



British Railways Act 1993

CHAPTER iv

LONDON: HMSO



British Railways Act 1993

CHAPTER iv

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title.
2. Interpretation.
3. Incorporation of general enactments.
4. Application of Part I of Compulsory Purchase Act 1965.

PART II

WORKS, ETC.

Works

5. Power to make works.

Provisions relating to Works Nos. 1 to 3, 5 and 6

6. Appropriation of works for Works Nos. 1 to 3, 5 and 6.

Provisions relating to Work No. 4

7. Transitional provisions.

Provisions relating to Work No. 9

8. Level crossing of Fenton Lane, Sherburn in Elmet, by Work No. 9.

Provisions relating to Work No. 10

Section

9. Marholm level crossing, Peterborough.

Provisions relating to Works Nos. 11A and 11B

10. Level crossing of railway by Work No. 11B.
 11. Ancillary works at Foxfield.
 12. Stopping up, etc., of existing ways at Foxfield.

Road, footpaths, etc.

13. Stopping up portion of Slate Lane and new footpath at Guide Bridge, Tameside.
 14. Stopping up footpath at Little Bridgeford, Staffordshire.

General works provisions

15. Power to deviate.
 16. Stopping up highways without providing substitute.
 17. Stopping up highways in case of diversion or substitution.
 18. Appropriating sites of highways.
 19. Repair of highways.
 20. Agreements with highway authorities.
 21. Temporary stoppage of highways.
 22. Underpinning of buildings near works.
 23. Use of sewers, etc., for removing water.

Level crossings

24. Stopping up, etc., level crossings.
 25. Aberleri level crossing, Borth, Dyfed.
 26. Allen's level crossing, Llwyngwrl, Gwynedd.
 27. Reduction in status of level crossings.

PART III

LAND

Purchase of land, etc.

28. Purchase of land.
 29. Purchase of rights over land.
 30. Purchase of specific new rights over land.
 31. Temporary use of land.

General lands provisions

32. Purchase of part of certain properties.
 33. Disregard of recent improvements and interests.
 34. Extinction or suspension of private rights of way.
 35. Correction of errors in deposited plans and book of reference.
 36. Cellars under streets not referenced.
 37. Set-off for enhancement in value of retained land.
 38. Amendment of British Railways Acts 1989 and 1990.
 39. Time for purchase of land and rights over land.

PART IV

PROTECTIVE PROVISIONS

Section

- 40. Notice of interference with roads.
- 41. For protection of electricity, gas and water undertakers.
- 42. For protection of North West Water Limited.
- 43. For protection of telecommunications operators.
- 44. Crown rights.

PART V

GENERAL

- 45. Planning permission.
- 46. Arbitration.

SCHEDULES:

- Schedule 1—Descriptions of works referred to in section 5 of this Act.
- Schedule 2—Enactments and works referred to in section 6 of this Act.
- Schedule 3—Lands.
 - Part I—Land referred to in section 28 (2) of this Act.
 - Part II—Means of access referred to in section 30 (Purchase of specific new rights over land) of this Act.
 - Part III—Temporary working sites.
- Schedule 4—Modification of Part I of Compulsory Purchase Act 1965 for purchase of new rights.

ELIZABETH II



1993 CHAPTER iv

An Act to empower the British Railways Board to construct works and to acquire land; to confer further powers on the Board; and for other purposes.

[29th March 1993]

WHEREAS—

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

1962 c. 46.

(2) It is expedient that the Board should be empowered to construct the works authorised by this Act and to acquire or use the land referred to in this Act:

(3) It is expedient that the other powers in this Act contained should be conferred on the Board, and that the other provisions in this Act contained should be enacted:

(4) Plans and sections showing the lines or situations and levels of the works to be constructed under this Act, and plans of the land 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 land 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 councils of the counties, metropolitan districts and London borough within which the said works may be constructed or the said land is situated, which plans, sections and book of reference are respectively referred to in this Act as the deposited plans, the deposited sections and the deposited book of reference:

(5) The purposes of this Act could not have been effected without the authority of Parliament when the Bill for this Act was deposited:

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

PART I

PRELIMINARY

- Short title. 1. This Act may be cited as the British Railways Act 1993.
- Interpretation. 2.—(1) In this Act, unless the context otherwise requires, words and expressions to which meanings are assigned by the enactments incorporated herewith have in relation to the related subject-matter the same respective meanings; and—
- 1845 c. 20. “the Act of 1845” means the Railways Clauses Consolidation Act 1845;
- 1863 c. 92. “the Act of 1863” means the Railways Clauses Act 1863;
- 1965 c. 56. “the Act of 1965” means the Compulsory Purchase Act 1965;
- “the Board” means the British Railways Board;
- “enactment” includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;
- “the limits of deviation” means the limits of deviation shown on the deposited plans;
- “reference point” means Ordnance Survey National Grid reference point;
- 1839 c. 45.
1842 c. 55. “the specified enactments” means the Highway (Railway Crossings) Act 1839, section 9 of the Railway Regulation Act 1842, section 47 of the Act of 1845, sections 5, 6 and 7 of the Act of 1863 and any other provision to the same or similar effect incorporated with, or contained in, any enactment;
- 1984 c. 27. “traffic sign” has the meaning assigned to it by section 64 of the Road Traffic Regulation Act 1984;
- “the tribunal” means the Lands Tribunal; and
- “the works” means the works authorised by this Act.

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

PART I
—cont.

(3) Any reference in this Act to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Act.

(4) References in this Act to points identified by letters shall be construed as references to the points so lettered on the deposited plans.

(5) References in this Act to access to any place shall include reference to egress from that place.

(6) References in this Act to the purchase by the Board of new rights are references to the purchase of rights to be created in favour of the Board.

3.—(1) The following enactments, so far as the same are applicable for the purposes of and are not inconsistent with this Act, are incorporated with this Act, and this Act shall be the special Act for the purposes of the said incorporated enactments:—

Incorporation
of general
enactments.

(a) the Act of 1845, except sections 1, 7, 8, 9, 11, 12, 15, 17, 19, 20, 22 and 23 thereof; and

(b) in the Act of 1863, Part I (relating to the construction of a railway), except sections 13 to 19 thereof.

(2) (a) For the purposes of the enactments incorporated by subsection (1) above the expression “the company” where used in those enactments means the Board.

(b) For the purposes of sections 16 and 30 to 44 of the Act of 1845, as incorporated by subsection (1) above, Works Nos. 10, 11A and 11B shall be deemed to be railways authorised by the special Act.

(c) Sections 18 and 21 of the Act of 1845, as incorporated by subsection (1) above, shall not extend to regulate the relations between the Board and any other person in respect of any matter or thing concerning which those relations are regulated in any respect by the provisions of Part III of the New Roads and Street Works Act 1991 or by section 41 (For protection of electricity, gas and water undertakers) of this Act.

1991 c. 22.

(3) Section 65 (1) of the Road Traffic Regulation Act 1984 (placing of traffic signs by highway authorities) shall have effect with respect to the erection and display of any traffic sign by the Board as if it were a traffic sign erected and displayed by a highway authority.

1984 c. 27.

4.—(1) Part I of the Act of 1965 (except section 4 thereof and paragraph 3 (3) of Schedule 3 thereto), so far as it is applicable for the purposes of and is not inconsistent with this Act, shall apply to the compulsory purchase of land under this Act as it applies to a compulsory purchase to which 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) In section 11 (1) of the Act of 1965 (which empowers the acquiring authority to enter on and take possession of land the subject of a notice to treat after giving not less than 14 days' notice), as so applied, for the words “fourteen days” there shall be substituted “three months”.

