



South Yorkshire Light Rail Transit Act 1990

CHAPTER xviii

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ELIZABETH II**1990 CHAPTER xviii**

An Act to empower the South Yorkshire Passenger Transport Executive to construct certain works in substitution for works authorised by the South Yorkshire Light Rail Transit Act 1988 and other enactments; to confer further powers upon the Executive, and for other purposes. [29th June 1990]

WHEREAS—

(1) Under the Transport Acts 1968 and 1985 it is the general duty of the South Yorkshire Passenger Transport Executive (hereinafter called “the Executive”) to secure the provision of public passenger transport services for meeting the public transport requirements of their area in accordance with general policies formulated by the South Yorkshire Passenger Transport Authority:

(2) It is expedient that the Executive should be empowered to construct the works authorised by this Act in substitution for—

(a) works authorised by the South Yorkshire Light Rail Transit Act 1988 affecting City Road in the City of Sheffield; and

1988 c. xxvii.

(b) a work authorised by the South Yorkshire Light Rail Transit Act 1989 affecting land at Meadowhall, partly in the City of Sheffield and partly in the Metropolitan Borough of Rotherham:

1989 c. xix.

(3) It is expedient that the other powers of this Act should be conferred upon the Executive and that the other provisions in this Act should be enacted:

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

1968 c. 73. (5) In relation to the promotion of the Bill for this Act the requirements of section 10 (1) (xxix) of the Transport Act 1968 have been observed:

(6) 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 Sheffield City Council and the Rotherham Metropolitan Borough Council, 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 and
collective titles.

1.—(1) This Act may be cited as the South Yorkshire Light Rail Transit Act 1990.

1988 c. xxvii.
1989 c. xix.

(2) The South Yorkshire Light Rail Transit Act 1988, the South Yorkshire Light Rail Transit Act 1989 and this Act may be cited together as the South Yorkshire Light Rail Transit Acts 1988 to 1990.

Interpretation.

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

“the Act of 1988” means the South Yorkshire Light Rail Transit Act 1988;

“the Act of 1989” means the South Yorkshire Light Rail Transit Act 1989;

“the authorised works” means the works authorised by this Act;

“existing” means existing at the commencement of this Act;

“the LRT system” means the light rail transit system comprising the railways authorised by the South Yorkshire Light Rail Transit Acts 1988 to 1990, including the railways thereby designated as tramways, and all works and conveniences provided in connection with any such railways, as constructed, extended or altered from time to time;

“the limits of deviation” means the limits so shown on the deposited plans and, where on any existing route no such limits are shown, the boundaries of the street (including any verge or roadside waste adjoining it);

“the railways board” means the British Railways Board;

“tramway” means any railway, or any part of a railway, authorised by the Act of 1988 or this Act and thereby designated as a tramway;

and the following expressions have the same meanings as in the Act of 1988:—

PART I
—cont.

- “enactment”;
- “the Executive”;
- “land”;
- “street”;
- “traffic sign”.

(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) In this Act, 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 section 5 (Power to deviate) of this Act.

3. The following provisions of the Act of 1988 incorporating or applying enactments for the purposes of that Act shall have effect as if the references therein to that Act included this Act:—

Incorporation or
application of
enactments.

- Section 3 (Incorporation of Railways Clauses Acts);
- Section 4 (Application of Tramways Act 1870);
- Section 5 (Application of enactments relating to street works, etc.);
and
- Section 6 (Application of Part I of Compulsory Purchase Act 1965).

PART II

WORKS

Substituted works

4.—(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 following works, with all necessary works and conveniences connected therewith:—

Power to make
works.

In the City of Sheffield—

Work No. 1—A tramway (615 metres in length) commencing by a junction with the Work No. 12 authorised by the Act of 1988 at a point, at the junction of Wulfric Road with City Road, 415 metres from the commencement of that work, comprising double lines passing eastwards along City Road and terminating by a junction with the Work No. 13 authorised by the Act of 1988 at a point near the junction of City Road and Ridgeway Road 462.5 metres from the commencement of that work;

City Road
tramway.

Work No. 1A—A widening on the north-east side of City Road at its junction with Prince of Wales Road between a point in City Road 139 metres south-east of its junction with Windy House Lane and a point on the northern side of its said junction with Prince of Wales Road;

PART II
—cont.
Railway at
Meadowhall.

