

(5) The purposes of this Act cannot be effected without the authority of Parliament:

1968 c. 73.

(6) The West Midlands Passenger Transport Authority have approved the promotion of the Bill for this Act pursuant to section 10 (1) (xxix) of the Transport Act 1968:

(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 acquired or used by this Act, and a book of reference to such plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands, were duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the proper officers of the District Councils of the Metropolitan Boroughs of Sandwell, Walsall and Wolverhampton and the City of Birmingham, 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":

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 Midland Metro Act 1989.

Interpretation.

2.—(1) In this Act, unless the context otherwise requires, the several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated herewith have the same respective meanings, and—

1845 c. 20.

"the Act of 1845" means the Railways Clauses Consolidation Act 1845;

1870 c. 78.

"the Act of 1870" means the Tramways Act 1870;

1950 c. 39.

"the Act of 1950" means the Public Utilities Street Works Act 1950;

1965 c. 56.

"the Act of 1965" means the Compulsory Purchase Act 1965;

"the authorised railways" means the railways authorised by this Act, including, where the context so admits, any railway adapted for use as part of the Metro under section 16 (Agreements with British Railways Board) of this Act;

"the authorised works" means the works authorised by this Act;

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

"the Executive" means the West Midlands Passenger Transport Executive;

"existing" means existing at the commencement of this Act;

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

"the limits of deviation" mean the limits so shown on the deposited plans and, where, in the case of a work in any street, no such limits are shown for that work, the boundaries of the street (including any verge or roadside waste adjoining it);

“the Metro” means the light rail transit system comprising the authorised railways including such railways designated as tramways, and all works and conveniences provided in connection with any of those railways, as that system is constructed, extended or altered from time to time;

“the railways board” means the British Railways Board;

“statutory undertakers” means a public gas supplier within the meaning of Part I of the Gas Act 1986, the Central Electricity Generating Board, the Midlands Electricity Board, the water authority and the South Staffordshire Waterworks Company or any of them, as the case may be;

“street” has the meaning given by section 329 of the Highways Act 1980 and in sections 18 to 21 of this Act includes a bridleway, cycle track or footpath as defined in the said section 329;

“telecommunication system” has the meaning given by section 4 of the Telecommunications Act 1984;

“traffic sign” has the meaning given by section 64 of the Road Traffic Regulation Act 1984;

“tramway” means any railway, or any part of a railway, authorised by this Act and thereby designated as a tramway;

“the tribunal” means the Lands Tribunal;

“water authority” means the Severn Trent Water Authority.

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—cont.

1986 c. 44.

1980 c. 66.

1984 c. 12.

1984 c. 27.

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

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

(b) This subsection does not apply to distances or lengths stated in the following provisions of this Act:—

Section 13 (Power to deviate);

Section 15 (Gauge of railways and restrictions on working);

Paragraph (7) of section 41 (For protection of certain statutory undertakers).

(4) Any reference in this Act to rights over land includes reference to the right to do, or to place and maintain, anything in, on or under the land, or in the air space above its surface.

3.—(1) The following enactments, so far as they 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 those enactments:—

The Act of 1845 (except sections 7 to 9, 11 to 15, 17, 19, 20, 22, 23, 46 to 62, 94, 95, 115 to 124, 138 and 139); and

Section 4 of the Railways Clauses Act 1863.

Incorporation
and application
of enactments
relating to
railways.

1863 c. 92.

(2) In the enactments incorporated by subsection (1) above—

(a) the expression “the company” means the Executive; and

PART I
—cont.

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

(i) Part II of the Act of 1950; or

(ii) section 41 (For protection of certain statutory undertakers) of this Act; and

(c) in section 4 of the said Act of 1863, the words “and subject to the limitations contained in sections eleven, twelve and fifteen of those Acts respectively,” and the proviso shall be omitted.

(3) The following enactments shall not apply to the Metro:—

1839 c. 45.

The Highway (Railway Crossings) Act 1839;

1842 c. 55.

In the Railway Regulation Act 1842, sections 9 and 10;

1868 c. 119.

In the Regulation of Railways Act 1868, section 22;

1889 c. 57.

In the Regulation of Railways Act 1889, sections 1 to 4, 6 and 8;

1933 c. 53.

In the Road and Rail Traffic Act 1933, sections 41 and 42.

Application of
Tramways Act
1870.

4.—(1) Subject as provided in subsection (2) below, the following provisions of Parts II and III of the Act of 1870, so far as they are applicable for the purposes and are not inconsistent with or varied by the provisions of this Act, apply to any railway, or any part of a railway, authorised by this Act and thereby designated as a tramway; and for that purpose are incorporated with and form part of this Act:—

Sections 25, 26, 28 to 30, 34, 41, 42, 49, 50, 53, 54 and 57.

(2) (a) In the provisions of the Act of 1870 applied by subsection (1) above, the expression “the special Act” means this Act and “the promoters” means the Executive.

(b) The provisions of the Act of 1870 applied by subsection (1) above shall have effect subject to the following modifications:—

(i) in section 25, for the words “the road”; there shall be substituted the words “the part of the road in which it is laid”;

(ii) in section 26, for the words from “the following regulations” to the end of the section, there shall be substituted the words “the provisions of the special Act”;

(iii) in section 30, for the words from “also subject to” to the end of the section, there shall be substituted the words “the special Act”;

(iv) in section 34, the words from “No carriage used” to the end of the section shall be omitted;

(v) in sections 49, 50, 53 and 54, for the penalty specified in each of those sections, there shall be substituted a fine not exceeding level 3 on the standard scale and in the said section 54 the words from “or under licence” to “by this Act provided” shall be omitted.

(3) For the purposes of authorising railways or associated works to form part of the Metro the provisions of Part I of the Act of 1870 shall apply, subject to the exception of sections 9, 10, 12, 15 and 17 to 21, and any order under that Part of that Act may incorporate, apply or re-enact any provision of this Act, including any provision incorporated with or applied by this Act.

(4) Except as provided in this section the provisions of the Act of 1870 shall not apply to the Metro.

5.—(1) Subject to subsection (3) below, the provisions of Part I and section 26 of the Act of 1950 shall apply and have effect as if, notwithstanding the exception in subsection (1) of section 1 of that Act of a power conferred for the purposes of a railway undertaking or a tramway undertaking, any powers of the Executive under this Act to carry out works in streets were powers to which that section applies.

(2) The provisions of Part II of the Act of 1950 shall apply and have effect as if so much of the authorised works as consists of work for road purposes within the meaning of that Act were constructed by the Executive on behalf of the highway authority.

(3) The Act of 1950 shall not extend by virtue of this section to regulate the relations between the Executive and any other person in respect of any matter or thing concerning which those relations are regulated in any respect by the following provisions of this Act:—

Section 37 (As to highways, traffic, etc.);

Section 40 (For protection of public sewers);

Section 41 (For protection of certain statutory undertakers).

(4) Section 14 of the Road Traffic Regulation Act 1984 (which provides for the temporary restriction or prohibition of the use of roads by vehicles in certain circumstances) shall apply to carriages used on tramways forming part of the Metro.

1984 c. 27.

(5) Section 65 (1) of the said Act of 1984 (which relates to the placing of traffic signs by highway authorities) shall have effect with respect to the erection and display of any traffic sign by the Executive as if it were a traffic sign erected and displayed by a highway authority.

6.—(1) Part I of the Act of 1965 (except sections 4 and 27 and paragraph 3 (3) of Schedule 3), in so far as it is applicable for the purposes and is not inconsistent with the provisions of this Act, shall apply to the compulsory acquisition of land under this Act as it applies to a compulsory purchase to which Part II of the Acquisition of Land Act 1981 applies and as if this Act were a compulsory purchase order under the said Act of 1981.

Application of
Part I of
Compulsory
Purchase Act
1965.
1981 c. 67.

(2) Section 11 (1) of the Act of 1965 (which relates to notice of entry) as so applied shall have effect as if for the word “fourteen” there were substituted, in respect of the lands over which rights only are required, the word “twenty-eight” and, in the case of any other lands, the word “ninety-one”.

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

1845 c. 18.

PART II

WORKS

7.—(1) Subject to the provisions of this Act, the Executive may, in the lines or situations shown on the deposited plans and according to the levels shown on the deposited sections, make and maintain the works specified in Part I of Schedule 1 to this Act, with all necessary works and conveniences connected therewith.

Power to make
works.

(2) Notwithstanding anything in this Act or shown on the deposited plans or the deposited sections, but without prejudice to the provisions of section 13 (Power to deviate) of this Act, the Executive may, subject to the approval of the Secretary of State, construct the whole or part of Work No. 1 within the

PART II
—cont.

limits of deviation in accordance with dimensions and descriptions other than the dimensions and descriptions shown on the deposited plans and the deposited sections or specified in Part I of Schedule 1 to this Act.

(3) The Executive shall construct a good and sufficient fence on each side of any road bridge in respect of which widening is carried out as part of the authorised works.

Further works
and powers.

8.—(1) Subject to the provisions of this Act (and, in so far as the same are shown on the deposited plans and sections, in the lines or situations and according to the levels so shown), the Executive may exercise the powers, and make and maintain the further works, described in Part II of Schedule 1 to this Act, with all necessary works and conveniences connected therewith.

(2) Without prejudice to the specific powers conferred by subsection (1) above, for the purposes of constructing or maintaining the authorised railways in or adjoining any street, the Executive may, with the consent of the highway authority—

- (a) increase the width of the carriageway of the street by reducing the width of any footway, cycle track or verge or other land within the boundary of the street;
- (b) alter or interfere with the level of any kerb, footway, cycle track, verge or other land within the boundary of the street; or
- (c) at any stopping place on a tramway reduce the width of the carriageway of the street by forming a reserved area in the street or by setting forward the kerbline of the street and providing access for vehicles to adjoining premises and a footway on the side of that kerbline nearest to those premises.

(3) No footway shall, under subsection (2) above, be reduced to a less width than 1.80 metres (5 feet 11 inches).

(4) Where the carriageway, or part of the carriageway, of any street in which a tramway is laid is of sufficient width to provide not less than 3 metres of width for vehicular traffic clear of the tramway path (as determined in accordance with the clearance required by the Secretary of State), the Executive may, with the consent of the highway authority, carry out such works as may be required to deter, but not prevent, the passage of vehicular traffic along the tramway, whether by raising or lowering the level of the part of the carriageway occupied by the tramway path above or below the level of the adjoining carriageway or by placing a kerb or other obstruction along the edge of that adjoining carriageway.

(5) (a) Notwithstanding section 25 of the Act of 1870 as applied by this Act, in the case of any part of the length of tramway to which this subsection applies which is situated clear of the carriageway of any street, the Executive may, with the consent of the highway authority, lay and maintain the tramway in such manner that the uppermost surface of the rails is not on a level with the surface of the ground in which it is laid.

(b) This subsection applies to the whole length of Work No. 1.

(6) Subject to the provisions of this Act, the Executive may—

- (a) lay down double lines in lieu of single lines or single lines in lieu of double lines or interlacing lines in lieu of double or single lines on any of the tramways, either when constructing it or at any time thereafter, and construct or take up and reconstruct any such tramway or associated work in such position in the street or land in which it is authorised to be constructed as they think fit; and

(b) make, maintain, alter and remove such crossings, passing places, sidings, junctions and other works, in addition to those specified in and authorised by this Act, as they find necessary or convenient for the efficient working of the Metro, for the purposes of the control of traffic or for providing access to any premises.

PART II
—cont.

(7) The powers of subsection (6) above shall not be exercised in any street which is a highway without the consent of the highway authority.

9.—(1) The tramways shall be so laid and maintained that the distance between the sides of the widest carriages to be used on the tramways when passing one another thereon shall not be less than 380 millimetres (15 inches).

Requirements
applicable
to tramways.

(2) (a) On completion of any tramway the Executive shall provide traffic signs to give warning to other traffic of the presence of the tramway.

(b) Subject to any directions and any other requirements given or imposed by the Secretary of State with respect to such a traffic sign, the places at which the traffic signs are displayed shall be such as may be approved by the highway authority.

(3) (a) Where a tramway has been constructed in a street in such manner that—

(i) the uppermost surface of the rails is level with the surface of the street;
or

(ii) the level of the width of the carriageway occupied by the tramway path is altered as provided in section 8 (4) of this Act;

works for the purpose, or having the effect, of altering the level of the part of the street in which the tramway is situated shall not be carried out without the consent of the Executive.

(b) Consent under paragraph (a) above may be given subject to such reasonable terms and conditions as the Executive may require, but shall not be unreasonably withheld, and any difference arising under this paragraph shall be determined by the Secretary of State.

10.—(1) The Executive may, in the construction of the railways authorised by this Act, carry the same with a double line across and on the level of the streets, footpaths and cycleways specified in Schedule 2 to this Act.

Level
crossings.

(2) In the exercise of the powers of subsection (1) above, the Executive may alter or interfere with the level of any footway or cycleway upon which any railway or associated work is to be laid.