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

1845 c. 18.

PART II

WORKS, ETC.

Works

Power to make works.

5. The Board may, in the lines or situations and within the limits of deviation shown on the deposited plans and according to the levels shown on the deposited sections, make and maintain the works described in Schedule 1 to this Act with all necessary works and conveniences connected therewith.

Provisions relating to Works Nos. 1 to 3, 5 and 6

Appropriation of works for Works Nos. 1 to 3, 5 and 6.

6.—(1) In this section and in Schedule 2 to this Act—

“the original enactments” means the enactments specified in columns (1) and (2) of that Schedule;

“the original works” means the works authorised by the original enactments described in column (3) of that Schedule as lie within the limits of deviation of a relevant work; and

“the relevant works” means Works Nos. 1 to 3, 5 and 6, or any of them, as specified in that Schedule.

(2) If the Board proceed with the construction of a relevant work, they may hold, use and appropriate such part of the original works as they may require for the purposes of that relevant work and shall be relieved of the obligation to maintain the original works for the purposes of the original enactments.

(3) Subject to subsection (2) above, all the powers and obligations conferred or imposed upon the Board by the original enactments in relation to the original works shall cease to have effect.

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

Provisions relating to Work No. 4

Transitional provisions.

7.—(1) In this section—

“the bridge” means a bridge to carry the railway over the main new trunk road referred to in article 1 (2) of, and Schedule 1 to, The North-West of Doncaster-Kendal Trunk Road (Airedale Route) (Bingley to Cottingley Bar Section and Slip Roads) Order 1991 proposed to be constructed by the Secretary of State;

“the railway” means that part of the Leeds and Skipton Railway at Bingley in the city of Bradford authorised by the special enactment as lies between the points of commencement and termination of Work No. 4; and

1845 c. xxxviii.

“the special enactment” means the Act 8 & 9 Vict. intituled “An Act for enabling the Leeds and Bradford Railway Company to make a Railway from Shipley to Colne, with a branch to Haworth.”

(2) Upon completion of the bridge, the Board may—

(a) restore the railway which existed prior to the construction and opening for traffic of Work No. 4;

- (b) resume operation and maintenance of the railway under the powers and obligations conferred or imposed upon the Board by the special enactment; and
- (c) remove Work No. 4.

PART II
—cont.

Provisions relating to Work No. 9

8.—(1) In this section “the level crossing” means a level crossing comprising a single line of railway across and on the level of Fenton Lane, being numbered on the deposited plans 7 in the parish of Sherburn in Elmet, district of Selby.

Level crossing of
Fenton Lane,
Sherburn in
Elmet, by Work
No. 9.

(2) The Board may in the construction of Work No. 9 provide the level crossing but shall not be required to erect or maintain a station or lodge thereat.

(3) (a) The Board may, with the consent in writing of the Secretary of State and subject to such requirements as he may from time to time lay down, provide, maintain and operate at or near the level crossing such lights, traffic signs and automatic or other devices and appliances as may be approved by the Secretary of State.

(b) So long as the consent referred to in paragraph (a) above continues in force, the provisions (in so far as they are inconsistent with any such consent) of the specified enactments, except sections 5 and 7 of the Act of 1863, shall not apply to the level crossing.

Provisions relating to Work No. 10

9.—(1) In this section —

“the footbridge” means the footbridge (No. 189A) over the East Coast Main Line at Marholm level crossing (reference point TF 1545:0359) in the city of Peterborough;

“the footpath” means the footpath carried by the footbridge;

“the road” means Hurn Road which is crossed on the level by the Peterborough and Stamford Railway and the East Coast Main Line at Marholm level crossing; and

“the specified provision” means section 23 (Stopping up, etc., of footpaths) of, and Schedule 2 to, the British Railways (No. 2) Act 1986.

Marholm level
crossing,
Peterborough.

1986 c. xxvi.

(2) (a) Subject to paragraph (b) below, the Board may stop up and discontinue the road between points X and Y and the footpath between points C and D.

(b) Upon the stopping up of the road and footpath under paragraph (a) above the Board shall provide a new footpath between points C, E and F, to be carried over the Peterborough and Stamford Railway by means of the extended footbridge, Work No. 10.

(3) (a) The Board shall relinquish the power conferred by the specified provision in its application to the footpath and the footbridge and, notwithstanding anything to the contrary in the specified provision, shall be free of any obligation respecting the footbridge under section 10 (Power to cross certain roads on the level) of the Great Northern Railway Act 1891.

1891 c. xix.

(b) In the preface to Part I of Schedule 6 to the British Railways (No. 2) Act 1986, the words “In consequence of section 23 (2) (b) of this Act” shall be omitted.

PART II
—cont.*Provisions relating to Works Nos. 11A and 11B*

Level crossing of railway by Work No. 11B.

10.—(1) In this section “the new level crossing” means the crossing on the level of the Carnforth and Whitehaven Railway by Work No. 11B.

(2) The Board may, subject to such requirements as the Secretary of State may from time to time lay down, provide, maintain and operate at or near the new level crossing such lights, traffic signs and automatic or other devices or appliances as may be approved by the Secretary of State.

Ancillary works at Foxfield.

11. The Board may, within the limits of deviation of Works Nos. 11A and 11B, or either of them, make junctions with and alter the line or level of any road or way by, or contiguous to, those works, or either of them, and execute any works including works for the protection of any adjoining land or building.

Stopping up, etc., of existing ways at Foxfield.

12.—(1) In this section—

“Angerton No. 3 crossing” means the level crossing of that name (reference point SD 2118:8505) at Foxfield in the district of South Lakeland, parish of Broughton West, whereby the track linking the U.5085 road with land on the north-east side of the Carnforth and Whitehaven Railway is crossed on the level by that railway;

“the footpath” means a new footpath across and on the level of the said railway at Skelly Crag crossing between points A and B within the line marked “Limit of footpath” on the deposited plans; and

“Skelly Crag crossing” means the level crossing of that name (reference point SD 2106:8519) at Foxfield aforesaid whereby the U.5085 road is crossed on the level by the said railway.

(2) (a) Subject to paragraph (b) below, the Board may stop up and discontinue—

(i) the U.5085 road at Skelly Crag crossing between points C and D; and

(ii) the track at Angerton No. 3 crossing between points E and F.

(b) The stopping up of the U.5085 road and the track under paragraph (a) above shall not take place until the Board have completed and opened for public use Works Nos. 11A and 11B and the footpath.

(c) Upon the stopping up of the U.5085 road between points C and D, the specified enactments shall cease to apply to Skelly Crag crossing.

(3) Any person who suffers loss by the extinguishment under this section of any private rights of way over Angerton No. 3 crossing shall be entitled to be paid by the Board compensation, to be determined in case of dispute by the tribunal.

Road, footpaths, etc.

Stopping up portion of Slate Lane and new footpath at Guide Bridge, Tameside.

13. The Board may—

(a) stop up and discontinue so much of Slate Lane at Guide Bridge in the metropolitan borough of Tameside as crosses the course of the former railway between Crowthorne and Stockport Junctions by means of a bridge and as lies between points A and B; and

(b) provide a new footpath between points C and D within the line marked “Limit of footpath” on the deposited plans.

14.—(1) In this section —

“the definitive map and statement” has the same meaning as in section 53 of the Wildlife and Countryside Act 1981; and

“the footpath” means the footpath at Little Bridgeford in the borough of Stafford, parish of Seighford, Staffordshire, shown in the definitive map and statement as connecting the A.5013 road with Worston Lane.