In the City of Sheffield and the Metropolitan Borough of Rotherham—

Work No. 2—A railway (512 metres in length) commencing by a junction with the Work No. 4 authorised by the Act of 1989 at the termination of that work, turning south-westwards to a point on the eastern side of the existing Sheffield (Midland Station) and Rotherham Railway 215 metres north-east of the northern abutment of the bridge carrying that railway over Meadowhall Road, passing over Blackburn Brook and Meadowhall Road and terminating in the intended Meadowhall Interchange at a point 212 metres south-west of the southern end of the said bridge carrying the existing railway over Meadowhall Road, including a bridge over Meadowhall Road.

(2) The Executive shall cease to have the powers to make and maintain in the City of Sheffield—

- (a) so much of the Works Nos. 12 and 13 authorised by the Act of 1988 as lies between the points of commencement and termination of the tramway (Work No. 1);
- (b) the Works Nos. 12B, 12C, 12D and 13A authorised by that Act; and
- (c) the further works authorised by section 8 (1) of, and the following provisions of Part II of Schedule 1 to, the Act of 1988, namely:—
 - paragraph (g) (xii) (B), (C) and (D) (alteration of footways and kerblines in City Road, Wulfric Road and Fairleigh); and
 - paragraph (h) (i) (stopping up crossing places across the central reserve of Prince of Wales Road).

(3) If so required in accordance with any agreement between the railways board and the Executive, the Executive shall construct Work No. 2 in substitution for the Work No. 5 authorised by the Act of 1989 and remove any part of that work then no longer required and thereafter the Executive shall cease to have the power to make and maintain, in the City of Sheffield and in the Metropolitan Borough of Rotherham, the said Work No. 5.

Power to deviate.

5. In the execution of the authorised works or any part thereof the Executive may, except as may be otherwise provided by this Act, including any enactment incorporated with or applied 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.

Level crossings

Level crossing at
Blackburn
Meadows.

6.—(1) If a new road is constructed across the course of the Work No. 4 authorised by the Act of 1989 shown on the deposited plans within the meaning of this Act and therein described as Work No. 4 proposed in the Bill for the Act of 1989, the same may be taken across that railway (whether single or double line) on the level.

(2) Subsections (2) to (5) of section 6 of the Act of 1989 (works affecting streets) shall have effect in relation to the level crossing authorised by subsection (1) above as if that level crossing were authorised by the Act of 1989.

Authorisation of
new level
crossings.

7.—(1) This section has effect for the authorisation of new level crossings on railways forming part of the LRT system which are not tramways.

(2) The Secretary of State may, by order made on the application of the Executive, authorise—

- (a) the carrying of any such railway across and on the level of any highway laid out or constructed, or to be laid out or constructed, after the date on which application was made by the Executive for the enactment by which the railway was authorised; or
- (b) the carrying of any highway laid out or constructed, or to be laid out or constructed, after the railway has been constructed, across and on the level of any such railway.

(3) An order made under this section may contain such incidental, consequential and supplementary provisions as the Secretary of State thinks necessary or expedient.

(4) Before making application to the Secretary of State for an order under this section to authorise a proposed level crossing, the Executive shall—

- (a) consult the highway authority and the local planning authority;
- (b) submit a draft of the order to the Secretary of State;
- (c) publish at least once in each of two successive weeks, in one or more newspapers circulating in the locality in which the proposed level crossing would be situated, a notice—
 - (i) stating the general effect of the order as prepared in draft;
 - (ii) specifying a place in that locality where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times during the period of 28 days beginning with the date of the first publication of the notice; and
 - (iii) stating that any person may, within that period, by notice in writing to the Secretary of State object to the making of the order; and
- (d) publish a notice in the London Gazette stating that the draft order has been submitted to the Secretary of State, specifying a place where a copy of the draft order and of any relevant map or plan may be inspected, and giving the name of the newspaper in which the notice under paragraph (c) above was published and the date of an issue containing the notice.

(5) The Executive shall, at the request of any person, supply him with a copy of the draft order on payment of such reasonable charge as the Executive may determine.