(3) Any barriers or other protective equipment specified in an order under the Level Crossings Act 1983 for the safety or convenience of persons using any crossing authorised by subsection (1) above (in this subsection referred to as “the specified apparatus”) shall, in any case where the specified apparatus is to be provided in, on or under any street or controlled land within the meaning of the Act of 1950, be deemed to be transport works for the purposes of Part II of and Schedule 4 to that Act, and accordingly the code in the said Part II shall have effect as if the construction or placing of any of the specified apparatus were specified in section 21 (1) (c) of that Act.

1983 c. 16.

11.—(1) Subject to the provisions of this Act the Executive may, for the purposes of the Metro and associated traffic control—

Subsidiary works.

PART II
—cont.

- (a) within the limits of deviation make, lay down, place, erect, repair, alter, renew, maintain, operate and use rails, rail fixings, plates, sleepers, channels, conduits, tubes, stations, platforms, islands, gates, junctions, points, turntables, turnouts, crossings, temporary or permanent cross-overs, passing places, pillars, posts, poles, brackets, wires, subways, manholes, shafts, engines, dynamos, substations, transformers, switchgear, cabling, signalling, monitoring and communications equipment, together with subsidiary and incidental machinery, apparatus, works and appliances; and
- (b) in, or under any street in which it may be necessary or convenient, or in other land over which the Executive have or obtain sufficient right, lay, place, erect, maintain, renew and repair electric wires, conductors, cables, brackets, posts, tubes, substations, boxes and other electrical apparatus for connecting the authorised railways and associated works with any electricity generating station or substations or for the purposes of signalling, monitoring and communication in connection with the Metro.
- 1945 c. 42. (2) The provisions of Part VI of Schedule 3 to the Water Act 1945 (breaking open streets) shall apply to apparatus and works referred to in subsection (1) above as they apply to water mains and pipes as if—
- (a) for any reference to undertakers or limits of supply there were substituted respectively reference to the Executive and their area; and
- (b) in section 22 of that schedule the words “which they are authorised to lay” and section 25 (4) of that schedule were omitted.
- 1989 c. 15. (3) The repeal of the said Part VI by the Water Act 1989 shall not affect its application by subsection (2) above.
- Provision of accommodation for apparatus. **12.** Where the Executive lay down conduits for the accommodation of cables or other apparatus for the purposes of the Metro or associated traffic control under section 11 above, they may, in pursuance of those powers, provide in, or in connection with, such conduits accommodation for the apparatus of any other person, and manholes and other facilities for access to such accommodation, and may permit the use of such conduits on such terms and conditions as may be agreed between the Executive and such other person.
- Power to deviate. **13.** In the execution of the authorised works the Executive may, except as may be otherwise provided by this Act, deviate from the lines or situations thereof shown on the deposited plans to the extent of the limits of deviation and 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.
- Plans to be approved by Secretary of State before works commenced. **14.—(1)** Before constructing any of the authorised railways the Executive shall submit to the Secretary of State for his approval plans, sections and particulars of their proposals concerning—
- (a) permanent way or track;
- (b) lifts, escalators and stairways;
- (c) signalling; and
- (d) lighting.
- (2) Any such works shall be constructed and maintained in accordance with such plans, sections and particulars approved by the Secretary of State.

15.—(1) The railways shall be constructed on a gauge of 1,435 millimetres (4 feet 8½ inches) and the motive power to be used shall be electrical energy or such other motive power as the Secretary of State may approve.

(2) No part of the Metro shall be used for, or in connection with, the conveyance of passengers without the written permission of the Secretary of State and the Executive shall comply with the conditions (if any) which the Secretary of State may from time to time prescribe for the safety of persons using the Metro.

(3) If, without reasonable excuse, the Executive contravene the provisions of subsection (2) above they shall for each offence be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(4) Without prejudice to the generality of subsection (2) above, traction cables of the overhead line equipment of any tramway, and of so much of any authorised railway as is comprised in any level crossing, shall be erected at a height agreed by the Secretary of State and, if at any place a height of less than 5.63 metres (18 feet 6 inches) above the surface of the ground is so agreed for a cable, the Executive shall, in accordance with section 9 (2) of this Act, erect such traffic signs as may be directed by the Secretary of State to give warning of the cable.

(5) The Executive shall submit for the approval of the Secretary of State details of their proposals for the rolling stock to be used on the Metro and any rolling stock so used shall be constructed and maintained in accordance with particulars approved by the Secretary of State.

16.—(1) The Executive and the railways board may enter into, and carry into effect, agreements for the transfer to the Executive, of any property of the railways board comprising all or part of a railway or former railway and any lands, works or other property held in connection therewith and all rights and obligations of the railways board relating thereto.

(2) Where agreement is made for the transfer to the Executive of any railway under subsection (1) above, the Executive may adapt for use, maintain, use and work that railway as part of the Metro in accordance with the provisions of the Act of 1845 and the Railways Clauses Act 1863 incorporated with this Act and the provisions of the Railway Regulation Acts 1840 to 1889 applicable to the Metro.

(3) Any enactment by which any such railway was authorised, including the enactments specified in Schedule 3 to this Act, shall have effect subject to the provisions of this Act.

17.—(1) On the opening of the Metro for passenger services operated by the Executive, section 56 of the Transport Act 1962 (functions of transport consultative committees) shall, subject to subsection (2) below, apply and have effect in relation to the services and facilities provided upon the Metro as if for references to the railways board (whether alone or in conjunction with other railway undertakers) there were substituted reference to the Executive.

(2) The provisions of the said section 56 and of section 54 of the Transport Act 1962 (advance notice of discontinuance of certain services to be published) shall not apply in respect of the discontinuance of any existing railway passenger services from any station or on any line or, as the case may be, the discontinuance of any railway passenger or goods services provided by the railways board, where such discontinuance is for the purposes of, or in connection with, the construction of the authorised works or the transfer of any parts of any existing railway to form part of the Metro.

PART II
—cont.
Gauge of railways
and restrictions
on working.

Agreements with
British Railways
Board.

1863 c. 92.

Transport
consultative
committee.
1962 c. 46.

PART II
—cont.
Temporary
stoppage of
highways.

18.—(1) During and for the purpose of the execution of the authorised works, the Executive may temporarily stop up and interfere with the whole or any part of any street to the extent of the limits of deviation, or the limits of land to be acquired or used shown on the deposited plans, and may for any reasonable time divert the traffic therefrom and prevent all persons, other than those bona fide going to or from any land, house or building abutting on the said part of the street, from passing along and using the same.

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

Stopping up
streets and
footpaths
without
providing
substitute.

19.—(1) Except as provided in section 18 of this Act, where this Act authorises the stopping up of a street, or portion thereof, without providing a substitute, the stopping up shall not take place without the consent of the owners, lessees and occupiers of the houses and lands abutting on both sides except as to so much of the street or portion thereof as is situated upon, or bounded on both sides by, property of which the Executive are in possession or, being a bridleway, cycle track or footpath, is in subway within the boundaries of a street.

(2) After any such stopping up as is referred to in subsection (1) above, all rights of way over or along the street, or portion thereof, authorised to be stopped up shall be extinguished and the Executive may, without making any payment therefor, but subject to the provisions of the Act of 1845 incorporated with this Act with respect to mines lying under or near the railways, appropriate and use for the purposes of their undertaking the site of the street, or portion thereof, so stopped up.

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

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

20.—(1) Except as provided in section 18 of this Act, where this Act authorises the making of a new street, either by way of diversion of, or in substitution for, an existing street and the stopping up of the existing street or portion thereof, the stopping up shall not, in either case, take place until the highway authority are satisfied that the new street has been completed in accordance with their reasonable requirements and is open for public use or, in the case of any difference between the Executive 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 determined by arbitration and the new street has been completed accordingly.

(2) Before referring the matter to arbitration under this section the Executive shall give to the highway authority 7 days' notice in writing of their intention to do so.

(3) As from the completion of the new street to the satisfaction of the highway authority or, in the case of dispute, according to the decision of the arbitrator, all rights of way over or along the existing street, or portion thereof, authorised to be diverted or stopped up shall be extinguished, and the Executive may, without making any payment therefor, but subject to the provisions of the Act of 1845 incorporated with this Act with respect to mines lying under or near the railways, appropriate and use for the purposes of their undertaking the site of the street, or portion thereof, diverted or stopped up so far as the same is bounded on both sides by lands in the possession of the Executive.

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

PART II
—cont.

21. Any street, or portion thereof, made, diverted or altered under this Act shall, when completed, unless otherwise agreed, be maintained by and at the expense of the Executive for a period of 12 months from its completion and at the expiration of that period shall be maintained by and at the expense of the highway authority.

Provisions as to repair of streets, footpaths, etc.

22. The Executive may, at their own expense, subject as hereinafter provided, underpin or otherwise strengthen any house or building within 30 metres of any of the authorised works, and for that purpose the following provisions shall have effect:—

Underpinning of houses near works.

- (a) At least 28 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 6 of the Acquisition of Land Act 1981 as if required to be served under that Act:
- (c) If any owner, lessee or occupier of any such house or building shall, within 21 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 Executive may, from time to time after the completion of such underpinning or strengthening, and during the execution of the authorised work in connection with which such underpinning or strengthening was done, or within five years after the opening for traffic of the authorised works, 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 Executive shall be liable to compensate the owner, lessee and occupier of every such house or building for any loss or damage which they may suffer by reason of the exercise of the powers of this section:
- (f) Nothing in this section shall affect liability to compensate under section 6 of the Act of 1845 or section 10 (2) of the Act of 1965 as incorporated or applied by this Act, or under any other enactment, except in so far as compensation is payable under paragraph (e) above:
- (g) Every case of compensation to be ascertained under this section shall be ascertained in accordance with the provisions of Part I of the Land Compensation Act 1961.

1981 c. 67.

1961 c. 33.

23.—(1) The Executive may use for the discharge of any water pumped or found during the construction of the authorised works any available stream or watercourse, or any sewer or drain of the water authority or local authority in or through whose area or district 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.

Use of sewers, etc., for removing water.

PART II
—cont.

(2) (a) The Executive shall not—

- (i) discharge any water into any sewer or drain vested in or under the control of the water authority or local authority except with the consent of that authority and subject to such terms and conditions as that authority may reasonably impose; or
- (ii) make any opening into any such sewer or drain except in accordance with plans approved by, and under the superintendence (if given) of the water authority or local authority in which the sewer or drain is then vested.

(b) Consent to a discharge, or approval of plans submitted, under this subsection shall not be unreasonably withheld.

1974 c. 40.

(3) (a) Section 31 of the Control of Pollution Act 1974 shall apply to, or to the consequence of, a discharge under this section into any relevant waters for the purposes of the said section 31 as if—

- (i) 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
- (ii) no matter so discharged were trade or sewage effluent or other matter mentioned in subsection (2) (e) of the said section 31.

1976 c. 70.

(b) In the exercise of their powers under this section the Executive shall not damage or interfere with the bed of any watercourse forming part of the main river of the 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.

(4) The Executive shall take all such steps as may be reasonably required to secure that any water discharged 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 Executive and the water authority or local authority, as the case may be, under this section shall be determined by arbitration.

Attachment of brackets, etc., to buildings for purposes of works.
1961 c. 64.

24. The Executive may affix brackets, cables, wires and other apparatus required in connection with the Metro to any building or structure; and for that purpose the provisions of subsections (2), (4) to (6), (8) and (9) of section 45 of the Public Health Act 1961 (affixing apparatus to buildings for street lighting) shall apply as if—

- (a) the attachments therein mentioned included any such apparatus; and
- (b) for the reference to the street lighting authority there were substituted reference to the Executive.

Provisions as to use of electrical energy.

25. The following provisions shall apply to the use of electrical energy for the purposes of the Metro:—

- (1) The Executive shall employ either insulated returns or uninsulated metallic returns of low resistance.
- (2) The Executive shall take all reasonable precautions in designing, constructing, placing and maintaining their electric lines and circuits and other works of all descriptions and also in working the Metro so as to minimise the discharge of electrical currents into the ground and not—

- (a) injuriously to affect by fusion or electrolytic action any electric lines or any gas or water pipes, or other metallic pipes, structures or substances; or
- (b) injuriously to interfere with, or with the working of—
- (i) any wire, line or apparatus from time to time used for the purpose of transmitting electrical energy or of any telecommunication system; or
- (ii) the currents in any such wire, line or apparatus.
- (3) (a) The Secretary of State may make regulations under this section for regulating the use of electrical energy for the operation of the Metro, and the design, voltage, testing and working of the overhead equipment and return circuits of the Metro system, including regulations—
- (i) for preventing injurious affection (by the discharge of electrical currents into the ground, fusion or electrolytic action) of electric lines or gas or water pipes or other metallic pipes, structures or substances; and
- (ii) for minimising, so far as is reasonably practicable, interference with, and with the working of, electric wires, lines and apparatus, whether such apparatus does or does not use the earth as a return.
- (b) Before making regulations under this section the Secretary of State shall consult the Executive and the statutory undertakers.
- (4) The Executive shall be deemed to take all reasonable and proper precautions against interference with, or with the working of, any wire, line or apparatus if and so long as they use, at the option of the Executive, either such insulated returns, or such uninsulated metallic returns of low resistance and such other means of preventing injurious interference with, and with the working of, the electric wires, lines and apparatus, as may be prescribed by the regulations; and in prescribing such means the Secretary of State shall have regard to the expense involved in relation to the protection afforded.
- (5) The provisions of this section shall not give any right of action in respect of injurious interference with, or with the working of, any electric wire, line or apparatus, or the currents therein, unless, in the construction, erection, maintaining and working of such wire, line and apparatus, all reasonable and proper precautions, including the use of an insulated return, have been taken to minimise injurious interference therewith, and with the currents therein, by or from other electric currents.
- (6) If any difference arises between the Executive and any other person with respect to anything in the foregoing provisions of this section, the difference shall, unless the parties otherwise agree, be determined by the Secretary of State, or, at his option, by an arbitrator to be appointed by him, and the costs of such determination shall be in the discretion of the Secretary of State or the arbitrator as the case may be.
- (7) The power to make regulations conferred on the Secretary of State by this section shall be exercisable by statutory instrument.