PART II
—cont.
Stopping up
footpath at
Little Bridgeford,
Staffordshire.
1981 c. 69.

(2) (a) The Board may stop up and discontinue so much of the footpath crossing the railway between Stafford and Norton Bridge stations by means of a footbridge 215 metres north-west of the bridge carrying Worston Lane over that railway as lies within the boundaries of their property at that footbridge.

(b) Upon the stopping up of the said footpath the Board may take down and remove the said footbridge.

General works provisions

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

Power to deviate.

16.—(1) Where this Act authorises the stopping up of a highway or part thereof without providing a substitute, such stopping up shall not take place until the Board are in possession of all lands abutting on both sides of that part of the highway except so far as the owners, lessees and occupiers of those lands may otherwise agree.

Stopping up
highways without
providing
substitute.

(2) On the stopping up of any highway or part thereof under this Act all rights of way over or along the highway or part so stopped up shall be extinguished.

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

17.—(1) Where this Act authorises the making of a new highway, either by way of diversion of, or in substitution for, an existing highway and the stopping up of an existing highway or part thereof, the stopping up of the existing highway shall not in either case take place until —

Stopping up
highways in case
of diversion or
substitution.

(a) the highway authority are satisfied that the new highway has been completed in accordance with their reasonable requirements and is open for public use; or

(b) in the case of any difference between the Board and the highway authority as to whether the said requirements have been complied with or as to their reasonableness, the matter in dispute has been referred to and settled by arbitration.

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

PART II
—cont.

(3) As from the completion of the new highway to the satisfaction of the highway authority or, in case of dispute, in accordance with the decision of the arbitrator, all rights of way over or along the existing highway or part thereof authorised to be diverted or stopped up shall be extinguished.

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

Appropriating
sites of highways.

18. After a highway or part thereof is permanently stopped up under this Act, the Board may, subject to the provisions of the Act of 1845 with respect to mines lying under or near the railway, so far as the said highway or part thereof is bounded on both sides by lands of the Board, appropriate the site thereof without making any payment therefor and use it for the purposes of their undertaking.

Repair of
highways.

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

Agreements with
highway
authorities.

20.—(1) Where a highway or part thereof is altered or stopped up or interfered with under this Act, the Board may enter into and carry into effect agreements with the highway authority with respect to such alteration, stopping up or interference, or the construction of any new highway to be made under this Act, contributions to the costs thereof or any other matters relating thereto.

(2) The Board may by agreement delegate to the highway authority the power of constructing and maintaining any such alterations or new highway, including the structure of any bridge over or under any railway.

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

Temporary
stoppage of
highways.

21.—(1) The Board, during and for the purpose of the execution of the works, may temporarily stop up and divert and interfere with any highway and may for any reasonable time divert the traffic therefrom and prevent all persons other than those going bona fide to any land, house or building abutting on the highway from passing along and using the same.

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

(3) (a) The Board shall not exercise the powers of this section without the consent of the highway authority.

(b) Any such consent may be given subject to such reasonable conditions as the highway authority may require but shall not be unreasonably withheld, and any question whether such consent has been unreasonably withheld, or whether any such condition is reasonable, shall be referred to and settled by arbitration.

Underpinning of
buildings near
works.

22. The Board may at their own expense, subject as hereinafter provided, underpin or otherwise strengthen any house or building within 35 metres of any of the works and the following provisions shall have effect:—

(1) At least 14 days' notice shall (except in case of emergency) be given to the owner, lessee and occupier of the house or building intended to be so underpinned or otherwise strengthened:

- (2) Each such notice shall be served in a manner prescribed by section 6 of the Acquisition of Land Act 1981 as if required to be served under that Act:
- (3) If any owner, lessee or occupier of any such house or building shall, within 10 days after the giving of such notice, give a counter-notice in writing that he disputes the necessity of such underpinning or strengthening, the question of the necessity shall be settled by arbitration and, if the arbitrator decides that such underpinning or strengthening is not necessary, the Board shall not proceed therewith:
- (4) In any case in which any house or building shall have been underpinned or strengthened under the powers of this section the Board may, from time to time after the completion of such underpinning or strengthening, and during the execution of the work in connection with which such underpinning or strengthening was done, or within five years after the opening for traffic of that work, enter upon and survey such house or building and, after complying with the foregoing provisions of this section, do such further underpinning or strengthening as they may deem necessary or expedient:
- (5) The Board shall be liable to compensate the owner, lessee and occupier of every such house or building for any loss or damage which may result to them by reason of the exercise of the powers of this section:
- (6) Nothing in this section shall affect liability to compensate under section 6 of the Act of 1845, as incorporated with this Act, or section 10 (2) of the Act of 1965, as applied by this Act, or under any other enactment in respect of loss or damage arising from the execution of any works, except so far as compensation is payable under paragraph (5) above:
- (7) Every case of compensation to be ascertained under this section shall be ascertained according to the provisions of the Land Compensation Act 1961.

PART II
—cont.
1981 c. 67.

1961 c. 33.

23.—(1) In this section “relevant authority” means a sewerage undertaker, the National Rivers Authority, an internal drainage board or a local authority.

Use of sewers,
etc., for
removing water.

(2) The Board may use for the discharge of any water pumped or found by them during the construction of the works any available stream or watercourse, or any sewer or drain of a relevant authority, 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.

(3) The Board shall not —

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

PART II
—cont.

(b) make any opening into any such sewer or drain save in accordance with plans approved by, and under the superintendence (if given) of, the relevant authority in whom the sewer or drain shall be vested but approval of those plans by that authority shall not be unreasonably withheld.

1991 c. 57.

(4) (a) Section 85 of the Water Resources Act 1991 shall apply to, or to the consequence of, a discharge under the powers of this section into any controlled waters within the meaning given by section 104 of that Act as if this section were not a local statutory provision for the purposes of section 88 (1) (f) of that Act.

(b) In the exercise of their powers under this section the Board shall not damage or interfere with the bed of any watercourse forming part of a main river or the banks thereof, within the meaning of section 113 of the Water Resources Act 1991.

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

(6) Any difference arising between the Board and a relevant authority under this section shall be referred to and settled by arbitration.

*Level crossings*Stopping up, etc.,
level crossings.

24.—(1) In this section —

“Bryn-y-Gwynnon crossing” means Bryn-y-Gwynnon level crossing (reference point SS 9820:8266) in the borough of Taff-Ely, community of Llanharan, Mid Glamorgan, whereby the road between Llanilid and Brynna is crossed by the railway between Cardiff and Bridgend stations;

“Heath crossing” means Heath No. 59 level crossing (reference point TM 0151 : 8954) in the district of Breckland, parish of Quidenham, Norfolk, whereby Heath Road is crossed by the railway between Harling Road and Eccles Road stations; and

“the level crossings” means Bryn-y-Gwynnon crossing and Heath crossing.

(2) Subject to the provisions of this Act, the Board may stop up and discontinue the roads at the level crossings within the boundaries of their property.

(3) Upon the stopping up of the roads under subsection (2) above the specified enactments shall cease to apply to the level crossings.

(4) (a) The stopping up under this section of the road at Bryn-y-Gwynnon crossing shall not affect the right of persons to use that crossing on foot and the Board shall provide and maintain gates or stiles on both sides of the railway at that crossing.

(b) The stopping up under this section of the road at Heath crossing shall not affect the right of persons to use that crossing as a bridleway and the Board shall provide and maintain gates on both sides of the railway at that crossing.

(5) Any person who suffers loss by the extinguishment under this section of any private rights of way over the level crossings shall be entitled to be paid by the Board compensation, to be determined in case of dispute by the tribunal.