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

(7) If before the end of the period of 28 days referred to in subsection (4) (c) above, or of 25 days from the publication in the London Gazette of the notice under subsection (4) (d) above, or of any period specified in notices under subsection (6) above, notice in writing of an objection is received by the Secretary of State from any person on whom a notice is required to be served, or from any other person appearing to the Secretary

PART II
—cont.

of State to be affected by the order as prepared in draft, or as proposed to be altered, and the objection is not withdrawn, the Secretary of State, before making the order, shall either—

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

1983 c. 16. (8) The power of the Secretary of State to make orders in relation to level crossings under section 1 of the Level Crossings Act 1983 shall include power to make such an order in relation to a level crossing proposed in an application for an order under this section, and references in the said section 1 to “the operator” shall in such a case be construed as references to the Executive.

Safety
arrangements at
public level
crossings.

1950 c. 39.

8. Any barrier 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 the Act of 1989 or by section 6 or 7 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 Public Utilities Street Works Act 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.

*Moving pavements*Moving
pavements.

9.—(1) The Secretary of State may, by order made upon the application of the Executive, authorise them to construct, alter, maintain and operate moving pavements, escalators and works connected therewith in the City of Sheffield as part of, or within a distance not exceeding 500 metres from the limits of deviation authorised for, any work forming part of the LRT system.

(2) An order made under this section may contain such incidental, consequential and supplementary provisions as the Secretary of State thinks necessary or expedient.

(3) An order under this section may confer power to acquire compulsorily any land which is required for, or in connection with, the purposes of the order, including—

- (a) power to acquire interests in, and rights over, land by the creation of new interests and rights; and
- (b) power, by the compulsory acquisition of any rights over land which is to be or has been acquired by the Executive, to extinguish those rights.

(4) Subject to the provisions of this Act, the provisions of—

1965 c. 56.

(a) Part I of the Compulsory Purchase Act 1965;

1981 c. 67.

(b) section 4 and Part III of, and Schedule 3 to, the Acquisition of Land Act 1981; and

(c) the enactments for the time being in force with respect to compensation for the compulsory purchase of land;

shall apply in relation to so much of an order under this Act as confers powers of compulsory acquisition as they apply in relation to a compulsory purchase order under the said Act of 1981.

(5) The provisions of the Schedule to this Act shall have effect with respect to applications and orders under this section but, where the powers applied for under this section do not consist of or include any power of compulsory acquisition, Part II of the said Schedule shall not have effect with respect to that application or to any order made on that application and any such order shall not confer power of compulsory acquisition.

PART II
—*cont.*

(6) Before making application to the Secretary of State for an order under this section the Executive shall consult the local highway authority and the local planning authority.

General

10. The provisions of section 8 (Agreements with British Railways Board) of the Act of 1989 shall apply for the purposes of this Act as they apply for the purposes of that Act.

Agreements with
British Railways
Board.

11.—(1) The following provisions of the Act of 1988 relating to works shall, subject to the modifications specified in subsection (2) below and any other necessary modifications, apply to the works authorised by this Act as they apply to the works authorised by that Act:—

Application of
works
provisions of Act
of 1988.

- Subsections (2) to (4) and (6) of section 8 (Further works and powers);
- Subsections (2) to (5) of section 9 (Works in streets, etc.);
- Section 10 (Subsidiary works);
- Section 12 (Temporary stoppage of highways);
- Section 15 (Provisions as to repair of streets, footpaths, etc.);
- Section 16 (Underpinning of houses near works);
- Section 17 (Use of sewers, etc., for removing water);
- Section 19 (Plans to be approved by Secretary of State before works commenced);
- Section 20 (Gauge of railways and restrictions on working); and
- Section 21 (Provisions as to use of electrical energy).

(2) For the purposes of this section—

- (a) in the said sections 10 and 17, for the reference to the limits of deviation within the meaning of the Act of 1988, there shall be substituted reference to the limits of deviation within the meaning of this Act;
- (b) in the said section 12, for the references to the limits of deviation and to the deposited plans within the meaning of the Act of 1988, there shall be substituted references to the limits of deviation and to the deposited plans within the meaning of this Act;
- (c) in the said section 19, the words “and under-passes” shall be omitted; and
- (d) in subsection (4) of the said section 20, after the word “tramway” there shall be inserted the words “or any railway in or adjoining any street”.

PART III

LANDS

12. Subject to the provisions of this Act, the Executive may enter upon, take and use such of the lands in the City of Sheffield and the Metropolitan

Power to acquire
lands.