PART II
—cont.

- (8) In this section reference to an insulated return includes reference to a return by means of a combined neutral and earth cable which is covered by an insulated sheath suitable for protection against corrosion and is approved for use below ground by the Secretary of State for the purpose of any regulations relating to the supply of electricity.

PART III

LANDS

Power to acquire
lands.

26. Subject to the provisions of this Act, the Executive may enter upon, take and use—

- (a) so much of the land delineated on the deposited plans and described in the deposited book of reference as they may require for the purposes of the authorised works or for any purpose connected with, or ancillary to, their undertaking; and
- (b) so much of any land specified in columns (2) and (3) of Schedule 4 to this Act shown on the deposited plans within the limits of land to be acquired or used as they may require for the purpose specified in relation to that land in column (1) of that Schedule.

Extinction of
private rights of
way.

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

(2) Any person who suffers loss by the extinguishment of any right under this section shall be entitled to compensation to be determined, in case of dispute, under and in accordance with Part I of the Land Compensation Act 1961.

1961 c. 33.

Power to acquire
new rights.

28.—(1) In this section references to the purchase by the Executive of new rights are references to the purchase of rights to be created in favour of the Executive.

(2) The Executive may, for the purposes of constructing, maintaining, protecting, renewing and using any of the authorised works, purchase compulsorily such new rights as they may require over any of the lands that may be acquired compulsorily under this Act instead of acquiring those lands.

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

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

- (a) Part I of the Act of 1965 shall have effect with the modifications specified in Schedule 5 to this Act; and
- (b) the enactments relating to compensation for the compulsory purchase of land shall apply with the necessary modifications as they apply to such compensation.

29.—(1) Where a copy of this section is endorsed on, or annexed to, a notice to treat served under the Act of 1965 as applied by this Act, the following provisions of this section shall apply to the land subject to the notice instead of 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 Executive a counter-notice objecting to the sale of the part and stating that he is willing and able to sell the whole (hereafter 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 Executive 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 Executive are authorised to acquire compulsorily under this Act.

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

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and
- (b) the material detriment is not confined to a part of the land subject to the counter-notice;

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

(7) In any case where, by virtue of a determination by the tribunal under subsection (4), (5) or (6) above, 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

PART III
—cont.
Acquisition of
part only of
certain properties.

PART III
—cont.

the notice, the Executive may, within six weeks after the tribunal make their determination, withdraw the notice to treat, and if they do so shall pay to the person on whom the notice was served 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) For the purposes of subsection (7) above, the determination shall not be taken to have been made so long as—

- (a) the time for requiring the tribunal to state a case with respect to the determination has not expired;
- (b) any proceedings on points raised by a case stated have not been concluded; or
- (c) any proceedings on appeal from any decision on points raised by a case stated have not been concluded.

(9) 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 Executive shall pay him compensation for any loss sustained by him due to the severance of that part in addition to the value of his interest therein.

Disregard of recent improvements and interests.

30. In determining a question with respect to compensation claimed in consequence of the compulsory acquisition of land (including rights) under this Act, the tribunal shall not take into account—

- (a) any interest in land; or
- (b) any enhancement of the value of any interest in land, by reason of any building erected, works executed or improvement or alteration made, whether on the land acquired, or, as the case may be, on the land over which rights are acquired, or on any other land with which the claimant is, or was, at the time of erection, executing or making of the building, works, improvement or alteration, directly or indirectly concerned;

if the tribunal are satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration, as the case may be, was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

Set-off for enhancement in value of retained land.

31.—(1) In this section “relevant land” means any land or any new rights over any land purchased by the Executive for the purposes of the authorised works.

(2) In assessing the compensation payable to any person on the purchase by the Executive from him of any relevant land, the tribunal shall—

- (a) have regard to the extent to which the land or the remaining contiguous lands belonging to the same person may be benefited by any of the authorised works; and
- (b) set off against the value of the relevant land any increase in value of the remaining contiguous lands belonging to the same person which will accrue to him by reason of the construction of any of the authorised works.

1961 c. 33.

(3) The Land Compensation Act 1961 shall have effect subject to the provisions of this section.

32.—(1) In this section “the relevant land” means any of the lands in the City of Birmingham specified in Schedule 4 to this Act, numbered 13 and 14 on the deposited plans.

PART III
—cont.
Temporary possession of land.

(2) Subject to the provisions of this section, the Executive may take temporary possession of and use the relevant land for the provision of working sites and access for construction purposes.

(3) Not less than 28 days before entering upon and taking temporary possession of the relevant land the Executive shall give notice to the owners and occupiers of the land.

(4) (a) The Executive shall not, without the agreement of the owners and occupiers, remain in possession of any part of the relevant land under the powers of this section after a period of 18 months from the completion of Work No. 9.

(b) Before giving up possession of the relevant land, the Executive shall remove all temporary works and restore the relevant land to the reasonable satisfaction of the owners and occupiers thereof.

(5) (a) The Executive shall not be empowered to purchase compulsorily, or be required to purchase, any part of the relevant land.

(b) The Executive shall compensate the owners and occupiers of the relevant land for any loss or damage which may result to them by reason of the exercise of the powers of this section in relation to the relevant land.

(c) Nothing in this section shall relieve the Executive from liability to compensate under section 6 or 43 of the Act of 1845 or section 10 (2) of the Act of 1965 as incorporated or applied by this Act, or under any other enactment, in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (b) above.

(6) Every case of compensation to be ascertained under this section shall be ascertained under the provisions of the Land Compensation Act 1961.

1961 c. 33.

33.—(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 Executive, 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.

Correction of errors in deposited plans and book of reference.

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

(3) The certificate shall be deposited in the office of the Clerk of the Parliaments, and a copy thereof in the Private Bill Office, House of Commons, and with the proper officer of the district council for the area in which the land is situated 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 Executive to take the land or, as the case may be, a right over the land and execute the works in accordance with the certificate.

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

PART III
—cont.
Period of
compulsory
purchase of lands
or rights.

34.—(1) The powers of the Executive for the compulsory acquisition of the lands and rights which they are authorised to acquire by this Part of this Act shall not be exercised after the expiration of five years from the passing of this Act.

(2) The powers of the Executive for the compulsory acquisition of the said lands and rights shall, for the purposes of this section, be deemed to have been exercised if notice to treat has been served in respect of those lands and rights.

Acquisition of
land in advance
of requirements.
1968 c. 73.
1973 c. 26.

35. Without prejudice to the generality of their powers to acquire land by agreement under section 10 (1) (xx) of the Transport Act 1968 and section 26 of the Land Compensation Act 1973, the Executive may acquire by agreement any land in their area which, in their opinion, is likely to be required for the development of a light rail transit network in their area or, by reason of published proposals indicating that it might be so required, is a hereditament in respect of which a valid blight notice could have been served on them under section 193 of the Town and Country Planning Act 1971 or section 78 of the Land Compensation Act 1973 if it were land of the description specified in section 192 (1) (i) of the Act of 1971.

1971 c. 78.

PART IV

PROTECTIVE PROVISIONS

Notice to
police.

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

As to highways,
traffic, etc.

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

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

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

(i) such part shall not be constructed and the surface of the highway shall not be occupied by the Executive; or

(ii) such highway shall not be stopped up and the interference with traffic shall not be caused by the Executive;

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

- (4) At least 14 days before commencing to make any trial holes in any part of any highway in exercise of the powers of section 11 (3) of the Act of 1965 as applied by this Act, the Executive shall serve notice in writing on the highway authority of their intention to do so describing the place or places at which the trial holes are intended to be made, and, if within 14 days after the receipt of such notice any objection is made by the highway authority, the matter shall (unless otherwise agreed) be determined by arbitration before the making of any trial hole is commenced, but if no such objection is made the Executive may proceed with the making of any trial hole of which notice has been so given:
- (5) So much of the authorised works as is intended to become public highway, or part of any such highway, shall be completed in accordance with the reasonable requirements of the local highway authority or, in case of difference between the Executive and the highway authority as to whether those requirements have been complied with or as to their reasonableness, in accordance with the determination of the Secretary of State upon any such difference:
- (6) It shall be lawful for the proper officer of the highway authority at all reasonable times, on giving to the Executive such notice as may in the circumstances be reasonable, to enter upon and inspect any part of the authorised works in any highway, or which may affect any highway or any property or work of the highway authority, during the execution thereof, and the Executive shall give to such officer all reasonable facilities for such inspection:
- (7) The Executive shall not, except with the consent of the highway authority, alter, disturb or in any way interfere with any sanitary convenience, refuge, sewer, drain, lamp column, traffic sign, bollard, bin for refuse or road materials or apparatus connected therewith, or any other property or work belonging to, or under the jurisdiction or control of, the highway authority on or under any highway or repairable by them or the access thereto:
- (8) If the highway authority, after giving to the Executive not less than 28 days' notice (or in the case of emergency such other notice as is reasonably practicable) of their intention to do so, incur any extra expense in the signposting of traffic diversions or the taking of other measures in relation thereto, or in the repair of any highway, by reason of the diversion thereto of traffic from a road of a higher classification in consequence of the construction of the authorised works, the Executive shall repay the amount of the expense reasonably so incurred by the highway authority:
- (9) The Executive shall not, except with the consent of the highway authority, deposit any soil or materials or stand any vehicle or plant on or over any highway so as to obstruct or render less safe the use of the highway by any person or, except with the like consent, deposit any soil or materials on any highway except within a hoarding:

PART IV
—cont.

PART IV
—cont.

(10) The Executive shall, if reasonably so required by the highway authority, provide and maintain to the reasonable satisfaction of the highway authority, during such time as the Executive may occupy any part of a highway for the purpose of the construction of any part of the authorised works, temporary bridges and temporary ramps for vehicular traffic or pedestrian traffic, or both, in such position as may be necessary to prevent undue interference with the flow of traffic in any highway:

(11) Where any part of any highway shall have been temporarily broken up or disturbed by the Executive, the Executive shall make good the subsoil foundations and surface of such part of the highway to the reasonable satisfaction of the highway authority and maintain the same to the reasonable satisfaction of the highway authority for such time as may be reasonably required for the permanent reinstatement of the highway:

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

(12) It shall not be lawful for the Executive to place any hoardings on any part of any highway except for such period and in such manner as may be reasonably necessary, and the provisions of sections 172 and 173 of the Highways Act 1980 shall apply to any hoarding erected on any part of any highway, and, for the purposes of the said section 172, any such hoarding shall be deemed to have been erected in compliance with subsection (1) of that section:

(13) The Executive shall make compensation to the highway authority for any subsidence of, or damage to, any highway or any sanitary convenience, refuge, sewer, drain, lamp column, traffic sign, bollard, bin for refuse or road materials or apparatus connected therewith or any other property or work belonging to, or under the jurisdiction or control of, the highway authority on or under any highway, or maintainable by them, which may be caused by, or in consequence of, any act or default of the Executive, their contractors, servants or agents, whether such damage or subsidence shall happen during the construction of the authorised works or at any time thereafter:

(14) The highway authority may require that the authorised works, so far as they involve any serious interference with the movement of traffic in any highway, shall be carried on, so far as reasonably practicable, continuously by day and night, and the Executive shall take all such steps as may be reasonably necessary to reduce so far as possible the period of such interference:

(15) Except as provided in paragraph (5) above, any difference arising between the Executive and the highway authority under this section (other than a difference as to its meaning or construction) shall be determined by arbitration.

1980 c. 66.

For protection of
British Railways
Board.

38. For the protection of the railways board the following provisions shall, except so far as may be otherwise agreed in writing between the Executive and the railways board, apply and have effect:—

- (1) The Executive shall not under the powers of this Act acquire any land or other property of the railways board or any right in such land or other property without the consent of the railways board, which consent shall not be unreasonably withheld;
- (2) If the cost to the railways board of altering any existing railway within its boundaries, or of maintaining or reconstructing any existing railway, or any existing structure or installation provided in connection therewith, is increased by reason of the existence of the works authorised by this Act, any such additional expense reasonably so incurred by the railways board, after giving 56 days' notice to the Executive, shall be repayable by the Executive to the railways board;
- (3) Any difference arising between the Executive and the railways board under this section (other than a difference as to its meaning or construction) shall be determined by arbitration.

