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## SCHEDULE

### BRITISH RAILWAYS (NO. 3)

#### PART IV

##### PROTECTIVE PROVISIONS

*For protection of roads and road traffic, etc*

31 The following provisions shall, unless otherwise agreed in writing between the Board and the road works authority or Hamilton District Council, as the case may be, have effect:—

(1) In this section—

“the appropriate council” means the road works authority or the district council, as the case may be;

“the district council” means the Hamilton District Council;

“road” has the same meaning as in the Roads (Scotland) Act 1984; and

“road equipment” means any works or apparatus on or under any road comprising any refuge, lamp column, traffic sign, bollard, bin for refuse or road materials, surface water drain, gully or sewer for conducting road drainage or apparatus respectively connected therewith:

(2) Wherever in this section provision is made with respect to the approval or consent of the appropriate council, that approval or consent shall be in writing and shall not be unreasonably withheld:

(3) The Board shall not, without the consent of the road works authority, construct any part of the works which will involve interference with any road, except in accordance with plans and sections submitted to, and approved by, the road works authority:

Provided that, if within 56 days after those plans and sections have been submitted the road works authority have not approved or disapproved them, they shall be deemed to have approved the plans and sections as submitted:

(4) Before commencing to construct any part of the works, or any works or conveniences connected therewith, which will involve interference with a road, or the traffic in any road, the Board shall consult the road works authority as to the time when that part shall be commenced, and as to the extent of the surface of the road which it may be reasonably necessary for the Board to occupy or the nature of the interference which may be caused to the said traffic in the construction of that part, and as to the time during which, and the extent to which, the road shall be interfered with, and as to the conditions under which that part shall be constructed, so as to reduce so far as possible inconvenience to the public and to ensure the safety of the public, and that part shall not be constructed, and the surface of the road shall not be occupied by the Board, and the said interference with traffic shall not be caused, except at such time, to such extent, and in accordance with such conditions as may be agreed between the Board and the road works authority or determined by arbitration:

(5) At least 56 days before commencing to make any hole from the surface of any part of any road the Board shall serve notice in writing on the road works authority of their intention to commence the same and that notice shall describe the place at which any

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hole is intended to be made, and the steps, if any, to be taken by the Board to safeguard pedestrians using any footway, footpath or other way in which the hole is intended to be made, and, if within 21 days after the receipt of the notice any objection is made by the road works authority, the matter shall (unless otherwise agreed) be determined by arbitration before the making of the hole is commenced, but if no objection is made the Board may proceed with the making of the hole:

- (6) The Board shall secure that so much of the works as is constructed under, or so as to affect, any road is so designed, constructed and maintained as to carry the appropriate loading for that road recommended at the time of construction of those works by the Secretary of State, and the Board shall indemnify the road works authority against, and make good to the road works authority, all expenses which they may reasonably incur or be put to in the maintenance or repair of any road, or any tunnels, sewers, drains or apparatus therein, by reason of any non-compliance by the Board with the provisions of this paragraph:
- (7) It shall be lawful for an authorised officer of the appropriate council at all reasonable times to enter upon and inspect any part of the works which is in or under any road or which may affect any road or any property or work of the appropriate council, during the execution thereof, and the Board shall give to that officer all reasonable facilities for such inspection and, if he is of the opinion that the construction of that part of the works is attended with danger to any road or to any road equipment or any other property or work belonging to, or under the jurisdiction or control of, the appropriate council on or under any road, the Board shall adopt such measures and precautions as may be reasonably necessary for the purpose of preventing any damage or injury thereto:
- (8) The Board shall not alter, disturb or in any way interfere with any road equipment or any other property or work belonging to, or under the jurisdiction or control of, the appropriate council on or under any road, or the access thereto, without the consent of the appropriate council, and any alteration, adaptation, diversion, replacement or reconstruction of any road equipment or any other property or work as aforesaid which may be necessary shall be made by the appropriate council or the Board as the appropriate council think fit and any costs, charges and expenses reasonably incurred by the appropriate council in so doing shall be repaid to the appropriate council by the Board:
- (9) The Board shall not remove any soil or material from any road except such as must be excavated in the execution of the works:
- (10)
  - (a) The Board shall not, except with the consent of the road works authority, deposit any soil, subsoil or materials, or stand any vehicle or plant, on any road so as to obstruct the use of such road by any person or, except with the like consent, deposit any soil, subsoil or materials on any road except within a hoarding;
  - (b) All costs, charges and expenses reasonably incurred by the road works authority in removing any soil, subsoil or materials deposited on any road in contravention of this paragraph shall be repaid to the road works authority by the Board:
- (11) Where any part of any road has been temporarily broken up or disturbed by the Board, the Board shall make good the subsoil, foundations and surface of such part of the road to the reasonable satisfaction of the road works authority and maintain the same to the reasonable satisfaction of the road works authority for such time as may be reasonably required for the permanent reinstatement of the road:

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

- (12) The Board shall compensate the appropriate council for any subsidence of, or damage to, any road or any road equipment or any other property or work belonging to, or under the jurisdiction or control of, the appropriate council on or under any road which may be caused by, or in consequence of, any act or default of the Board, their contractors, servants or agents and whether such damage or subsidence happens during the construction of the works or at any time thereafter:
- (13) Any difference arising between the Board and the appropriate council under this section (other than a difference as to the meaning or construction of this section) shall be determined by arbitration.