PART III
—cont.

Borough of Rotherham 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.

Application of land purchase provisions of Act of 1988.

13.—(1) The following provisions of the Act of 1988 relating to the acquisition of lands or rights thereover shall, subject to the modifications specified in subsection (2) below and any other necessary modifications, apply for the purposes of this Act to the lands delineated on the deposited plans and described in the deposited book of reference as they apply for the purposes of that Act to the lands referred to in those provisions:—

- Section 23 (Extinction of private rights of way);
- Section 24 (Power to acquire new rights);
- Section 25 (Acquisition of part only of certain properties);
- Section 26 (Disregard of recent improvements and interests);
- Section 27 (Compensation in respect of depreciation in value of interest in land subject to mortgage);
- Section 28 (Grant of rights by persons under disability);
- Section 30 (Correction of errors in deposited plans and book of reference); and

Schedule 4.

(2) For the purposes of this section, in the said section 30—

- (a) for the reference to the proper officer of any local authority other than the Sheffield City Council, there shall be substituted reference to the proper officer of the Rotherham Metropolitan Borough Council; and
- (b) for the references to the deposited plans and the deposited book of reference within the meaning of the Act of 1988, there shall be substituted references to the deposited plans and the deposited book of reference within the meaning of this Act.

Period of compulsory purchase of lands or rights.

14.—(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 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.

PART IV

PROTECTIVE PROVISIONS

Application of protective provisions of Acts of 1988 and 1989.

15.—(1) The following protective provisions of the Acts of 1988 and 1989 shall, subject to the modifications specified in subsection (2) below and any other necessary modifications, apply for the purposes of this Act as they apply for the purposes of those Acts:—

In the Act of 1988—

- Section 32 (As to highways, traffic, etc.);
- Section 33 (For protection of public sewers);

Section 34 (For protection of certain statutory undertakers);
 Section 36 (For protection of telecommunications operators); and
 Section 38 (Crown rights).

PART IV
 —cont.

In the Act of 1989 —

Section 14 (For protection of British Railways Board).

(2) For the purposes of this section —

- (a) in the said section 33, paragraph (14) shall not apply to the construction of any railway authorised by this Act in land now forming part of, or adjoining, any existing railway of the railways board; and
- (b) in the said section 34, paragraph (12) shall not apply to the construction of any railway authorised by this Act in land now forming part of, or adjoining, any existing railway of the railways board.

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

Notice of
 interference with
 streets.

PART V

MISCELLANEOUS AND GENERAL

17. The following provisions of the Acts of 1988 and 1989 conferring general powers on the Executive with respect to the LRT system shall have effect as if, for any reference therein to the LRT system as defined by those Acts, there were substituted reference to the LRT system as defined by this Act: —

Application of
 general
 provisions of
 Acts of 1988 and
 1989.

In the Act of 1988 —

Section 40 (Power to lop trees overhanging railway);
 Section 41 (Byelaws relating to LRT system); and
 Section 42 (Carriages on LRT system deemed public service vehicles);

In the Act of 1989 —

Section 26 (Removal of obstructions); and
 Section 28 (Powers of disposal, agreements for operation, etc.).

18.—(1) Subject to subsection (2) below, subsections (2) to (5) of section 250 of the Local Government Act 1972 (which contain supplementary provisions with respect to local inquiries held in pursuance of that section) shall apply to local inquiries under this Act as they apply to inquiries under that section.

Local inquiries.
 1972 c. 70.

(2) Subsection (4) of the said section 250 shall apply —

- (a) in accordance with subsection (1) above, in relation to such local inquiries as are held with respect to any order under this Act as if the reference to a local authority in that subsection were a reference to the Executive; and
- (b) in relation to any hearing arranged in pursuance of section 7 (7) (b) of, or paragraph 6 (b) of the Schedule to, this Act, as if any reference in the said subsection (4) to a local authority were a

PART V
—cont.

reference to the Executive and any reference in that subsection to an inquiry included reference to such a hearing and as if, in the case of a hearing, the words “or party to the inquiry” and the words “or person”, in both places where they occur, were omitted.

Arbitration.
1965 c. 56.

19. Where under this Act any difference (other than a difference to which the provisions of the Compulsory Purchase Act 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.

Amendments and
repeals.
1989 c. 15.