PART IV
—cont.

39. For the protection of the British Waterways Board (in this section referred to as "the waterways board") the following provisions shall, unless otherwise agreed in writing between the Executive and the waterways board, apply and have effect:—

For protection
of British
Waterways
Board.

- (1) In this section—

"the canal" means any canal or inland waterway owned or managed by the waterways board, and any works connected therewith for the maintenance of which the waterways board are responsible, and includes any lands held or used by the waterways board for the purposes of any canal;

"construction" includes placing, alteration and renewal;

"the engineer" means an engineer to be appointed by the waterways board;

"plans" includes sections, drawing and particulars;

"the specified works" means so much of any of the authorised works as is situated over or upon or abuts on or in any way affects the canal:

- (2) The Executive shall, before commencing the construction of the specified works, supply to the waterways board proper and sufficient plans thereof for the approval of the engineer, and shall not commence the specified works until plans thereof have been approved in writing by the engineer or settled by arbitration:

Provided that approval of plans supplied under this paragraph shall not be unreasonably withheld and, if within 28 days after such plans have been supplied to the waterways board the engineer shall not have intimated his disapproval thereof and the grounds of his disapproval, he shall be deemed to have approved the plans as supplied:

- (3) Upon signifying his approval or disapproval of the plans the engineer may specify any protective works, whether temporary or permanent, which in his opinion should be carried out before the commencement of the specified works to ensure the safety or stability of the canal, and such protective works as may be reasonably necessary for those purposes shall be constructed by the Executive with all reasonable dispatch:

PART IV
—cont.

- (4) The Executive shall pay to the waterways board a capitalised sum representing the increased or additional cost of maintaining and, when necessary, renewing any permanent protective works provided under paragraph (3) above, but if the cost of maintaining the canal, or of works of renewal on the canal, is reduced in consequence of any such protective works, a capitalised sum representing such saving shall be set off against any sum payable by the Executive to the waterways board under this section:
- (5) The Executive shall give to the engineer 28 days' notice of their intention to commence the construction or repair of any of the specified works, or, in the case of repair carried out in an emergency, such notice as may be reasonably practicable:
- (6) When construction of any specified works is commenced the works shall be carried out—
- (a) in accordance with the plans approved or deemed to be approved or settled as provided in paragraph (2) above;
 - (b) under the supervision (if given) and to the reasonable satisfaction of the engineer; and
 - (c) so as not to interfere with or obstruct the use of the towing paths of the canal so far as is reasonably practicable; and
 - (d) so as not to interfere with or obstruct the passage of vessels on the canal—
 - (i) at any time in the period in each year beginning on 17th March and ending on 3rd November except in case of emergency; and
 - (ii) at any other time so far as is reasonably practicable:
- (7) The Executive shall not in the course of constructing or repairing the specified works do or permit anything which may result in the pollution of the canal or the deposit of materials therein and shall take such steps as the engineer may reasonably require to avoid such pollution:
- (8) The Executive shall pay to the waterways board all costs, charges and expenses reasonably incurred by them in respect of the approval by the engineer of plans supplied by the Executive under paragraph (2) above and the supervision by him of the construction of the specified works:
- (9) If any damage to the canal or other land or property of the waterways board, any stoppage of the canal or any interference with the passage of vessels using the canal shall be caused by the carrying out of works for the construction of the specified works, the Executive shall make good such damage and pay to the waterways board all reasonable expenses to which they may be put and compensation for any loss which they may sustain by reason of any such damage, stoppage or interference:
- Provided that nothing in this paragraph shall impose any liability on the Executive with respect to any damage, expenses or loss which is attributable to the act, neglect or default of the waterways board or their servants, contractors or agents:
- (10) Any difference arising between the Executive and the waterways board under this section (other than a difference as to its meaning or construction) shall be determined by arbitration.

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

PART IV
—cont.
For protection of
public sewers.

(1) In this section—

“construction” includes placing and altering;

“sewer” means a public sewer within the meaning of the Public Health Act 1936 and includes a sludge main, disposal main (within the meaning of Schedule 19 of the Water Act 1989) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such public sewer, main or outfall;

1936 c. 49,
1989 c. 15.

“sewerage authority” means the water authority and any local authority which is a relevant authority for the purposes of section 15 of the Water Act 1973;

1973 c. 37.

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

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

(2) Wherever in this section provision is made with respect to the approval or consent of the sewerage authority such approval shall be in writing, but shall not be unreasonably withheld:

(3) The Executive shall not commence the construction of the specified works until they have given to the sewerage authority not less than 56 days’ notice in writing of their intention to do so with plans as described in paragraph (9) below (in this section referred to as “the said plans”) for their approval:

Provided that approval of the said plans shall not be unreasonably withheld and, if within 56 days after the submission of the said plans the sewerage authority have not approved or disapproved them, they shall be deemed to have approved the plans as submitted:

(4) The Executive shall comply with, and conform to, all reasonable orders, directions and regulations of the sewerage authority in the construction of the specified works and shall provide new, altered or substituted works in such manner as the sewerage authority shall reasonably require for the protection of, and for preventing injury or impediment to, or for securing access to, any existing sewer of the sewerage authority by reason of the specified works, and shall indemnify the sewerage authority against all expenses occasioned thereby:

(5) The specified works and all such new, altered or substituted works—

(a) shall be constructed in accordance with such plans and sections as may be approved or deemed to be approved by the sewerage authority as aforesaid or settled by arbitration, subject however to any modification of those plans and sections from time to time agreed upon between the Executive and the sewerage authority; and

(b) shall be constructed to the reasonable satisfaction of the sewerage 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:

(6) All new, altered or substituted works shall, where so required by the sewerage authority, be constructed by the sewerage authority, or under the direction, superintendence and control of an officer of the

PART IV
—cont.

sewerage authority duly appointed for the purpose, at the cost of the Executive and all costs, charges and expenses reasonably incurred by the sewerage authority by reason of such works, whether in the execution thereof, or in the preparation or examination of plans or designs, or in such direction, superintendence or control as aforesaid, or otherwise, shall be paid to the sewerage authority by the Executive:

- (7) When any new, altered or substituted works shall be completed by, or at the cost of, the Executive under the provisions of this section the same shall thereafter be as fully and completely under the direction, jurisdiction and control of the sewerage authority as any sewers or works now or hereafter may be:
- (8) It shall not be lawful for the Executive without the consent of the sewerage authority, in the exercise of the powers of section 11 (3) of the Act of 1965 as applied by this Act, to make any trial holes which interfere with any sewer:
- (9) The plans to be submitted to the sewerage authority for the purposes of this section shall be detailed plans, drawings, sections and specifications which shall describe the exact position and manner in which, and the level at which, the specified works are to be constructed and shall accurately describe the position of all sewers of the sewerage authority within the limits of deviation (for which purpose the sewerage authority shall allow the Executive access to plans in their possession and to any of their sewers in order to enable the Executive to obtain reliable information) and shall comprise detailed drawings of every alteration which the Executive may propose to make in any such sewer:
- (10) The Executive shall be liable to make good, or, if the sewerage authority so decide, to repay any expense reasonably incurred by the sewerage authority in making good, damage caused by, or resulting from, the construction of the specified works to any sewers, drains or works vested in the sewerage authority whether or not identified at the commencement of the construction of the specified works:
- (11) If the Executive, in the construction of the specified works or any new, altered or substituted works provided in accordance with this section, damage, or, without the consent of the sewerage authority, alter or in any way interfere with, any existing sewer of the sewerage authority, the Executive shall—
 - (a) pay to the sewerage authority any additional expense which may be reasonably incurred by the sewerage authority in the maintenance, operation, management or renewal of any new, altered or substituted sewer which may be necessary in consequence of the said construction; and
 - (b) give to the sewerage authority free and uninterrupted access at all times to any such new, altered or substituted sewer and reasonable facilities for the inspection, maintenance, alteration and repair thereof:
- (12) It shall be lawful for the proper officer of the sewerage authority at any reasonable time, on giving to the Executive such notice as may in the circumstances be reasonable, to enter upon and inspect the specified works or any other works constructed under the powers of this section:

- (13) The approval by the sewerage authority of any plans, or the superintendence by them of any work, under the provisions of this section shall not exonerate the Executive from any liability, or affect any claim for damages, under this section or otherwise:

PART IV
—cont.

- (14) The following provisions of this paragraph shall have effect for the provision by the Executive, in the construction of the railways authorised by this Act, of accommodation or other facilities for the laying under those railways of any sewer not more than 18 inches in diameter and any drains or private sewers connecting with any sewer and other associated apparatus (all or any of which is hereafter in this paragraph called "apparatus"):

(a) Not less than six months before the Executive commence the construction of any of the railways in any street or controlled land within the meaning of the Act of 1950 they shall give notice thereof in writing to the sewerage authority;

(b) If, within 56 days from the service on them of notice of the intended construction of any works under paragraph (a) above, the sewerage authority give to the Executive notice in writing that they desire such accommodation or other facilities to be provided, and such information as the Executive may require to enable them to determine the extent and description of the accommodation or facilities to be provided and the means of access to apparatus laid therein, the Executive shall, so far as it is reasonably practicable to do so, provide in the construction of the railway such accommodation or facilities for the laying of apparatus under the railway as may be agreed between them and the sewerage authority, or in default of agreement, determined by arbitration to be reasonably practicable;

(c) Subject to the provisions of this section, the sewerage authority shall be entitled to use accommodation or other facilities and the means of access thereto provided by the Executive for the laying and installing therein of the apparatus for which they were provided and for the purpose of inspecting, repairing, removing or renewing that apparatus;

(d) Except in case of emergency, when they shall give such notice as they can in the circumstances, the sewerage authority shall give to the Executive not less than 42 days' notice of their intention to lay and install or to repair, remove or renew apparatus in any such accommodation or facilities;

(e) In laying and installing apparatus in accommodation or other facilities provided by the Executive the sewerage authority shall conform with the reasonable requirements of the Executive as to the time at which, and the manner in which, such works affecting the Metro shall be carried out, and the Executive shall be entitled to superintend the carrying out of such works;

(f) The sewerage authority shall maintain in good repair and to the reasonable satisfaction of the Executive any apparatus laid and installed in accommodation or facilities provided by the Executive and shall take such precautions as the Executive reasonably require to be taken for ensuring the safety of the Metro and the traffic thereon;

(g) The accommodation or facilities provided by the Executive shall be maintained by the Executive to the reasonable satisfaction of the sewerage authority;

PART IV
—cont.

(h) Except in case of emergency, when they shall give such notice as they can, the Executive shall give to the sewerage authority not less than 42 days' notice in writing of their intention to carry out any works affecting any such accommodation or facilities and, in carrying out the same, shall take such measures as the sewerage authority may reasonably require for the protection of, or for preventing interference with, apparatus laid or installed therein:

(15) As soon as reasonably practicable after the completion of the construction of a specified work the Executive shall deliver to the sewerage authority a plan and section showing the position and level of that work as constructed and all new, altered or substituted works of the sewerage authority provided under this section:

(16) If by reason, or in consequence, of the construction or failure of any of the Metro or any subsidence resulting from the Metro any damage shall be caused to any sewer or property of the sewerage authority (other than a sewer the repair of which is not reasonably necessary in view of its intended removal), the Executive shall repay the cost reasonably incurred by the sewerage authority in making good such damage and shall—

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

(b) indemnify the sewerage authority against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from, or incurred by, the sewerage authority;

by reason or in consequence of any such damage:

Provided that—

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

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

(17) Notwithstanding the temporary stopping up or diversion of any highway under the powers of section 18 (Temporary stoppage of highways) of this Act, the sewerage authority shall be at liberty at all times to construct and do all such works and things in, upon or under any such highway as may be reasonably necessary to enable them to inspect, repair, maintain, renew, alter, protect, remove or use any sewer which at the time of the stopping up or diversion was in that highway:

(18) Where, in consequence of this Act, any part of any street, bridleway or footpath in which any sewer is situate ceases to be part of the street, bridleway or footpath, the sewerage authority may exercise the same rights of access to such sewer as they enjoyed immediately before the passing of this Act, but nothing in this paragraph shall prejudice or affect any right of the Executive or of the sewerage authority to require alteration of such sewer under this section:

- (19) The Executive shall, so far as is reasonably practicable, so exercise the powers conferred by section 22 (Underpinning of houses near works) of this Act as not to obstruct or render less convenient the access to any sewer:
- (20) Any difference arising between the Executive and the sewerage authority under this section (other than a difference as to its meaning or construction) shall be determined by arbitration.

PART IV
—cont.

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

For protection of
certain statutory
undertakers.