25.—(1) (a) In this section “Aberleri crossing” means the accommodation level crossing of that name (reference point SN 6095 : 9213) at Borth in the district of Ceredigion, community of Borth, Dyfed, whereby the private road connecting the caravan and leisure park of Sunbourne Leisure Limited with the B.4353 road is crossed by the railway between Dovey Junction and Borth stations.

PART II
—cont.
Aberleri level
crossing, Borth,
Dyfed.

(b) For the purpose of the application of section 64 of the Road Traffic Regulation Act 1984 and section 36 of the Road Traffic Act 1988 to a traffic sign provided under subsection (2) below, the said private road shall be deemed to be a road within the meaning of those Acts.

1984 c. 27.
1988 c. 52.

(2) Notwithstanding the provisions of sections 68 and 75 of the Act of 1845 or any other enactment, the Board may, subject to such requirements as the Secretary of State may from time to time lay down, maintain and operate at or near Aberleri crossing such barriers, lights, traffic signs and automatic or other devices and appliances as may be approved by the Secretary of State.

(3) Nothing in this section shall impose on a highway authority any liability in respect of a traffic sign provided under subsection (2) above.

26.—(1) (a) In this section “Allen’s crossing” means the accommodation level crossing of that name (formerly Tyddin Ithel crossing) (reference point SH 5821:0878) at Llwyngwrl in the district of Meirionnydd, community of Llangelynin, Gwynedd, whereby the private road connecting Allen’s Caravan Park with the A.493 road is crossed by the railway between Tonfanau and Llwyngwrl stations.

Allen’s level
crossing,
Llwyngwrl,
Gwynedd.

(b) For the purpose of the application of section 64 of the Road Traffic Regulation Act 1984 and section 36 of the Road Traffic Act 1988 to a traffic sign maintained under subsection (2) below, the said private road shall be deemed to be a road within the meaning of those Acts.

(2) Notwithstanding the provisions of sections 68 and 75 of the Act of 1845 or any other enactment, the Board may, subject to such requirements as the Secretary of State may from time to time lay down, maintain and operate at or near Allen’s crossing such lights, traffic signs and automatic or other devices and appliances as may be approved by the Secretary of State.

(3) Nothing in this section shall impose upon a highway authority any liability in respect of a traffic sign provided under subsection (2) above.

27.—(1) In this section —

“the level crossings” means Dinting Lane crossing, Marley Green crossing and Wing crossing, or any of them;

“Dinting Lane crossing” means Dinting Lane level crossing (reference point SK 0237 : 9450) in the borough of High Peak, parish of Glossop, Derbyshire, whereby Dinting Lane is crossed by the railway between Dinting and Glossop stations;

“Marley Green crossing” means Marley Green level crossing (reference point SJ 5818:4570) in the borough of Crewe and Nantwich, parish of Marbury cum Quoisley, Cheshire, whereby the road between Hollyhurst and Marbury is crossed by the railway between Whitchurch and Nantwich stations; and

Reduction in
status of level
crossings.

PART II
—cont.

“Wing crossing” means Wing level crossing (reference point SK 8969:0343) in the district of Rutland, parish of Wing, Leicestershire, whereby Edith Weston Road is crossed by the railway between Oakham and Stamford stations.

(2) (a) All rights of way over the level crossings, other than a right for all persons to use those crossings as bridleways, are hereby extinguished and the Board shall provide and maintain gates on both sides of the railway at the level crossings.

(b) The specified enactments shall cease to apply to the level crossings.

(3) The level crossings, including the gates thereof (other than the gates provided under subsection (2) (a) above) and the lifting barriers already provided in substitution for the vehicular gates at Dinting Lane crossing, shall be deemed to be works provided by the Board at the passing of this Act under section 68 of the Act of 1845 for the accommodation of the owners and occupiers of land adjoining the railway and, for the purposes of this subsection, such owners and occupiers shall be deemed to include the owners and occupiers of any land the use of which would have been interrupted if the level crossings had been closed at the passing of this Act.

(4) If any part of the roads crossed by the railway at Dinting Lane and Marley Green crossings at any time ceases, in consequence of this section, to be a road over which the public has a right of way for the passage of vehicles, the owners and occupiers of the land abutting on such part shall have such rights of passage thereover as shall be necessary to enable them to pass and repass (with or without vehicles) to and from the said land from and to the level crossings.

(5) Any person who suffers loss by the extinguishment under this section of any private rights of way over the level crossings shall be entitled to be paid by the Board compensation, to be determined in case of dispute by the tribunal.

(6) Section 75 of the Act of 1845 shall have effect in its application to Dinting Lane crossing as if after the words “or to lower” there were inserted the words “and lock”.

PART III

LAND

Purchase of land, etc.

Purchase of land.

28.—(1) The Board may purchase compulsorily and use such of the land delineated on the deposited plans and described in the deposited book of reference as they require for the purposes of the works or for any purpose connected with or ancillary to their undertaking.

(2) Without prejudice to the generality of subsection (1) above, the Board may purchase compulsorily and use for the purposes specified in column (3) of Part I of Schedule 3 to this Act all or any of the land referred to in columns (1) and (2) of that Part of that Schedule.

(3) The Board may enter upon, use and appropriate so much of the subsoil and undersurface of, or airspace over, any public street, road, footway or place delineated on the deposited plans and described in the deposited book of reference as shall be necessary for the purposes of

subsection (1) above without being required to purchase the same or any easement or other right therein, thereunder or thereover or to make any payment therefor.

PART III
—*cont.*

(4) The Board shall not exercise the powers of this section or section 29 (Purchase of rights over land) of this Act in relation to any land to which section 31 (Temporary use of land) of this Act applies.

29.—(1) Subject to the provisions of this Act, the Board may for the purpose of constructing, maintaining, protecting, altering, renewing and using the works, or for the purpose of obtaining access to the works or for the purpose of doing any other thing necessary in connection with the works, purchase compulsorily such new rights as they require over any of the land delineated on the deposited plans and described in the deposited book of reference instead of purchasing that land under section 28 (Purchase of land) of this Act.

Purchase of
rights over land.

(2) 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 new rights under subsection (1) above and under section 30 (Purchase of specific new rights over land) of this Act as it applies to the compulsory purchase of land so that, in appropriate contexts, references in the Act of 1965 to land are read as referring, or as including references, to the new rights or to land over which the new rights are, or are to be, exercisable, according to the requirements of the particular context.

(3) Without prejudice to the generality of subsection (2) above, in relation to the purchase of new rights under subsection (1) above and under section 30 (Purchase of specific new rights over land) of this Act —

- (a) Part I of the Act of 1965 shall have effect with the modifications specified in Schedule 4 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.

30.—(1) The Board may, in addition to such new rights as they may purchase under section 29 (Purchase of rights over land) of this Act, purchase such new rights as they require in or over any of the lands shown on the deposited plans within the lines marked “Limit of land to be used” or “Limit of access to be acquired” and specified in Part II of Schedule 3 to this Act for the provision of means of access to the highways there mentioned.

Purchase of
specific new
rights over land.

(2) Where in column (3) of the said Part II reference is made to a lettered point, the Board may form and lay out means of access at that point to the highway there named.

31. The provisions set out in Part III of Schedule 3 to this Act shall have effect with respect to the temporary use of land by the Board for working sites.

Temporary use
of land.

General lands provisions

32.—(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.

Purchase of part
of certain
properties.

PART III
—cont.