20.—(1) The Act of 1988 shall have effect subject to the following amendments consequential on the coming into operation of the relevant provisions of the Water Act 1989:—

- (a) In subsection (1) of section 2 (Interpretation) the definition of “water authority” shall be omitted;
- (b) In section 17 (Use of sewers etc. for removing water)—
 - (i) in subsection (1), for the words “the water authority or a local authority”, there shall be substituted the words “a relevant authority”;
 - (ii) in subsection (2) (a) (i), for the words “the water authority or a local authority”, there shall be substituted the words “a relevant authority”;
 - (iii) for subsection (3) (a) there shall be substituted the following:—
 - “(a) Section 107 of the Water Act 1989 shall apply to, or to the consequence of, a discharge under this section into any controlled waters, within the meaning given by section 103 of that Act, as if this section were excluded from the reference to any local statutory provision mentioned in section 108 (1) (d) of that Act.”;
 - (iv) in paragraph (b) of subsection (3), for the words “the main river of the water authority”, there shall be substituted the words “a main river” and the words from “or forming part” to the end of that paragraph shall be omitted;
 - (v) in subsection (5), for the words “the water authority or a local authority”, there shall be substituted the words “a relevant authority”; and
 - (vi) after subsection (5) there shall be inserted the following:—
 - “(6) In this section ‘relevant authority’ means a sewerage undertaker, the National Rivers Authority or a local authority.”;
- (c) In paragraph (1) of section 33 (For protection of public sewers), for the definition of “sewerage authority”, there shall be substituted—
 - “‘sewerage authority’ means a sewerage undertaker and any authority which is a relevant authority for the purposes of section 73 of the Water Act 1989”;
- (d) In paragraph (1) of section 34 (For protection of certain statutory undertakers)—

(i) in the definition of “the undertakers”, for the words “and the water authority, or any of them”, there shall be substituted the words “the National Rivers Authority and a water undertaker within the meaning of the Water Act 1989 or any of such bodies”;

PART V
—cont.

1989 c. 15.

(ii) in the definition of “apparatus”, for the words “the water authority”, there shall be substituted the words “a water undertaker”;

(e) In section 35 (For further protection of Yorkshire Water Authority) for the references to the Yorkshire Water Authority there shall be substituted references to the National Rivers Authority.

(2) In the Act of 1989 the following provisions shall cease to have effect—

(a) in section 9 (Application of works provisions of Act of 1988), subsection (2) (b) (i);

(b) in section 13 (Application of protective provisions of Act of 1988), subsection (2) (a) (i) and (b) (i).

21.—(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 works authorised by this Act 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.

SCHEDULE

Section 9.

SCHEDULE

ORDERS RELATING TO MOVING PAVEMENTS

PART I

Provisions applicable in the case of all such orders

1. Before making application to the Secretary of State for an order under section 9 of this Act the Executive shall submit to the Secretary of State a draft of the order, and shall publish at least once in each of two successive weeks, in one or more newspapers circulating in the area affected by the order, a notice—

- (a) stating the general effect of the order as prepared in draft;
- (b) specifying a place in that area where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times during the period of 28 days beginning with the date of the first publication of the notice; and
- (c) stating that any person may, within that period, by notice in writing to the Secretary of State object to the making of the order.

2. Not later than the date on which the notice is first published in pursuance of paragraph 1 of this Schedule, the Executive shall serve a copy of the notice on every local authority and statutory undertakers authorised to carry on any undertaking for the supply of electricity, gas or water, being an authority or undertakers to whose area the draft order relates.

3. The Executive shall also publish a notice in the London Gazette stating that the draft order has been submitted to the Secretary of State, naming every local authority on whom a notice is required to be served under paragraph 2 of this Schedule, specifying a place where a copy of the draft order and of any relevant map or plan may be inspected, and giving the name of the newspaper in which the notice under paragraph 1 of this Schedule was published and the date of an issue containing the notice.

4. The Executive shall, at the request of any person, supply him with a copy of the draft order on payment of such reasonable charge as the Executive may determine.

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

6. If before the end of the period of 28 days referred to in paragraph 1 of this Schedule, or of 25 days from the publication in the London Gazette of the notice under paragraph 3 of this Schedule, or of any period specified in notices under paragraph 5 of this Schedule, notice in writing of an objection is received by the Secretary of State from any person on whom a notice is required to be served under this Schedule, or from any other

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

Sch.
—cont.

