the relevant land including, where the land consists of such a

park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the Tribunal directs.

SCH. 3
—cont.

(2) Any question as to the extent of the land in which the British Railways (No. 2) Act 1981 is deemed to authorise the purchase of an interest by virtue of subsection (1) of this section shall be determined by the Tribunal.

(3) Where, in consequence of a determination of the Tribunal that it is satisfied as mentioned in subsection (1) of this section, the British Railways (No. 2) Act 1981 is deemed by virtue of that subsection to authorise the purchase of an interest in land, the Board may, at any time within the period of six weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the Board to withdraw the notice.

(4) The modifications subject to which subsection (1) of section 58 of the Land Compensation Act 1973 is to have effect, as applied by subsection (2) of that section to the duty of the Tribunal in determining whether it is satisfied as mentioned in subsection (1) of this section, are that at the beginning of paragraphs (a) and (b) there shall be inserted the words 'a right over', for the word 'severance' there shall be substituted 'right on the whole of the house, building or manufactory or of the house and the park or garden' and for the words 'part proposed' and 'part is' there shall be substituted respectively 'rights proposed' and 'right is'." 1973 c. 26.

3. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), namely:—

- section 9 (4) (failure of owners to convey);
- paragraph 10 (3) of Schedule 1 (owners under incapacity);
- paragraph 2 (3) of Schedule 2 (absent and untraced owners); and
- paragraphs 2 (3) and 7(2) of Schedule 4 (common land);

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be purchased compulsorily is vested absolutely in the Board.

4. Section 11 of the 1965 Act (powers of entry) shall be so modified as to secure that, as from the date on which the Board have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on sheriff's warrant in the event of obstruction) of the 1965 Act shall be modified correspondingly.

5. Section 20 of the 1965 Act (compensation for short term tenants) shall apply with the modifications necessary to secure that persons with

SCH. 3
—cont.

such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of the interests but taking into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right in question.

6. Section 22 of the 1965 Act (protection of acquiring authority's possession of land where by inadvertence an interest in the land has not been purchased) shall be so modified as to enable the Board, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right in question, subject to compliance with that section as respects compensation.

Section 61.

SCHEDULE 4

REPEALS

Chapter (1)	Short title (2)	Extent of repeal (3)
1975 c. i.	British Railways Act 1975.	In section 8 (As to level crossing at Aylsham), subsection (8).
1980 c. ix.	British Railways Act 1980.	In subsection (3) of section 53 (Modification of Town and Country Planning Act 1971) the words " section 5 (Power to make works) of".

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Controller and Chief Executive of Her Majesty's Stationery Office and
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British Railways (No. 2) Act 1981

CHAPTER XXXV

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