(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, if the person on whom the notice is served, within 21 days after the day on which the notice is served on him, serves on the Board a counter-notice objecting to the sale of the part and stating that he is willing and able to sell the whole (in this section referred to as “the land subject to the counter-notice”), the question whether he shall be required to sell the part shall, unless the Board agree to take the land subject to the counter-notice, be referred to the tribunal.

(3) If the said person does not serve such a counter-notice as aforesaid within 21 days after the day on which the notice to treat is served on him, or if, on such a reference to the tribunal, the tribunal determine that the part subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, in the case of part of land consisting of a house, together with a park or garden belonging thereto, without such detriment 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 such detriment and without seriously affecting the amenity and convenience of the house, the notice to treat shall be deemed to be a notice to treat for that part.

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

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

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

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

(7) In any case where, by virtue of a determination by the tribunal under subsection (4), (5) or (6) 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 the notice, the Board may, within six weeks after the tribunal make their determination, withdraw the notice to treat and, if they do so, shall pay to the said person compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal:

Provided that the determination of the tribunal shall not be deemed to be made so long as—

PART III
—cont.

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

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

(b) Any dispute as to a person's entitlement to compensation under this section or as to the amount of compensation shall be determined by the tribunal.

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

Disregard of recent improvements and interests.

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

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

34.—(1) All private rights of way over any land which may be purchased compulsorily under this Act shall be extinguished on the purchase of the land, whether compulsorily or by agreement, or on the entry on the land under section 11(1) of the Act of 1965 as applied by this Act, whichever is sooner.

Extinction or suspension of private rights of way.

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

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

35.—(1) If the deposited plans or the deposited book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the Board after giving not less than 10 days' notice to the owner, lessee and occupier of the land in question may apply to two justices having jurisdiction in the place where the land is situated for the correction thereof.

Correction of errors in deposited plans and book of reference.

PART III
—cont.

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

(3) The certificate shall be deposited in the office of the Clerk of the Parliaments, and a copy thereof in the Private Bill Office of the House of Commons, and with the proper officer or chairman of a local authority with whom a copy of the deposited plans has been deposited in accordance with the Standing Orders of the Houses of Parliament, or who has the custody of any such copy so deposited; and thereupon the deposited plans and the deposited book of reference shall be deemed to be corrected according to the certificate.

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

Cellars under streets not referenced.

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

Set-off for enhancement in value of retained land.

37.—(1) In this section “relevant land” means any land purchased, or any land in or over which any new rights are purchased, by the Board for the purposes of the works.

(2) In assessing the compensation payable to any person on the purchase by the Board from him of any relevant land or any rights therein, 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 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 works.

1961 c. 33.

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

Amendment of British Railways Acts 1989 and 1990.
1989 c. iii.
1990 c. xxv.
Time for purchase of land and rights over land.

38. Section 29 of the British Railways Act 1989 and section 30 of the British Railways Act 1990 shall each have effect as if in paragraph (a) of subsection (2) thereof for the words “his notice, or in such part thereof as may be required by the Board” there were substituted “the contract”.

39. The powers of the Board for the compulsory purchase of land and rights in or over land under this Act shall cease on 31st December 1996.

PART IV

PROTECTIVE PROVISIONS

Notice of interference with roads.

40. Before breaking up or otherwise interfering with any road to which the public has access in connection with the construction of any of the works under the powers of this Act, the Board shall (except in case of emergency) give not less than 14 days’ notice in writing to the chief officer of police.

41. For the protection of the several undertakers referred to in this section, the following provisions shall, unless otherwise agreed in writing between the Board and the undertakers concerned, have effect: —

PART IV
—cont.
For protection of
electricity, gas
and water
undertakers.

(1) In this section —

“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) in the case of electricity undertakers, electric lines or electrical plant (as defined in the Electricity Act 1989) belonging to or maintained by such undertakers; or

1989 c. 29.

(b) in the case of gas or water undertakers, any mains, pipes or other apparatus belonging to or maintained by such undertakers;

(not being, except in paragraph (2) below, apparatus in respect of which the relations between the Board and the undertakers are regulated by the provisions of Part III of the New Roads and Street Works Act 1991) and includes any structure for the lodging therein of apparatus or for giving access to apparatus;

1991 c. 22.

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

“undertakers” means any person authorised to carry on, in any area within which the Board are by this Act authorised to purchase land or execute works, an undertaking for the supply of gas or water or for the generation, transmission or supply of electricity; and, in relation to any apparatus, means the undertakers to whom it belongs or by whom it is maintained:

(2) Notwithstanding the temporary stopping up or diversion of any highway under the powers of section 21 (Temporary stoppage of highways) of this Act, the undertakers shall be at liberty at all times to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable them to inspect, repair, maintain, renew, remove or use any apparatus which at the time of the stopping up or diversion was in that highway:

(3) The Board, in the case of the powers conferred by section 22 (Underpinning of buildings near works) of this Act, shall, so far as is reasonably practicable, so exercise those powers as not to obstruct or render less convenient the access to any apparatus and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of the undertakers or any interruption in the supply of electricity, gas or water, as the case may be, by the undertakers is caused, the Board shall bear and pay the cost reasonably incurred by the undertakers in making good such damage or restoring the supply; and shall —

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

PART IV
—cont.

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

by reason of any such damage or interruption:

Provided that —

(i) nothing in this paragraph shall impose any liability on the Board with respect to any damage or interruption to the extent that such damage or interruption may be attributable to the act, neglect or default of the undertakers or their contractors or workmen;

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

- (4) Notwithstanding anything in section 23 (Use of sewers, etc., for removing water) of this Act, no use shall be made by the Board in the construction of the works of pumping or other like modes of removing water except where reasonably necessary or in case of emergency or unforeseen accident or for the purpose of removing rainwater or other small amounts of water:
- (5) Notwithstanding anything in this Act or shown on the deposited plans the Board shall not acquire any apparatus under the powers of this Act otherwise than by agreement:
- (6) If the Board, in the exercise of the powers of this Act, acquire any interest in any land in which any apparatus is placed, that apparatus shall not be removed under this section and any right of the undertakers to maintain, repair, renew or inspect that apparatus in that land shall not be extinguished until adequate alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the undertakers:
- (7) If the Board, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Act, require the removal of any apparatus placed in that land, they shall give to the undertakers written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed so as to provide adequate alternative apparatus in lieu of the apparatus to be removed and in that case (or if in consequence of the exercise of any of the powers of this Act the undertakers reasonably require to remove any apparatus) the Board shall afford to the undertakers the necessary facilities and rights for the construction of the alternative apparatus in other land of the Board and thereafter for the maintenance, repair, renewal and inspection of that apparatus:

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

- (8) (a) Any alternative apparatus to be constructed in land of the Board under this section shall be constructed in such manner and in such line or situation as may be agreed between the undertakers and the Board or in default of agreement settled by arbitration;
- (b) The undertakers shall, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration as aforesaid and after the grant to the undertakers of any such facilities and rights as are referred to in paragraph (7) above, proceed with all reasonable dispatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the Board to be removed under the provisions of this section:
- (9) Notwithstanding anything in paragraph (8) above, if the Board give notice in writing to the undertakers that they desire themselves to execute any part of so much of the work necessary in connection with the construction of the alternative apparatus, or the removal of the apparatus required to be removed, as will take place in any land of the Board, that work, in lieu of being executed by the undertakers, shall be executed by the Board with all reasonable dispatch under the superintendence, if given, and to the reasonable satisfaction of the undertakers:

Provided that nothing in this paragraph shall authorise the Board to execute the actual placing, 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) within 300 millimetres of the apparatus:

- (10) Where, in accordance with the provisions of this section, the Board afford to the undertakers facilities and rights for the construction, maintenance, repair, renewal and inspection in land of the Board 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 Board and the undertakers or in default of agreement settled by arbitration:

Provided that —

(a) in settling those terms and conditions in respect of alternative apparatus to be constructed in or along any railway of the Board, the arbitrator shall —

- (i) give effect to all reasonable requirements of the Board for ensuring the safety and efficient operation of the railway and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of the Board or the traffic on the railway; and
- (ii) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions applicable to the apparatus, if any, constructed in or along the railway for which the alternative apparatus is to be substituted;

(b) if the facilities and rights to be afforded by the Board in respect of any alternative apparatus and the terms and conditions subject to which the same are to be granted are in the opinion of the arbitrator less favourable on the whole to the undertakers than the facilities and rights enjoyed by them in

PART IV
—cont.

respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator shall make such provision for the payment of compensation by the Board to the undertakers in respect thereof as appears to him to be reasonable having regard to all the circumstances of the particular case:

- (11) (a) Not less than 28 days before commencing to execute any works that are referred to in paragraph (7) above and are near to or will or may affect any apparatus the removal of which has not been required by the Board under the said paragraph (7), the Board shall submit to the undertakers a plan, section and description of the works to be executed;
- (b) Those works shall be executed only in accordance with the plan, section and description submitted as aforesaid and in accordance with such reasonable requirements as may be made by the undertakers for the alteration or otherwise for the protection of the apparatus or for securing access thereto and the undertakers shall be entitled by their officer to watch and inspect the execution of the works:

Provided that —

(i) if the undertakers within 14 days after the submission to them of a plan, section and description shall, in consequence of the works proposed by the Board, reasonably require the removal of any apparatus and give written notice to the Board of that requirement, the foregoing provisions of this section shall apply as if the removal of the apparatus had been required by the Board under paragraph (7) above;

(ii) nothing in this sub-paragraph shall preclude the Board from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description thereof in lieu of the plan, section and description previously submitted, and thereupon the provisions of this paragraph shall apply to and in respect of a new plan, section and description;

- (c) The Board shall not be required to comply with sub-paragraph (a) above in a case of emergency but in that case they shall give to the undertakers notice as soon as reasonably practicable and a plan, section and description of the works as soon as reasonably practicable thereafter and shall comply with sub-paragraph (b) above so far as reasonably practicable in the circumstances:
- (12) Where, by reason of this Act, any part of any highway in which any apparatus is situate ceases to be part of a highway 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 affect any right of the Board or of the undertakers to require removal of such apparatus under this section or the power of the Board to execute works in accordance with paragraph (11) above:
- (13) Subject to paragraph (14) below, the Board shall pay to the undertakers the costs, charges and expenses reasonably incurred by the undertakers in or in connection with the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph (7)

above, less the value of any apparatus removed under the provisions of this section (that value being calculated after removal) and shall also make compensation to the undertakers—

(a) for any damage caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal in accordance with the provisions of this section); and

(b) for any other expenses, loss, damages, penalty or costs incurred by the undertakers;

by reason of the execution, maintenance, user or failure of those works or otherwise by reason of the exercise by the Board of the powers of this Act:

(14) If the cost of maintaining, using, repairing or renewing any apparatus is reduced by reason of any of the works, including the provision of alternative apparatus under this section, a capitalised sum representing that saving shall be paid by the relevant undertakers to the Board or set off against any sums payable by the Board to the relevant undertakers under this section:

(15) Where, by reason of the stopping up of any highway under the powers of this Act, any apparatus belonging to the undertakers and laid or placed in such highway or elsewhere is rendered derelict or unnecessary, the Board shall pay to the undertakers the then value of such apparatus (which shall thereupon become the property of the Board) and the reasonable cost of and incidental to the cutting off of such apparatus from any other apparatus, and of and incidental to the execution or doing of any works or things rendered necessary or expedient by reason of such apparatus being so rendered derelict or unnecessary:

Provided that the Board shall not under the provisions of this paragraph be required to pay to the undertakers the value of any apparatus rendered derelict or unnecessary if, to the reasonable satisfaction of the undertakers, other apparatus has at the expense of the Board been provided and laid and made ready for use in substitution for the apparatus so rendered derelict or unnecessary:

(16) Any difference arising between the Board and the undertakers under this section shall be referred to and settled by arbitration:

(17) Nothing in this section shall affect the provisions of any enactment or agreement regulating the relations between the Board and the undertakers in respect of any apparatus laid or erected in land belonging to the Board at the date of the passing of this Act.

42. For the protection of North West Water Limited (in this section referred to as “the company”) the following provisions shall, unless otherwise agreed in writing between the Board and the company, have effect:—

For protection of
North West
Water Limited.

(1) In this section—

“sewer” includes any main used for the conveyance of sewage sludge or sewage effluent and any pipe subway vested in or maintained by the company for the purpose of sewerage or sewage disposal; and

“specified work” means so much of the works within the area of the company, and of any work (whether temporary or permanent) forming part of, or constructed in connection with,

PART IV
—cont.

those works, as will or may be situated over or within 15 metres measured in any direction of, or (wherever situated) impose any load directly upon, any sewer:

- (2) (a) Before commencing the construction or renewal of any specified work the Board shall submit to the company plans thereof as described in paragraph (3) below (in this section referred to as “the said plans”) and shall not commence that work until the company have signified their approval of the said plans;
- (b) The company’s approval shall not be unreasonably withheld and, if within 56 days after the submission of the said plans the company have not approved or disapproved them, they shall be deemed to have approved them:
- (3) (a) The plans to be submitted to the company shall be detailed plans, drawings, sections and specifications describing the position and manner in which, and the level at which, any specified work is proposed to be constructed and the position of all sewers of the company within 15 metres of that work and shall comprise detailed drawings of every alteration which the Board may propose in any such sewers;
- (b) For the purpose of the preparation of the said plans the company shall permit the Board to have access to plans in their possession and to any of their sewers:
- (4) The company may require such modifications to be made in the said plans as may be reasonably necessary to secure the sewerage system of the company against interference or risk of damage and to provide and secure proper and convenient means of access to their sewers:
- (5) The specified work shall be constructed in accordance with the plans approved, or deemed to be approved, as aforesaid or settled by arbitration, as they may be amended from time to time by agreement between the Board and the company, and in the construction of the specified work the Board shall comply with all reasonable requirements of the company of which due notice is given to the Board and shall provide new, altered or substituted sewers, or works for the protection of any sewers of the company, in such manner as the company shall reasonably require for the proper protection of, and for preventing injury or impediment to, those sewers by reason of any specified work:
- (6) All works under paragraph (5) above for the provision of new, altered or substituted sewers or the protection of any sewers of the company, shall, where so required by the company, be constructed by the company or under the supervision (if given) of an officer of the company duly appointed for the purpose, and all costs, charges and expenses reasonably incurred by the company in the execution of those works, or in the preparation or examination of plans or designs therefor, or in such supervision, shall be paid to the company by the Board:
- (7) When works for the provision of any new, altered or substituted sewer, or any protective work forming part of any new, altered or substituted sewer or any existing sewer of the company, have been completed under this section, they shall be maintainable by the company:
- (8) (a) The Board shall be liable to make good, or, if the company so decide, to repay to the company any expense reasonably incurred by the company in making good, all injury or damage to any

sewers, drains or works vested in the company (except in so far as any sewer, drain or work is intended for alteration or removal for the purposes of the specified work) caused by or resulting from the construction of any specified work and the provision of any new, altered or substituted sewer or any protective work under this section and shall pay to the company any additional expense to which they may be put in the maintenance, management or renewal of any new, altered or substituted sewer which may be necessary in consequence of the construction of any specified work;

PART IV
—cont.