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

“the undertakers” means the statutory undertakers or any of them, as the case may be, and, in relation to any apparatus, means the undertakers to whom it belongs or by whom it is maintained;

“adequate alternative apparatus” means alternative apparatus adequate to enable the undertakers to fulfil their statutory functions in a manner not less efficient than previously;

“apparatus” means—

(a) electric lines and works (as respectively defined in the Electric Lighting Act 1882) belonging to, or maintained by, the Central Electricity Generating Board or the Midlands Electricity Board; or

1882 c. 56.

(b) mains, pipes or other apparatus belonging to, or maintained by, a public gas supplier; or

(c) mains, pipes or other apparatus belonging to, or maintained by, the water authority or the South Staffordshire Waterworks Company for the purposes of water supply;

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

“construction” includes placing and altering;

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

- (2) Notwithstanding anything in this Act or shown on the deposited plans the Executive shall not acquire any apparatus under this Act otherwise than by agreement:
- (3) If the Executive in the exercise of the powers of this Act construct works in any lands (including lands forming part of any street) in which any apparatus is placed, that apparatus shall not be removed under this section, nor shall any right of the undertakers to use, maintain, repair, renew or inspect any apparatus in those lands be extinguished, until any necessary adequate alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the undertakers:
- (4) (a) If the Executive, for the purpose of constructing any of the authorised works in, on or under any lands (including lands forming part of any street) acquired, held or used under this Act, require the removal of any apparatus placed in those lands, and give to the undertakers not less than 56 days’ written notice of such require-

PART IV
—cont.

- ment, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed so as to provide adequate alternative apparatus in lieu of the apparatus to be removed, or if, in consequence of the exercise of any of the powers of this Act, the undertakers shall reasonably require to remove any apparatus, the Executive shall, if it is practicable to do so, afford to the undertakers the necessary facilities and rights for the construction of any necessary adequate alternative apparatus in other lands of the Executive and thereafter for the maintenance, repair, renewal and inspection of such apparatus;
- (b) If the alternative apparatus, or any part thereof, is to be constructed elsewhere than in other lands of the Executive, the undertakers shall, on receipt of a written notice to that effect from the Executive, as soon as reasonably practicable exercise their powers to lay alternative apparatus:
- (5) (a) Any alternative apparatus to be constructed in pursuance of paragraph (4) above shall be constructed in such manner, and in such line or situation, as may be agreed between the undertakers and the Executive or, in default of agreement, determined by arbitration;
- (b) The undertakers shall, after the manner of construction and the line and situation of any necessary alternative apparatus have been agreed or determined as aforesaid, proceed with all reasonable dispatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the Executive to be removed under the provisions of this section:
- (6) Notwithstanding anything in paragraph (5) above, if the Executive give notice in writing to the undertakers that they desire to carry out any part of so much of the work necessary in connection with the construction of the alternative apparatus, or the removal of the apparatus required to be removed, such work, instead of being carried out by the undertakers, shall be carried out by the Executive with all reasonable dispatch under the superintendence (if given) and to the reasonable satisfaction of the undertakers:
- (7) Nothing in paragraph (6) above shall authorise the Executive to carry out the actual placing, erection, installation, bedding, packing, removal, connection or disconnection of any apparatus or execute any filling around the apparatus (where the apparatus is laid in a trench, tunnel, heading or boring) within 600 millimetres (measured in any direction) of the apparatus:
- (8) Where, in accordance with the provisions of this section, the Executive afford to the undertakers facilities and rights for the construction, maintenance, repair, renewal and inspection in lands of the Executive of alternative apparatus in substitution for apparatus to be removed as aforesaid, those facilities and rights shall be granted upon such terms and conditions as may be agreed between the Executive and the undertakers or, in default of agreement, determined by arbitration:
- (9) In determining such terms and conditions as mentioned in paragraph (8) above in respect of alternative apparatus to be constructed across or along the authorised works the arbitrator shall—
- (a) give effect to all reasonable requirements of the Executive for ensuring the safety and efficient operation of the authorised

works and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any such works; and

(b) so far as it may be reasonable and practicable to do so in the circumstances of the case, give effect to any terms and conditions applicable to the apparatus (if any) constructed across or along the authorised works for which the alternative apparatus is to be substituted:

- (10) If the facilities and rights to be afforded by the Executive in respect of any alternative apparatus under paragraph (8) above and the terms and conditions subject to which the same are to be granted are, in the opinion of the arbitrator, more or less favourable on the whole to the undertakers than the facilities, rights, terms and conditions applying to the apparatus to be removed, the arbitrator shall make such provision for the payment of compensation to or by the Executive by or to the undertakers in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the case:
- (11) (a) Not less than 56 days before commencing to construct any of the authorised works which are near to, or will or may affect, any apparatus the removal of which has not been required by the Executive under paragraph (4) above, the Executive shall submit to the undertakers a plan, section and description of the works to be constructed;
- (b) Such works shall be constructed only in accordance with the plan, section and description submitted as aforesaid and in accordance with such reasonable requirements as may be made by the undertakers for the alteration or otherwise for the protection of the apparatus, or for securing access thereto, and the undertakers shall be entitled by their officer to watch and inspect the construction of such works:
- (12) If the undertakers within 42 days after the submission to them of any plan, section and description under paragraph (11) above shall, in consequence of the works proposed by the Executive, reasonably require the removal of any apparatus and give written notice to the Executive of such requirement, the foregoing provisions of this section shall apply and have effect as if the removal of such apparatus had been required by the Executive under paragraph (4) above:
- (13) Nothing in paragraph (11) or (12) above shall preclude the Executive from submitting at any time, or from time to time, but in no case less than 28 days before commencing the construction of any such works, a new plan, section and description thereof in lieu of the plan, section and description previously submitted, and thereupon the provisions of those paragraphs shall apply to, and in respect of, such new plan, section and description:
- (14) The Executive shall not be required to comply with paragraph (11) (a) above in a case of emergency but, in such a case, they shall give to the undertakers notice so soon as reasonably practicable, and a plan, section and description of the works so soon as reasonably practicable thereafter, and shall comply with paragraph (11) (b) above so far as reasonably practicable in the circumstances:
- (15) If in consequence of the exercise of the powers of this Act the access to any apparatus is materially obstructed the Executive shall provide alternative means of access to such apparatus:

PART IV
—cont.

(16) The following provisions of this paragraph shall have effect for the provision by the Executive, in the construction of the railways authorised by this Act, of accommodation or other facilities for the laying of apparatus under the railways:—

(a) Not less than 6 months before the Executive commence the construction of any of the railways in any street or controlled land within the meaning of the Act of 1950 they shall give notice thereof in writing to each of the undertakers;

(b) If, within 56 days from the service on them of notice of the intended construction of any works under paragraph (a) above, the undertakers give to the Executive notice in writing that they desire such accommodation or other facilities to be provided, and such information as the Executive may require to enable them to determine the extent and description of the accommodation or facilities to be provided and the means of access to apparatus laid therein, the Executive shall, so far as it is reasonably practicable to do so, provide in the construction of the railway such accommodation or facilities for the laying of apparatus under the railway as may be agreed between them and the undertakers, or in default of agreement, determined by arbitration;

(c) Subject to the provisions of this section, the undertakers shall be entitled to use accommodation or other facilities and the means of access thereto provided by the Executive for the laying and installing therein of the apparatus for which they were provided and for the purpose of inspecting, repairing, removing or renewing that apparatus;

(d) Except in case of emergency when they shall give such notice as they can in the circumstances, the undertakers shall give the Executive not less than 42 days' notice of their intention to lay and install or to repair, remove or renew apparatus in any such accommodation or facilities;

(e) In laying and installing apparatus in accommodation or other facilities provided by the Executive the undertakers shall conform with the reasonable requirements of the Executive as to the times at which, and the manner in which, such undertakers' works affecting the railways shall be carried out, and the Executive shall be entitled to superintend the carrying out of such works;

(f) The undertakers shall maintain in good repair and to the reasonable satisfaction of the Executive any apparatus laid and installed in accommodation or facilities provided by the Executive and shall take such precautions as the Executive reasonably require to be taken for ensuring the safety of the railway and the traffic thereon;

(g) The accommodation or facilities provided by the Executive shall be maintained by the Executive to the reasonable satisfaction of the undertakers;

(h) Except in case of emergency when they shall give such notice as they can, the Executive shall give to the undertakers not less than 42 days' notice in writing of their intention to carry out any works affecting any such accommodation or facilities and, in carrying out the same, shall take such measures as the undertakers may reasonably require for the protection of, or for preventing interference with, their apparatus laid or installed therein;

- (17) (a) The Executive shall repay the reasonable expenses incurred by the undertakers in, or in connection with—
- (i) the removal and re-laying or replacing, alteration or protection of any apparatus or the provision and construction of any new apparatus under any of the provisions of this section; and
 - (ii) the cutting off of any apparatus from any other apparatus;
- (b) Subsections (3) and (4) of section 23 of the Act of 1950 shall, so far as applicable, extend and apply to any payment to be made by the Executive under sub-paragraph (a) above as if the works there mentioned were such undertakers' works as are referred to in the said subsection (3), and as if in that subsection for the words "specified as so necessary in a specification of the works settled under Part I of the Fourth Schedule to this Act or agreed so to be by the promoting authority" there were substituted the words "agreed or settled by arbitration under section 41 (For protection of certain statutory undertakers) of the Midland Metro Act 1989":
- (18) (a) If, by reason or in consequence of the construction or failure of any of the authorised works or any subsidence resulting from any of those works, any damage shall be caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal) or property of the undertakers, or any interruption shall be caused in the supply of electricity, gas or, as the case may be, water by the undertakers, the Executive shall repay the cost reasonably incurred by the undertakers in making good such damage, or restoring the supply, and shall—
- (i) make reasonable compensation to the undertakers for any loss sustained by them; and
 - (ii) indemnify the undertakers against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from, or incurred by, the undertakers; by reason or in consequence of any such damage or interruption:
- (b) Nothing in sub-paragraph (a) above shall impose any liability on the Executive with respect to any damage or interruption to the extent that such damage or interruption is attributable to the neglect or default of the undertakers, their officers, servants, contractors or other agents;
- (c) The undertakers shall give to the Executive reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the consent of the Executive:
- (19) Where, in consequence of this Act, any part of any street, bridleway or footpath in which any apparatus is situate ceases to be part of the street, bridleway or footpath, the undertakers may exercise the same rights of access to such apparatus as they enjoyed immediately before the passing of this Act, but nothing in this paragraph shall prejudice or affect any right of the Executive or of the undertakers to require removal of such apparatus under this section or the power of the Executive to construct works in accordance with paragraph (11) above:
- (20) Notwithstanding the temporary stopping up or diversion of any highway under the powers of section 18 (Temporary stoppage of highways) of this Act, the undertakers shall be at liberty at all times to carry out and do all such works and things in, upon or under any such highway as may be reasonably necessary to enable them to inspect, repair, maintain, renew, remove or use any apparatus which at the time of the stopping up or diversion was in that highway:

PART IV
—cont.

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

(22) (a) Any difference arising between the Executive and the undertakers under this section (other than a difference as to its meaning or construction) shall be determined by arbitration;

(b) In determining any difference under this section the arbitrator may, if he thinks fit, require the Executive to construct any temporary or other works so as to avoid, so far as may be reasonably possible, interference with the use of any apparatus.

For protection
of tele-
communications
operators.

1984 c. 12.

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

(1) In this section expressions defined in the Telecommunications Act 1984 have the same meanings as in that Act.

(2) The temporary stopping up or diversion of any highway under section 18 (Temporary stoppage of highways) of this Act shall not affect any right of a telecommunications operator under paragraph 9 of the telecommunications code to inspect, maintain, adjust, repair or alter any apparatus which, at the time of the stopping up or diversion, is in that highway.

Crown rights.

43.—(1) Nothing in this Act affects prejudicially any estate, right, power, privilege or exemption of the Crown and, without prejudice to the generality of the foregoing, nothing in this Act authorises the Executive to take, use or in any manner interfere with any land or hereditaments or any rights of whatsoever description—

(a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those commissioners; or

(b) belonging to Her Majesty in right of Her Crown and under the management (pursuant to any statute or otherwise) of the Secretary of State, without his consent in writing; or

(c) belonging to a government department or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.

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

(3) Nothing in this section shall prejudice or affect the exercise of statutory powers to carry out works in or affecting any highway vested in or maintained by the Secretary of State in relation to which the provisions of section 37 (As to highways, traffic, etc.) of this Act apply.

PART V

MISCELLANEOUS AND GENERAL

Insulation against
noise.

44.—(1) The Executive may, after consulting the West Midlands Passenger Transport Authority, make a scheme providing for the making of grants towards the cost of insulating buildings, or such classes of buildings as the Executive may think fit, or any parts of any such buildings, against noise caused, or expected to be caused, by the use of the Metro.

(2) The Executive may make grants in accordance with a scheme made under subsection (1) above.

PART V
—cont.