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

PART II

Provisions applicable in the case of orders conferring powers of compulsory acquisition

7. In this Part of this Schedule—

“the special land provisions” means the provisions, as applied by subsection (4) of section 9 of this Act, of Part III of the Acquisition of Land Act 1981 or, as the case may require, of Part II of Schedule 3 to that Act; and

1981 c. 67.

“the relevant requirements”, in relation to an order or certificate, means the requirements of this Schedule and such requirements of the special land provisions or of any other enactment as are applicable to that order or certificate by virtue of the said section 9;

and references to a tenant for a month or for any period of less than a month include references to a statutory tenant, within the meaning of the Landlord and Tenant Act 1985, and to a licensee under an assured agricultural occupancy within the meaning of Chapter III of Part I of the Housing Act 1988.

1985 c. 70.

1988 c. 50.

8. Besides serving a copy of the notice referred to in paragraph 2 of this Schedule on the local authorities therein referred to, the Executive shall, not later than the date on which the notice is first published in pursuance of paragraph 1 of this Schedule, serve a copy of the notice on every owner, lessee or occupier (except tenants for a month or for any period less than a month) of any land comprised in the draft order as land authorised to be compulsorily acquired.

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

10. Notwithstanding anything in paragraph 5 of this Schedule, the order shall not, unless all interested parties consent, confer on the Executive powers of compulsory acquisition which would not have been conferred on them if the order had been made in the terms of the draft submitted by them.

11. As soon as practicable after the order containing powers of compulsory acquisition has been made, the Executive shall—

- (a) publish, in one or more newspapers circulating in the locality of the land in respect of which the powers of compulsory acquisition are conferred, a notice describing that land and stating that the

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order has been made conferring powers of compulsory acquisition in respect of that land, and naming a place where a copy of the order as made may be inspected at all reasonable hours; and

- (b) serve copies of that notice and of the order on every owner, lessee or occupier (except tenants for a month or for any period of less than a month) of any of that land.

12. Subject to the provisions of paragraph 16 below, if any person aggrieved by the order, or by a certificate under the special land provisions, desires to question —

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

he may make an application for the purpose to the High Court at any time before the end of the period of 6 weeks beginning with the date on which notice of the making of the order is first published in accordance with paragraph 11 above or, as the case may be, notice of the giving of the certificate is first published in accordance with the special land provisions.

13. On any application under paragraph 12 above with respect to any order or certificate, the High Court —

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

may quash the order, or any provision of the order, or the certificate, either generally or in so far as it affects any property of that applicant.

14. Except as provided by paragraph 12 above, the validity of —

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

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

15. Subject to any order of the High Court under paragraph 13 above, the order (except where it is subject, by virtue of the special land provisions, to special parliamentary procedure), and any certificate given in connection

with the order under the special land provisions, shall become operative on the date on which notice that it has been made or given is published as mentioned in paragraph 12 above.

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16. Where the order is subject to special parliamentary procedure, paragraphs 11 to 13 above—

- (a) shall not apply to the order if it is confirmed by Act of Parliament under section 6 of the Statutory Orders (Special Procedure) Act 1945; and
- (b) in any other case, shall have effect as if the reference in paragraph 11 above to the date on which notice of the making of the order is first published as therein mentioned were a reference to the date on which the order becomes operative under the said Act of 1945.

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

PART III

Compensation for creation of new rights

17. Subject to the following provisions of this Part of this Schedule, the enactments for the time being in force with respect to compensation for the compulsory purchase of land shall apply, with the necessary modifications, as respects compensation in the case of a compulsory acquisition under section 9 of this Act of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

18. The Compulsory Purchase Act 1965 shall have effect with the modifications necessary to make it apply to the compulsory acquisition of a right by the creation of a new right as it applies to the compulsory acquisition of land, so that, in appropriate contexts, references in that Act to land are to be read (according to the requirement of the particular context) as referring to, or as including references to—

1965 c. 56.

- (a) the right acquired or to be acquired; or
- (b) the land over which the right is or is to be exercisable.

19. Without prejudice to the generality of paragraph 18 above, Part I of the Compulsory Purchase Act 1965 shall apply in relation to the compulsory acquisition of a right by the creation of a new right with the modifications specified in Schedule 4 to the Act of 1988.