- (b) Nothing in sub-paragraph (a) above shall impose any liability on the Board in respect of any damage to the extent that it is attributable to the act, neglect or default of the company, their officers, servants, contractors or agents:
- (9) An officer of the company duly appointed for the purpose may, at any reasonable time and, if required by the Board, under their supervision and control, enter upon and inspect any specified work or any other works constructed under this section:
- (10) The approval by the company of any plans, drawings, sections or specifications or the supervision by them of any work under this section shall not (if it was done without negligence on the part of the company, their employees, contractors or agents) exonerate the Board from any liability or affect any claim for damages by the company:
- (11) As soon as reasonably practicable after the completion of the construction of the specified works the Board shall deliver to the company a plan and section showing the position and level of those works as constructed and all new, altered or substituted works provided under this section:
- (12) Any difference arising between the Board and the company under this section shall be referred to and settled by arbitration:
- (13) Nothing in this section shall affect the provisions of any enactment or agreement regulating the relations between the Board and the company in respect of any sewer or other apparatus constructed, laid or erected in land belonging to the Board before the passing of this Act.

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

For protection of tele-communications operators.

- (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 21 (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.

1984 c. 12.

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

Crown rights.

PART IV
—cont.

- (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 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 shall be considered necessary or appropriate.

PART V

GENERAL

Planning
permission.
S.I. 1988/1813.

45.—(1) In this section “Part 11 development” means 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).

(2) Subject to subsection (3) below, in its application to development authorised by this Act, the planning permission granted for Part 11 development shall have effect as if the authority to develop given by this Act were limited to development begun within 10 years after the passing of this Act.

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

Arbitration.

46. Where under any provision of this Act any difference (other than a difference which falls to be determined by the tribunal) is to be referred to or settled by arbitration, then such difference shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

SCHEDULES

SCHEDULE 1

DESCRIPTIONS OF WORKS REFERRED TO IN SECTION 5 OF THIS ACT

Section 5.

In the metropolitan borough of Tameside, Greater Manchester—

Work No. 1 A railway (860 metres in length), being a reinstatement of the railway between Crowthorne and Stockport Junctions, commencing by a junction with the Ashton-under-Lyne and Stockport Railway at a point 76 metres south of the bridge carrying Manchester Road over that railway and terminating by a junction with the Manchester Piccadilly and Hadfield Railway at a point 60 metres west of the western end of the Glossop-bound platform at Guide Bridge Station:

(Railway at Guide Bridge).

In the city of Liverpool, Merseyside—

Work No. 2 A railway (864 metres in length), being a reinstatement of the loop line between Edge Lane and Olive Mount Junctions, commencing by a junction with the Bootle Branch Railway at a point 6 metres south of the bridge carrying Binns Road over that railway, passing through the existing Olive Mount Tunnel beneath the intersection of Rathbone Road, Wavertree Avenue and Pighue Lane and terminating by a junction with the Liverpool and Manchester Railway at a point 71 metres west of the bridge carrying Mill Lane over that railway:

(Railway at Edge Hill).

In the metropolitan borough of St. Helens, Merseyside—

Work No. 3 A railway (1,312 metres in length), being a reinstatement of the discontinued portion of railway between St. Helens Central and St. Helens Junction, commencing by a junction with the St. Helens Railway at a point 24 metres south-east of the vehicular bridge (Dutch Barn Bridge) carrying Baxters Lane over that railway and terminating by a junction with the Liverpool and Manchester Railway at a point 186 metres south-west of the footbridge over that railway at St. Helens Junction station:

(Railway at St. Helens).

In the city of Bradford, West Yorkshire—

Work No. 4 A railway (394 metres in length), being a temporary deviation of the Leeds and Skipton Railway on the northern side of that railway, commencing by a junction with that railway at a point 36 metres north-west of the 208¼ mile post on that railway and terminating by a junction with that railway at a point 6 metres north-west of the bridge carrying Dowley Gap Lane over that railway:

(Deviation railway at Bingley).

In the city of Leeds, West Yorkshire—

A partial remodelling of the trackwork between Holbeck and Leeds North Junctions comprising—

Work No. 5 A railway (334 metres in length), commencing by a junction with the Wakefield-bound line of the Leeds and Wakefield Railway at a point 22 metres north-east of the bridge carrying that railway over Copley Hill road and terminating by a junction with Work No. 6 at a point 21 metres south-west of the bridge carrying that railway over the north-bound carriageway of the A.643 road;

(Railways at Leeds).

Work No. 6 A railway (1,100 metres in length) commencing by a junction with the Morley and Leeds Railway at a point 72 metres north-east of the bridge carrying that railway over Copley Hill road, passing by Holbeck and Whitehall Junctions and terminating at Leeds North Junction by a junction with the Leeds and Bradford Railway at a point 36 metres north-east of the bridge carrying that railway over Globe Road:

- SCH. 1
—cont.
- (Railway at
Clarborough).
- In the district of Bassetlaw, parishes of Sturton-le-Steeple and North Leverton with Hablesthorpe, Nottinghamshire—
- Work No. 8—A railway (725 metres in length), being a new chord line, commencing by a junction with the Worksop-bound line of the Worksop and Gainsborough Railway at a point 49 metres north-east of the 69 mile post on that railway and terminating by a junction with the Cottam-bound line of the Cottam Power Station Branch Railway at a point 550 metres west of the bridge carrying that railway over Schrimshire's Road:
- (Railway at
Sherburn in
Elmet).
- In the district of Selby, parishes of Sherburn in Elmet and Little Fenton, North Yorkshire—
- Work No. 9—A railway (1,462 metres in length), being a branch railway into the works of British Gypsum Limited, commencing by a junction with the Normanton-bound line of the York and Normanton Railway at a point 144 metres north of the 12½ mile post on that railway, passing across and on the level of Fenton Lane and terminating to the east of the British Gypsum Works at a point 68 metres east of Ash Row Drain (reference point SE 5201:3438):
- (Footbridge at
Marholm).
- In the city of Peterborough and in the parish of Bretton, Cambridgeshire—
- Work No. 10—A footbridge over the Peterborough and Stamford Railway, being an extension of the footbridge (No. 189A) over the East Coast Main Line at Marholm level crossing:
- (Roads at
Foxfield).
- In the district of South Lakeland, parish of Broughton West, Cumbria—
- Work No. 11A—A road, being a raising of the U.5085 road, commencing at a point in that road 46 metres south of the north-eastern corner of the residence known as Skellow Crag and terminating at a point in that road 54 metres south-east of its point of commencement;
- Work No. 11B—A road commencing by a junction with Work No. 11A at a point 33 metres south-east of the commencement of that work, passing across and on the level of the Carnforth and Whitehaven Railway and terminating at a point in the U.5084 road 15 metres east of its junction with the C.5009 road.

SCHEDULE 2

ENACTMENTS AND WORKS REFERRED TO IN SECTION 6 OF THIS ACT

Section 6.