(3) A scheme under subsection (1) above—

- (a) shall specify the areas in respect of which grants are payable;
- (b) shall make provision as to the persons to whom, the expenditure in respect of which, and the rate at which the grants are to be paid;
- (c) may make the payment of any grant dependent upon compliance with such conditions as may be specified in the scheme;
- (d) shall specify a date, not less than two years after first publication of the notice referred to in subsection (5) below, for the submission of a valid application for a grant; and
- (e) shall require the Executive, in any case where application for a grant is refused, to give to the applicant at his request a written statement of their reasons for the refusal.

(4) A scheme under subsection (1) above may make different provisions with respect to different areas or different circumstances and may be varied or revoked by a subsequent scheme under subsection (1) above without affecting grants already made.

(5) (a) As soon as may be after the making of a scheme under this section the Executive shall publish, once at least in each of two successive weeks in one or more newspapers circulating in the areas to which the scheme relates, a notice stating the general effect of the scheme and specifying a place or places in each such area where a copy of the scheme may be inspected by any person free of charge at all reasonable hours.

(b) A photostatic or other reproduction certified by the secretary of the Executive or some other person authorised by the Executive for that purpose to be a true reproduction of a page, or part of a page, of any newspaper bearing the date of its publication and containing a notice mentioned in this subsection shall be evidence of the publication of the notice and of the date of publication.

45.—(1) Where the Executive have made a scheme under section 44 (Insulation against noise) of this Act in respect of any area or areas, they may apply to the Secretary of State for an order requiring provision for insulation against noise to be made in any building of a class to which the scheme applies which is erected after a date specified in the order, or in any extension of, or alteration to, any building of such class made after that date.

Orders for
insulating new
buildings.

(2) The order shall define by reference to a map the areas to which it applies, which may comprise the whole or part of any areas to which the scheme relates.

(3) Application for an order under this section shall be accompanied by a draft of the order and a map defining the areas to which it relates.

(4) Before making application for an order under this section the Executive shall publish, in each of two successive weeks in one or more newspapers circulating in the areas to which the draft order applies, a notice—

- (a) stating the general effect of the intended order;
- (b) specifying a place in the said areas where a copy of the draft order and of the relevant map may be inspected by any person free of charge at all reasonable hours during a period of 28 days from the date of the first publication of the notice;
- (c) stating that within that period any person may, by notice to the Secretary of State, object to the application.

PART V
—cont.

(5) Any person claiming to be affected by the application may object to it by sending notice of his objection stating the grounds of objection to the Secretary of State within the period specified in the notice and a copy of the notice of objection to the Executive.

(6) The Secretary of State may make the order in the terms of the draft or in those terms as modified in such manner as he thinks fit:

Provided that, if any objection is duly made by any person appearing to the Secretary of State to be affected by the application and is not withdrawn, the Secretary of State shall not make the order unless he has caused a public local inquiry to be held into the proposed order and has considered the report of the person who held the inquiry.

(7) If the Secretary of State makes an order under this section the Executive shall publish notice of the making, and of the effect of the order, in one or more newspapers circulating in the areas to which the order relates.

(8) An order under this section shall be a local land charge.

(9) Where—

(a) plans are in accordance with building regulations deposited with a local authority; or

(b) an initial notice is given to a local authority under section 47 of the

1984 c. 55.

Building Act 1984;

for the erection, extension or alteration of a building in an area to which an order under this section relates, the local authority shall, notwithstanding anything in section 16 or 47 of the said Act, reject the plans or, as the case may be, the notice unless it is shown to them—

(i) that satisfactory provision will be made for insulating the building (or, as the case may be, the extension or alteration of the building) against noise; or

(ii) that in the case of an extension or alteration no such insulation is necessary.

(10) Section 16 (6) to (8) and section 36 (2) to (6) and section 48 (2) of the Building Act 1984 (notice of rejection or passing of plans, enforcement of requirements and effect of initial notice) shall have effect as if this section were a section of that Act and specified in section 48 (3) of that Act.

1972 c. 70.

(11) The Secretary of State may cause such local inquiries to be held as he may consider necessary for the purpose of any of his functions under this section, and section 250 (2) to (5) of the Local Government Act 1972 shall apply to any such inquiry.

Power to lop
trees overhanging
railway.

46.—(1) The Executive may cut and lop any trees in or near any railway forming part of the Metro which may in any way interfere with the construction or working of the railway or cables, wires or other apparatus, or with the clear and safe passage of carriages and their passengers.

(2) In exercising the powers of this section the Executive shall do no unnecessary damage to trees and shall pay compensation to any person who may sustain damage by reason of the exercise of the powers.

1961 c. 33.

(3) Every case of compensation under subsection (2) above shall be ascertained in accordance with Part I of the Land Compensation Act 1961.

Removal of
obstructions.

47.—(1) If any obstruction to traffic on the Metro is caused by—

(a) a vehicle on any tramway or at any level crossing waiting, loading, unloading or breaking down; or

(b) a load falling on any tramway or at any level crossing from a vehicle; the person in charge of the vehicle shall forthwith remove the vehicle or the load so as to prevent the continuance of the obstruction and, if he fails to do so, the Executive may remove the vehicle or load, taking all necessary steps for that purpose, and may recover from the person responsible the expenses reasonably incurred in doing so.

(2) In subsection (1) above "person responsible" means—

(a) in the case of a vehicle waiting, loading, unloading or breaking down—

(i) the owner of the vehicle at the time at which it became an obstruction to traffic on the Metro unless he shows that he was not concerned in, or aware of, the vehicle being put or left in that place at that time; and

(ii) the person by whom the vehicle was put or left in the place in which it became an obstruction to traffic on the Metro; and

(b) in the case of a load falling from a vehicle—

(i) the owner of the vehicle at the time of that event unless he shows that he was not concerned in, or aware of, the vehicle being put or left, or as the case may be, being in the place at which the load fell from it; and

(ii) the person in charge of the vehicle at the time when the load fell from it.

48.—(1) Any person who trespasses upon any railway lines or sidings or in any tunnel or upon any embankment, cutting or similar work forming part of any railway of the Metro which is not designated as a tramway, or upon any other lands of the Executive in dangerous proximity to any such lines or other works or to any electrical apparatus used for or in connection with the working of any such railway, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

For better prevention of trespass on railways.

(2) No person shall be convicted of an offence under this section unless it shall be proved to the satisfaction of the court before which complaint is laid that public warning has been given to persons not to trespass upon the railways of the Metro by notice clearly exhibited and maintained at the station on the Metro nearest to the place where the offence is alleged to have been committed.

49.—(1) The Executive may make byelaws regulating the use of and working of, and travel on, the Metro, the maintenance of order on the Metro and on the Executive's premises or other facilities provided in connection with the Metro, and the conduct of all persons including officers and servants of the Executive while on those premises.

Byelaws relating to Metro.

(2) Without prejudice to the generality of subsection (1) above, byelaws under this section may contain provisions—

(a) with respect to tickets issued for travel on the Metro, the payment of fares and charges and the evasion of payment of fares and charges;

(b) with respect to interference with, or obstruction of, the working of the Metro or other facilities provided in connection with the Metro;

(c) with respect to the use of tobacco or other substances and the prevention of nuisances;

(d) for regulating the passage of bicycles and other vehicles on ways and other places intended for the use of persons on foot within railway premises of the Executive, not being premises within the boundary of any street;

PART V
—cont.

(e) for the safe custody and re-delivery or disposal of property found in premises of the Executive forming part of, or provided in connection with, the Metro, or elsewhere on the Metro and for fixing the charges which may be made in respect thereof; and

(f) for prohibiting or restricting the placing or leaving of any vehicle without its driver on any authorised railway, or in premises of the Executive forming part of the Metro.

(3) Byelaws made under this section may provide that any person contravening them shall be liable on summary conviction to a fine not exceeding for each offence level 3 on the standard scale.

(4) Without prejudice to the taking of proceedings under subsection (3) above, if the contravention of any byelaw having effect under this section is attended with danger or annoyance to the public, or hindrance to the Executive in the conduct of the Metro, it shall be lawful for the Executive summarily to take action to obviate or remove the danger, annoyance or hindrance.

1962 c. 46.

(5) Subsections (5) to (11) of section 67 of the Transport Act 1962 (confirmation of byelaws) shall apply to any byelaws made by the Executive under this section as if for references to the board, or to the board in question, there were substituted references to the Executive.

Modification
of railway
regulation
enactments.

50.—(1) In their application to the Executive and the Metro the enactments specified in column (1) of the following table (which create the offences broadly described in column (2) of the table) shall each have effect as if the maximum fine which may be imposed on summary conviction of any offence specified in the enactment were, instead of that specified in column (3) of the table, a fine not exceeding the level specified in column (4) of the table.

THE TABLE

(1) Enactment	(2) Description of offence	(3) Maximum fine otherwise applicable (level on standard scale)	(4) Maximum fine (level on standard scale)
1840 c. 97. Section 16 of the Railway Regulation Act 1840.	Obstruction of officers of railway company or trespass upon railway.	Level 1.	Level 3.
1842 c. 55. Section 17 of the Railway Regulation Act 1842.	Misconduct of persons employed on railways.	Level 1.	Level 3.
1889 c. 57. In section 5 of the Regulation of Railways Act 1889— Subsection (1)	Failure to produce ticket, to pay fare or to give name and address.	Level 1.	Level 2.
Subsection (2)	Travel with intent to avoid payment of fare.	Level 2.	Level 3.

PART V
—cont.

(2) In its application to the Executive and the Metro subsection (2) of section 5 of the said Act of 1889 (power to arrest passenger who fails to produce ticket and refuses to give his name and address) shall have effect as if in subsection (2) after the word “refuses” there were inserted the words “or fails”.

51.—(1) On such day as may be appointed under subsection (2) below, regulations made, or having effect as if made, under section 25 or 60 (1) (k) of the Public Passenger Vehicles Act 1981 (regulation of conduct of passengers and lost property) shall have effect as if the carriages used on the Metro were public service vehicles used in the provision of a local service within the meaning of the Transport Act 1985.

Carriages on
Metro deemed
public service
vehicles.

1981 c. 14.

1985 c. 67.

(2) (a) The Executive may by resolution appoint a day for the purpose of any regulation mentioned in subsection (1) above, the day so appointed being fixed in accordance with paragraph (b) below.

(b) The Executive shall publish in a newspaper circulating in their area, notice—

- (i) of the passing of any such resolution and of the day fixed thereby; and
- (ii) of the general effect of the enactments for the purposes of which the day has been fixed;

and the day so fixed shall not be earlier than the expiration of 28 days from the date of the publication of the notice.

(c) A photostatic or other reproduction certified by the secretary of the Executive to be a true reproduction of a page, or part of a page, of any newspaper bearing the date of its publication and containing the notice mentioned in paragraph (b) above shall be evidence of the publication of the notice and of the date of publication.

52.—(1) The Executive may from time to time make agreements with the chief officer of police and a police authority for the employment by the Executive of any members of the police establishment of that police authority for police duty within railway premises of the Executive or elsewhere upon the Metro or any part of the Metro.

Power to
contract for
police.

(2) Any such agreement may contain such terms and conditions and provide for such payment or consideration as the Executive shall agree with the police authority.

(3) Where agreement under this section is made with the railways board, members of British Transport Police Force may act in accordance with the terms of the agreement as constables in, on and in the vicinity of any premises of the Executive notwithstanding the provisions of subsection (1) of section 53 (As to appointment of constables) of the British Transport Commission Act 1949.

1949 c. xxix.

(4) In this section “police authority” includes—

- (a) a police authority within the meaning of the Police Act 1964; and
- (b) the railways board.

1964 c. 48.

53.—(1) Except as provided in subsection (5) below, premises which are, or form part of, premises occupied by the Executive forming part of the Metro shall not be liable to be rated or to be included in any valuation list or in any rate, but subsections (2) and (3) below shall apply for the purposes of the making and levying of a rate in respect of those premises.

Rating of Metro.

PART V
—cont.

(2) For the purposes of the making and levying of a rate for any rate period in respect of the premises to which subsection (1) above applies the Executive shall be treated as occupying, in each rating area in which those premises are situated, a hereditament of a rateable value fixed or determined by such method as shall be specified in an order made by the Secretary of State under this section.

(3) The hereditament which the Executive are to be treated as occupying in a rating area by virtue of subsection (2) above shall be taken not to be situated in any part of that area in which there are leviable, as an additional item of the rate, expenses which are not leviable in that area taken as a whole.

1974 c. 7.

(4) Subsections (2) to (5) of section 19 of the Local Government Act 1974 (determination of rateable value of premises occupied by public utilities and other bodies) shall apply to an order under this section as they apply to an order under that section.

(5) Subsection (1) above shall not apply to—

1971 c. 78.

- (a) premises occupied as a dwelling, hotel or place of public refreshment;
- (b) office premises situated on land of the Executive other than operational land within the meaning of the Town and Country Planning Act 1971;

- (c) premises which are so let out as to be capable of separate assessment.

1967 c. 9.

(6) Expressions used in this section have the same meanings as in the General Rate Act 1967.

1988 c. 41.