The original enactments		The original works
Chapter (1)	Title or short title (2)	(3)
20 & 21 Vict. c. cxxxvii.	WORK NO. 1 Oldham, Ashton and Guide Bridge Junction Railway Act 1857.	The railway described in section 17 as commencing at or near a place called Peccaties in the Ashton Town Division of the parish of Ashton-under-Lyne and terminating at Guide Bridge in the Audenshaw Division of that parish.
47 & 48 Vict. c. ccvii.	WORK NO. 2 London and North-western Railway Act 1884.	Railways Nos. 2, 5 and 6.
11 Geo. 4 & 1 Will. 4 c. lxi (1830)	WORK NO. 3 An Act for making a Railway from the Cowley Hill Colliery in the Parish of Prescot to Runcorn Gap in the same Parish (with several Branches therefrom), all in the County Palatine of Lancaster; and for con- structing a Wet Dock at the Termination of the said Railway at Runcorn Gap aforesaid.	The railway described in section 2 as commencing in the township of Windle and terminating in the township of Widnes.
44 & 45 Vict. c. cxli.	London and North-western Railway (New Railways) Act 1881.	The new railway at St. Helens Junction in the township of Sutton described in section 4 and the works relating to the widening, alteration and improvement of the St. Helens Railway in that township authorised by that section.
8 & 9 Vict. c. xxxvi.	WORKS NOS. 5 AND 6 Leeds, Dewsbury, and Manchester Railway Act 1845.	The railway described in section 15 as commencing in the township of Holbeck in the parish of Leeds and terminating at or near the town of Huddersfield.

SCHEDULE 3

LANDS

PART I

Section 28 (2).

LAND REFERRED TO IN SECTION 28 (2) OF THIS ACT

Area (1)	Number on deposited plans (2)	Purpose for which land may be used (3)
In Greater London — London borough of Bexley	1	For storing railway maintenance equipment.
In the county of Kent — City of Rochester upon Medway	1	For alterations and improvements to the railway at Strood station.
In the county of Nottinghamshire — District of Bassetlaw, parish of North Leverton with Habblethorpe	4a, 5a	For the provision of a working site and thereafter as a means of access for the general purposes of the Board.

PART II

MEANS OF ACCESS REFERRED TO IN SECTION 30 (PURCHASE OF SPECIFIC NEW RIGHTS OVER LAND) OF THIS ACT

SCH. 3
—cont.
Section 30.

Area (1)	Land numbered on deposited plans (2)	Highway to which access to be provided (3)	Purpose for which access required (4)
In Merseyside— Metropolitan borough of St. Helens	4 7	Ellamsbridge Road Joseph Street	To construct Work No. 3. To construct Work No. 3 and thereafter for the general purposes of the Board.
In West Yorkshire— City of Bradford	5, 6	Dowley Gap Lane, Bingley, at points A and B	To construct Work No. 4.
City of Leeds	15 to 17	Royds Lane	To construct Works Nos. 5 and 6, or either of them.
In the county of Nottinghamshire— District of Bassetlaw, parish of North Leverton with Hablesthorpe	5b, 6 and 8 to 11	Mill Lane, Clarborough	To construct Work No. 8 and thereafter for the general purposes of the Board.

PART III

TEMPORARY WORKING SITES

1. In this Part of this Schedule —

“the designated lands” means any of the lands shown on the deposited plans within a line marked “Limit of land to be used” and numbered on those plans —

6 in the metropolitan borough of Tameside;

8 and 9 in the metropolitan borough of St. Helens;

2A, 3A and 4 in the city of Bradford;

6 and 14 in the city of Leeds;

4, 5A, 6 and 12A in the district of Selby, parish of Sherburn in Elmet; and

3 in the district of Selby, parish of Little Fenton;

“the Leeds lands” means the lands numbered on the deposited plans 5a, 7, 9a, 12, 13 and 18 in the city of Leeds; and

“the relevant works” means Works Nos. 1, 3 to 6, 8 and 9 or any of them.

2. The Board, in connection with the construction of Works Nos. 5 and 6, or either of them, may establish and maintain a temporary working site on the Leeds lands.

3. The Board, in connection with the construction of the relevant works and after giving to the owners and occupiers of the designated lands not less than 28 days’ notice in writing of intended entry, may —

(a) enter upon and take possession temporarily of the designated lands;

(b) remove any structures and vegetation on the designated lands; and

(c) construct on the designated lands such temporary works or structures as may be required by them.

4. The Board may form and lay out means of access to the land numbered 6 on the deposited plans in the metropolitan borough of Tameside from Slate Lane at point E.

5. The Board shall not, by reason of the exercise of the powers of paragraph 3 above, be required to purchase any part of the designated lands.

6. On the exercise of the powers conferred by paragraph 3 above, the following provisions shall have effect: —

(1) The Board shall not, without the agreement of the owners and occupiers of the designated lands, remain in possession of any part thereof after a period of one year from the completion of the works for which such possession has been taken:

(2) Before giving up possession of the designated lands, the Board shall remove all temporary works or structures and restore the designated lands to the reasonable satisfaction of the owners and occupiers thereof:

(3) The Board shall compensate the owners and occupiers of the designated lands for any loss or damage which may result to them by reason of the exercise of the powers of this Part:

- (4) Nothing in this Part shall relieve the Board 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 with 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 sub-paragraph (3) above:
- (5) Any dispute as to a person's entitlement to compensation under sub-paragraph (3) above or as to the amount thereof shall be determined by the Tribunal.

SCH. 3
—cont.

SCHEDULE 4

Section 29. MODIFICATION OF PART I OF COMPULSORY PURCHASE ACT 1965
FOR PURCHASE OF NEW RIGHTS

1965-c. 56. 1. In the Compulsory Purchase Act 1965 (hereafter in this Schedule referred to as "the Act") for section 7 (which relates to compensation) there shall be substituted the following:—

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

1973 c. 26. (2) The modifications subject to which subsection (1) of section 44 of the Land Compensation Act 1973 is to have effect, as applied by subsection (2) of that section to compensation for injurious affection under this section, are that for the words 'land is acquired or taken' there shall be substituted 'a right in or over land is purchased' and for the words 'acquired or taken from him' there shall be substituted 'in or over which the right is exercisable'."

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

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

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

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

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

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

the British Railways Act 1993 shall, in relation to that person, cease to authorise the purchase of the right and be deemed to authorise the purchase of that person's interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the Tribunal directs.

(2) Any question as to the extent of the land in which the British Railways Act 1993 is deemed to authorise the purchase of an interest by virtue of subsection (1) above shall be determined by the Tribunal.

(3) Where, in consequence of a determination of the Tribunal that it is satisfied as mentioned in subsection (1) above, the British Railways Act 1993 is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of six weeks beginning with the date of the

determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the acquiring authority to withdraw the notice.

SCH. 4
—cont.

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

1973 c. 26.

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

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

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

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

5. Section 20 of the Act (compensation for short term tenants) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of the interests but taking into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right in question.

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



© Crown Copyright 1993

Applications for reproduction should be made to HMSO

HMSO publications are available from:

HMSO Publications Centre
(Mail, fax and telephone orders only)
PO Box 276, London, SW8 5DT
Telephone orders 071-873 9090
General enquiries 071-873 0011
(queuing system in operation for both numbers)
Fax orders 071-873 8200

HMSO Bookshops
49 High Holborn, London, WC1V 6HB
(counter service only)
071-873 0011 Fax 071-873 8200
258 Broad Street, Birmingham, B1 2HE
021-643 3740 Fax 021-643 6510
Southey House, 33 Wine Street, Bristol, BS1 2BQ
0272 264306 Fax 0272 294515
9-21 Princess Street, Manchester, M60 8AS
061-834 7201 Fax 061-833 0634
16 Arthur Street, Belfast, BT1 4GD
0232 238451 Fax 0232 235401
71 Lothian Road, Edinburgh, EH3 9AZ
031-228 4181 Fax 031-229 2734

HMSO's Accredited Agents
(see Yellow Pages)

and through good booksellers

ISBN 0-10-510493-0



9 780105 104933