(7) This section shall cease to have effect on the repeal by the Local Government Finance Act 1988 of the General Rate Act 1967.

Powers of disposal, agreements for operation, etc.

54.—(1) The Executive may sell, lease, charge or otherwise dispose of, on such terms and conditions as they think fit, the whole or any part of the Metro or the right to operate the Metro under this Act.

(2) Without prejudice to the generality of subsection (1) above, the Executive may enter into and carry into effect agreements with other persons with respect to any of the following matters, namely, the construction, maintenance, use and operation of the Metro, or any part or parts of that system, by any other person, and other matters incidental or subsidiary thereto or consequential thereon, and the defraying of, or the making of contributions towards, the cost of the matters aforesaid by the Executive or any other person.

(3) Any agreement under subsection (2) above may provide (inter alia) for the exercise of the powers of the Executive in respect of the Metro or any part or parts thereof, and for the transfer to any person of the Metro or any part or parts thereof together with the rights and obligations of the Executive in relation thereto.

(4) The exercise of the powers of any enactment by any person in pursuance of any sale, lease, charge or disposal under subsection (1) above, or any agreement under subsection (2) above shall be subject to the same restrictions, liabilities and obligations as would apply under this Act, or under any agreement or undertaking concerning the exercise of the powers of this Act, if those powers were exercised by the Executive.

1968 c. 73.

(5) For the avoidance of doubt it is hereby declared that nothing in section 15 (2) of the Transport Act 1968 (restriction on alteration of charges) shall apply in relation to the operation of the Metro by any person other than the Executive, but this subsection is without prejudice to any provision with respect to charges that may be made in an agreement under subsection (1) or (2) above.

(6) The railways board may enter into and carry into effect agreements with the Executive under subsection (2) above.

PART V
—cont.

55. Where under this Act any difference (other than a difference to which the provisions of the Act of 1965 as applied by this Act apply) is to be determined by arbitration, then, unless otherwise provided, the difference shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed, on the application of either party (after notice in writing to the other), by the President of the Institution of Civil Engineers.

Arbitration.

56.—(1) Subject to subsection (2) below, in its application to development authorised by this Act, the planning permission specified in subsection (3) below 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.

Planning
permission.

(2) Subsection (1) above shall not apply to the carrying out of any development consisting of the alteration, maintenance or repair of the authorised works or the substitution of new works therefor.

(3) The planning permission referred to in subsection (1) above is that granted for development permitted by article 3 of, and Class A in Part 11 of Schedule 2 to, the Town and Country Planning General Development Order 1988 (which permits 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).

S.I. 1988/1813.

SCHEDULES

SCHEDULE 1

THE AUTHORISED WORKS

Note: In the following descriptions:—

- “the former Dudley Railway” means the former Oxford, Worcester and Wolverhampton Railway (Wolverhampton and Dudley);
- “the former Wolverhampton Railway” means the former Birmingham, Wolverhampton and Dudley Railway;
- “the existing Birmingham Railway” means the former London and North Western Railway (Birmingham and Wolverhampton);
- “the Smethwick Railway” means the Smethwick West and Handsworth Railway.

PART I

Section 7 (1).

DESCRIPTION OF WORKS SPECIFICALLY AUTHORISED

In the Metropolitan Borough of Wolverhampton—

- Work No. 1 A railway (1,799 metres in length) commencing at a point 10 metres north-west of the junction of Garrick Street with Bilston Street, forming double lines of tramway eastwards along Bilston Street, across the central area at the junction of Bilston Street with the Ring Road (St. David's and St. George's), then along Bilston Road to its junction with Ettingshall Road and terminating on the eastern side of that road junction, including a bridge over the said central area at the junction of Bilston Street with the Ring Road, reconstruction of the bridge carrying Bilston Road over the Birmingham Canal (Wolverhampton Level) and alteration of the level of Bilston Road where it passes under the bridge carrying the existing Birmingham Railway over that road;
- Work No. 1A A widening of Bilston Street on its southern side between its junctions with the Ring Road (St. George's) and St. George's Parade;
- Work No. 1B A widening of Bilston Street on its northern side between its junctions with Market Street and Pipers Row;
- Work No. 1C A widening of Bilston Road on its northern side between its junctions with Middle Cross and Sharrocks Street;
- Work No. 1D A widening of Bilston Road on its northern side between its junction with Sharrocks Street and a point 65 metres west of its junction with Commercial Road;
- Work No. 1E A widening of Bilston Road on its northern side between its junction with Commercial Road and the bridge carrying the existing Birmingham Railway over Bilston Road;
- Work No. 1F Alteration of the level of Chillington Street between a point 55 metres from its junction with Bilston Road and that junction;
- Work No. 1G Alteration of the level of Landport Road between a point 30 metres from its junction with Bilston Road and that junction;
- Work No. 1H A widening of Bilston Road on its northern side between points 23 metres north-west and 140 metres south-east of the junction of Cooper Street with that road, including widening of Cooper Street on both sides at that junction and alteration of the line of the carriageway of Bilston Road east of its junction with Ettingshall Road;

SCH. 1.
—cont.

Work No. 1J A widening of Bilston Road on its south-western side and of Ettingshall Road on its western side between a point on that side of Bilston Road 70 metres north-west of the centre of the roundabout at its junction with Ettingshall Road and a point on that side of Ettingshall Road at a point 15 metres north of its junction with Dixon Street;

Work No. 2 A railway (365 metres in length) commencing by a junction with Work No. 1 at its termination, passing south-eastwards on the southern side of Bilston Road, turning southwards and terminating at a point on the former Dudley Railway 60 metres south-east of the southern side of the bridge carrying Bilston Road over that former railway;

Work No. 3 A railway (430 metres in length) commencing by a junction with Work No. 2 at its termination, passing south-eastwards along the course of the former Dudley Railway and the course of the former Wolverhampton Railway and terminating at a point 38 metres north-west of the western side of the bridge carrying Ward Street over the course of that last-mentioned railway;

Work No. 4 A railway (1,720 metres in length) commencing by a junction with Work No. 3 at its termination, passing eastwards and south-eastwards along the course of the former Wolverhampton Railway and terminating at a point 110 metres south-east of the eastern side of the bridge carrying Hall Street over that railway;

Work No. 5 A railway (790 metres in length) commencing by a junction with Work No. 4 at its termination, passing south-eastwards along the course of the former Wolverhampton Railway and terminating at a point 30 metres south-east of the eastern side of the bridge carrying Loxdale Street over that railway;

In the Metropolitan Boroughs of Sandwell, Walsall and Wolverhampton—

Work No. 6 A railway (3,595 metres in length) commencing by a junction with Work No. 5 at its termination, passing south-eastwards, eastwards and southwards along the course of the Wolverhampton Railway, passing over the Walsall Canal by the existing railway bridge and over the River Tame by the existing viaduct, and terminating at a point 31 metres south of the southern end of that viaduct, including a new bridge over the South Staffordshire Junction Railway (Dudley and Walsall) in place of the former Tipton Junction bridge;

Work No. 6A A railway (606 metres in length) commencing by a junction with Work No. 6 at a point 140 metres west of the western end of the bridge carrying that railway over Leabrook Road, diverging south-east from that railway and terminating at a point 3 metres from the western side of the track (Old Field Road), forming, with sidings off the railway, a depot for the Metro with access thereto from Potters Lane;

In the Metropolitan Borough of Sandwell—

Work No. 7 A railway (1,595 metres in length) commencing by a junction with Work No. 6 at its termination, passing south-eastwards and southwards along the course of the former Wolverhampton Railway, partly in existing tunnel (Hill Top Tunnel) and terminating at a point 155 metres north of the northern end of the bridge carrying that railway over the Ridgeacre Branch Canal;

Work No. 8 A railway (4,530 metres in length) commencing by a junction with Work No. 7 at its termination, passing southwards over the said Ridgeacre Branch Canal by the existing railway bridge, then south-eastwards and eastwards along the course of the former

SCH. 1.
—cont.

Wolverhampton Railway and terminating at a point 35 metres east of the eastern side of the bridge carrying Halford's Lane over the course of that railway and the adjoining Smethwick railway;

Work No. 9 A railway (1,800 metres in length) commencing by a junction with Work No. 8 at its termination, passing south-eastwards along the course of the former Wolverhampton Railway, crossing over Booth Street and a siding of the Smethwick Railway, and terminating at a point 89 metres east of the eastern side of the existing bridge carrying Queens Head Road under the former Wolverhampton Railway, including a viaduct over Booth Street and the said railway siding;

In the City of Birmingham—

Work No. 10 A railway (2,950 metres in length) commencing by a junction with Work No. 9 at its termination, passing eastwards and south-eastwards along the course of the former Wolverhampton Railway, partly in tunnel (the existing Hockley Tunnels), and terminating at a point 52 metres north-west of the northern end of the bridge carrying that railway over Henrietta Street;

Work No. 11 A railway (560 metres in length) commencing by a junction with Work No. 10 at its termination, passing through Snow Hill Station (Platform 4) and terminating at a point east of that station, 45 metres north-west of the north-western side of Colmore Row at a point 35 metres south-west of its junction with Colmore Circus Queensway.

Section 8 (1).

PART II

DESCRIPTION OF FURTHER WORKS AND POWERS

In the Metropolitan Borough of Wolverhampton—

- (a) Stop up and discontinue so much of the southern carriageway of Bilston Street, between its junctions with Garrick Street and St. George's Parade, as lies between the points marked A1 and A2 on the deposited plans;
- (b) Form a kerblin—
 - (i) on so much of the western end of the southern carriageway of Bilston Street (to be stopped up) at its junction with Garrick Street and the southern side of the northern carriageway of Bilston Street, between its junctions with Garrick Street and the Ring Road (St. David's), as lies between the points marked A4 and A3 on the deposited plans; and
 - (ii) on so much of the northern side of the southern carriageway of Bilston Street between its junctions with the Ring Road (St. George's) and St. George's Parade, turning to the western side of St. George's Parade, as lies between the points marked A3 and A7 on the deposited plans;
- (c) Set back the footway and kerblin on so much of the southern side of the southern carriageway of Bilston Street, between its junctions with the Ring Road (St. George's) and St. George's Parade, between the points marked A9 and A8 on the deposited plans;
- (d) Set back the footway and kerblin—
 - (i) on so much of the northern side of Bilston Road, between its junctions with Middle Cross and Sharrocks Street, and of the eastern side of Middle Cross at that junction with Bilston Road, as lies between the points marked A12 and A13 on the deposited plans;

SCH. 1.
—cont.

- (ii) on so much of the northern side of Bilston Road, between its junctions with Sharrocks Street and Chillington Street, as lies between the points marked A16 and A17 on the deposited plans;
 - (iii) on so much of the northern side of Bilston Road, between its junctions with Chillington Street and Landport Road, as lies between the points marked A21 and A22 on the deposited plans;
- (e) Stop up and discontinue—
- (i) so much of Navigation Street, at its western end, as lies between the points marked A19 and A18 on the deposited plans; and
 - (ii) the turning area at that end of Navigation Street between the points so marked A19 and A20, substituting a new turning area on land adjoining;
- (f) Set back the kerblines—
- (i) on so much of the southern side of Bilston Road, near its junction with Steelhouse Lane and Cleveland Road, as lies between the points marked A10 and A11 on the deposited plans and the points so marked A14 and A15; and
 - (ii) on so much of the southern side of Bilston Road, near the bridge carrying the existing Birmingham Railway over that road, as lies between the points marked A23 and A24 on the deposited plans;
- (g) Set back the kerblines on so much of the northern side of Bilston Road, between its junctions with Landport Road and Cooper Street, and the western side of Cooper Street at that last-mentioned junction, as lies between the points marked A26 and A27 on the deposited plans;
- (h) Set back the footway and kerblines on so much of the eastern side of Cooper Street at its junction with Bilston Road and of the northern side of Bilston Road, between that junction and a point 145 metres east of that junction, as lies between the points marked A28 and A29 on the deposited plans;
- (j) Alter the footways and kerblines on so much of the southern side of Bilston Road at and near its junction with Ettingshall Road, and the western side of Dixon Street, the eastern side of Ettingshall Road and of the southern side of the junction of Dixon Street with Ettingshall Road as lies between the points marked A24 and A25 on the deposited plans, the points so marked A32 and A33 and the points so marked A30 and A31;

In the Metropolitan Borough of Sandwell—

- (k) Stop up and discontinue—
- (i) so much of the footpath and access track (Old Field Road) as lies between the points marked F1 and F2 on the deposited plans; and
 - (ii) so much of the footpath extending from Old Field Road towards Smith Road as lies between the points marked F2 and F3 on the deposited plans;
- (l) Stop up and discontinue so much of the footpath and cycleway (West Bromwich Parkway) along the course of the former Wolverhampton Railway, between Swan Lane and a point 165 metres north-west of the north-western side of the bridge carrying Trinity Way over that former railway, as lies between the points marked A and B on the deposited plans, substituting therefor a new footpath and cycleway along the course of that former railway—
- (i) between the point at Swan Lane marked AA on the deposited plans and the point, on the north side of Dudley Street, so marked BB; and

SCH. 1.
—cont.

- (ii) the point, on the south side of Dudley Street, marked CC on the deposited plans and the point, 160 metres north-west of the said Trinity Way road bridge, marked DD on the deposited plans.
- (m) Stop up and discontinue the footpaths and steps between the southern side of Dudley Street and the West Bromwich Parkway on the southern side of the bridge carrying that street over the former Birmingham Railway, lying between the points marked LL and MM on the deposited plans.
- (n) Stop up and discontinue the footpath and cycleway across the course of the former Wolverhampton Railway, immediately north of the bridge carrying Bilhay Lane over that former railway, between the points marked E and F on the deposited plans, substituting therefor a new footpath and cycleway between the point on that first-mentioned footpath and cycleway so marked C and the point on the substituted footpath and cycleway, to be provided under paragraph (l) (ii) above, so marked D;
- (o) Stop up and discontinue—
- (i) so much of the footpath and cycleway between Victoria Street and the West Bromwich Parkway, immediately west of the bridge carrying that street over the former Wolverhampton Railway, as lies between the points marked G and KK on the deposited plans, substituting therefor a new footpath and cycleway between the points so marked G and H;
- (ii) so much of the footpath and cycleway between Lodge Road and the West Bromwich Parkway as lies between the points marked JJ and KK on the deposited plans, substituting therefor a new footpath and cycleway between the points so marked JJ and G;
- (p) Form a new footpath and cycleway between the footpath and cycleway leading from Lyng Lane to the West Bromwich Parkway between the point on that existing footpath and cycleway marked J on the deposited plans and the point on the substituted footpath and cycleway, to be provided under paragraph (l) (ii) above, so marked K;
- (q) Stop up and discontinue—
- (i) the footpaths between the footpath and cycleway on the south-western side of the West Bromwich Ringway and the existing West Bromwich Parkway between the points marked L and M on the deposited plans and between the points so marked M and N; and
- (ii) the footpath between the footpath and cycleway on the south-western side of the West Bromwich Ringway and the existing West Bromwich Parkway between the points marked P and S on the deposited plans and so much of the footpaths leading eastwards from that last-mentioned footpath as lies between the points so marked P and Q and so marked S and R;
- (r) Stop up and discontinue so much of the footpath and cycleway (West Bromwich Parkway) near Trinity Way, as lies between the points marked EE and FF on the deposited plans, substituting therefor a new footpath and cycleway between those points;
- (s) Form a new footpath and cycleway between the footpath and cycleway leading to the West Bromwich Parkway east of the said bridge carrying Trinity Way over the former Wolverhampton Railway between the point on that footpath marked T on the deposited plans and the point on the substituted footpath and cycleway, to be provided under paragraph (q) above, so marked U;

(1) Stop up and discontinue—

SCH. 1.
—cont.

(i) so much of the footpath and cycleway as lies between the length of footpath and cycleway between the points marked EE and F on the deposited plans, to be stopped up under paragraph (q) above, and the point south of Devereux Road so marked X; and

(ii) the footpath and cycleway, between that footpath and cycleway and the West Bromwich Parkway, between the points marked Y and Z on the deposited plans;

substituting therefor a new footpath between the point south of Devereux Road marked V on the deposited plans and the point, on an existing footpath leading to the West Bromwich Parkway, so marked W;

(11) Stop up so much of the footpath and cycleway (the West Bromwich Parkway) along the course of the former Wolverhampton Railway, between the bridges carrying Kenrick Way and Colliery Road over that railway, as lies between the points marked GG and HH on the deposited plans, substituting therefor a new footpath and cycleway between those points.

Section 10 (1).

SCHEDULE 2

RAILWAY CROSSINGS IN HIGHWAYS

In the Metropolitan Borough of Wolverhampton—

Footpath between Bilston Road and Pembroke Avenue.

In the Metropolitan Borough of Sandwell—

Swan Lane at a point 40 metres west of its junction with Cygnet Road;

Substituted footpath and cycleway between the substituted West Bromwich Parkway and the footpath and cycleway leading to Bilhay Lane;

Substituted footpath and cycleway between the substituted West Bromwich Parkway and the footpath and cycleway leading to Victoria Street;

Substituted footpath and cycleway between the substituted West Bromwich Parkway and the footpath and cycleway leading to Lyng Lane;

Substituted footpath and cycleway between the substituted West Bromwich Parkway and the footpath and cycleway leading to Trinity Way;

Footpath and cycleway between West Bromwich Parkway and the recreation ground between Springfield Crescent and Devereux Road;

Footpath and cycleway between West Bromwich Parkway and Devereux Road;

Substituted West Bromwich Parkway east of Colliery Road bridge.

SCHEDULE 3

Section 16 (3).

ENACTMENTS RELATING TO EXISTING RAILWAYS

Chapter	Title or short title
8 & 9 Vict. c. clxxxiv.	Oxford, Worcester, and Wolverhampton Railway Act 1845.
9 & 10 Vict. c. cccxv.	Birmingham, Wolverhampton, and Dudley Railway Act 1846.
9 & 10 Vict. c. cccxxxvii.	Birmingham and Oxford Junction Railway Act 1846.
10 & 11 Vict. c. cxlix.	Birmingham, Wolverhampton, and Dudley Railway Amendment Act 1847.
11 & 12 Vict. c. cxxxiii.	Oxford, Worcester, and Wolverhampton Railway (Deviation) Act 1848.
15 & 16 Vict. c. cxxxiii. (1852)	An Act to confer on the Great Western Railway Company further Powers for the Purchase of Lands on the Lines of, and for the Construction of, the Birmingham and Oxford Junction and Birmingham, Wolverhampton, and Dudley Railways respectively; and for the Alteration of the Works of Part of the last-mentioned Railway; and for the Formation of an Extension Line of Railway at Wolverhampton; and for other Purposes.
17 & 18 Vict. c. cviii.	Great Western Railway (Station Accommodation, &c.) Act 1854.
18 & 19 Vict. c. clxxxii.	Oxford, Worcester, and Wolverhampton Railway (Improvements and Branches) Act 1855.
36 & 37 Vict. c. cxc.	Great Western Railway Act 1873.
57 & 58 Vict. c. cxliii.	Great Western Railway (No. 1) Act 1894.
60 & 61 Vict. c. ccxlviii.	Great Western Railway (Additional Powers) Act 1897.
61 & 62 Vict. c. clxxiv.	Great Western Railway (General Powers) Act 1898.
62 & 63 Vict. c. clxxxvii.	Great Western Railway Act 1899.
63 & 64 Vict. c. clx.	Great Western Railway Act 1900.
1 Edw. 7 c. cxxiii.	Great Western Railway Act 1901.
3 Edw. 7 c. cxcvi.	Great Western Railway Act 1903.
4 Edw. 7 c. cxcvii.	Great Western Railway Act 1904.
5 Edw. 7 c. cxxxix.	Great Western Railway (Additional Powers) Act 1905.
9 Edw. 7 c. lxxxiv.	Great Western Railway (General Powers) Act 1909.

SCH. 3.
—cont.

Chapter	Title or short title
2 & 3 Geo. 5 c. lxxxvi.	Great Western Railway Act 1912.
4 & 5 Geo. 5 c. cvii.	Great Western Railway Act 1914.
14 & 15 Geo. 5 c. l.	Great Western Railway (Additional Powers) Act 1924.
19 & 20 Geo. 5 c. xliii.	Great Western Railway Act 1929.
20 & 21 Geo. 5 c. lxxviii.	Great Western Railway Act 1930.

SCHEDULE 4

Section 26 (b).

ADDITIONAL LANDS WHICH MAY BE ACQUIRED OR USED

Purpose	Location	Lands numbered on the deposited plan
(1)	(2)	(3)
<i>In the Metropolitan Borough of Wolverhampton</i>		
For the provision of a turning area.	Land adjoining Bilston Street and Navigation Street.	9a and 10.
For the provision of a working site and for construction purposes.	Land adjoining Bilston Road and the Birmingham Canal, Wolverhampton Level.	5, 12, 13, 14, 15, 16, 17, 18 and 19.
For the provision of a working site for construction purposes and access and for landscaping.	Land adjoining Wellington Road between its junctions with The Crescent and Arthur Street.	55 and 56.
For the provision of access and for maintenance purposes.	Land east of Church Street.	66.
For the provision of station access.	Land adjoining Wood Street on its northern side.	68 and 69.
For the provision of station access and for landscaping.	Land south-west of the junction of Chapel Street with Bradley Street.	74 and 75.
For the provision of station access.	Land north of Northcott Road.	76.
For the provision of station access.	Land at the junction of Northcott Road with Loxdale Street.	78.
<i>In the Metropolitan Borough of Walsall</i>		
For the provision of station access.	Land south-east of Jubilee Road.	1.
For the provision of station access and for access for construction purposes.	Land north-west of Bradley Lane.	2.
For the provision of station access and for landscaping.	Land west of Great Bridge Road.	3.

SCH. 4
—cont.

Purpose (1)	Location (2)	Lands numbered on the deposited plan (3)
<i>In the Metropolitan Borough of Sandwell</i>		
For the provision of station access and for construction purposes.	Land north-west of Leabrook Road.	22.
For the provision of access and for landscaping and for access for construction purposes.	Land off Ardav Road and Tunnel Road.	48, 49, 50, 51 and 52.
For access to and operation of tunnel ventilation shaft.	Land adjoining Tunnel Road.	55.
For the provision of station access and for landscaping.	Land east of Heronville Drive.	64.
For the provision of station access.	Land east of Meyrick Road.	66.
For the provision of station access to footpath diversion.	Land north and west of Bilhay Lane.	72.
For the provision of station access.	Land south-west of Dudley Street.	76.
For the provision of station access.	Land south-east of Lyng Lane.	95.
For the provision of a working site for construction purposes and access, station access and landscaping.	Land south of West Bromwich Ringway, adjoining Lyng Lane.	96.
For the provision of footpath diversion and station access.	Land west of Spon Lane.	99 and 100.
For the provision of station access and for landscaping.	Land west of Trinity Way at its junction with Boulton Road.	104.
For the provision of station access.	Land east of Trinity Way at its junction with Trinity Street.	107.
For the provision of station access.	Land south-west of Devereux Road.	112 and 113.
For the provision of station access and for landscaping.	Land south-west of Roebuck Lane.	127 and 128.

SCH. 4
—cont.

Purpose (1)	Location (2)	Lands numbered on the deposited plan (3)
<i>In the City of Birmingham</i>		
For the provision of station access, a working site and access for construction purposes and for landscaping.	Land between George Street and Earlsmead Road.	6.
For the provision of access for construction purposes.	Land south of Chapel Street.	13 and 14.
For the provision of station access.	Land north-east of Lodge Road.	35a.
For the provision of station access.	Land west of Abbey Street.	35.
For the provision of station access and for landscaping.	Land between Goode Avenue and All Saints Road.	36.
For the provision of station access and for construction purposes.	Land south of Constitution Hill.	77.

Clause 28 (4).
1965 c. 56.

SCHEDULE 5

ADAPTATION OF PART I OF THE COMPULSORY PURCHASE ACT 1965

1. For section 7 of the Act of 1965 (measure of compensation) there shall be substituted the following:—

“7. In assessing the compensation to be paid by the acquiring authority 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 to be acquired is depreciated by the acquisition of the right, but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injurious affection of that other land by the exercise of the powers conferred by this or the special Act.”.

2. For section 8 (1) of the Act of 1965 (protection for vendor against severance of house, garden, etc.) there shall be substituted the following:—

“(1) No person shall be required to grant any right over part only—

(a) of any house, building or factory; or

(b) of a park or garden belonging to a house;

if he is willing to sell the whole of the house, building, factory, park or garden, unless the Lands Tribunal determine that—

(i) in the case of a house, building or factory, the part over which the right is proposed to be acquired can be made subject to that right without material detriment to the house, building or factory; or

(ii) in the case of a park or garden, the part over which the right is proposed to be acquired can be made subject to that right without seriously affecting the amenity or convenience of the house;

and, if the Lands Tribunal so determine, the tribunal shall award compensation in respect of any loss due to the acquisition of the right, in addition to its value; and thereupon the party interested shall be required to grant to the acquiring authority that right over that part of the house, building, factory, park or garden.

(1A) In considering the extent of any material detriment to a house, building or factory, or any extent to which the amenity or convenience of a house is affected, the Lands Tribunal shall have regard not only to the right which is to be acquired over the land, but also to any adjoining or adjacent land belonging to the same owner and subject to compulsory purchase.”.

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

Section 9 (4) (refusal by owners to convey);

Schedule 1, paragraph 10 (3) (owners under incapacity);

Schedule 2, paragraph 2 (3) (absent and untraced owners); and

Schedule 4, paragraphs 2 (3) and 7 (2) (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 compulsorily acquired is vested absolutely in the acquiring authority.

4. Section 11 of the Act of 1965 (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority 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) shall be modified correspondingly.

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