

## SCHEDULES

### SCHEDULE 2

Section 6.

#### SUPPLEMENTARY PROVISIONS AS TO THE SCHEDULED WORKS AND OTHER AUTHORISED WORKS

##### PART I

##### APPLICATION OF ENACTMENTS

###### *Application of Part II of the Public Utilities Street Works Act 1950*

- 1 (1) Part II of the Public Utilities Street Works Act 1950 (public utilities' street works code where apparatus is affected by road, bridge or transport works) shall apply to any works for the construction or maintenance of Works Nos. 9A, 10A, 11 and 17 as if the Concessionaires were a highway authority.
- (2) This paragraph does not prejudice the application, in accordance with that Act, of Part II of that Act to works required for the purposes of any transport undertaking within the meaning of that Act..

###### *Application of Railways Clauses Acts*

- 2 (1) Subject to the following provisions of this paragraph, the Railways Clauses Consolidation Act 1845 and Part I of the Railways Clauses Act 1863, insofar as they are applicable for the purposes of this Act and are not inconsistent with its provisions, are hereby incorporated with this Act.
- (2) The following provisions of the Railways Clauses Consolidation Act 1845 are excepted from incorporation by virtue of sub-paragraph (1) above—  
sections 1, 5, 7 to 9, 11, 12, 15, 17, 19, 20, 22, 23, 162 and 163;  
but of the provisions of that Act which are so incorporated the following shall not apply to the Concessionaires:—  
sections 13, 14, 47, 48, 59 to 62, 75, 77 to 85, 94, 95 and 112 to 124.
- (3) The following provisions of Part I of the Railways Clauses Act 1863 are excepted from incorporation by virtue of sub-paragraph (1) above—  
sections 13 to 19;  
but of the provisions of that Part of that Act which are so incorporated sections 4 to 7 shall not apply to the Concessionaires.
- (4) For the purposes of the provisions of the said Clauses Acts so incorporated and applicable to the Concessionaires—  
(a) references to the company are references to the Concessionaires;  
(b) "the railway" means Works Nos. 1 to 5 and other works and things constructed, provided or used for or in connection with those works and, for

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- the purposes of sections 16 and 30 to 44 of the said Act of 1845, includes Work No. 6;
- (c) section 6 of the said Act of 1845 shall have effect as if the words "and to take lands for that purpose" and the words "for the value of the lands so taken or used and" were omitted;
  - (d) section 46 of the said Act of 1845 shall have effect as if the proviso were omitted; and
  - (e) section 68 of the said Act of 1845 shall have effect as if the word "gates" where first occurring, the words "or leading to or from" and the words from "together with all necessary gates" to "all necessary stiles" were omitted.
- (5) For the purposes of the provisions of the said Clauses Acts so incorporated and applicable to the Railways Board—
- (a) references to the company are references to the Railways Board;
  - (b) "the railway" means the Railways Board's scheduled works other than Works Nos. 21 A, 21B and 26A and, for the purposes of sections 16 and 30 to 44 of the said Act of 1845, includes those last-mentioned works.
- (6) For the purposes of the provisions of the said Clauses Acts so incorporated and applicable to the Concessionaires and the Railways Board—
- (a) section 87 of the said Act of 1845 shall have effect as if for the words from "company, being" to "other railway" there were substituted the word "body" and for the words "other company", where secondly occurring, there were substituted the words "other body"; and
  - (b) section 88 of the said Act of 1845 shall have effect as if for the word "companies", in both places where it occurs, there were substituted the word "bodies" and for the word "company" there were substituted the word "body".
- (7) Sections 18 and 21 of the said Act of 1845 as incorporated by sub-paragraph (1) above shall not apply in any case where the relations between either the Concessionaires or the Railways Board and any other persons are regulated by Part II of the Public Utilities Street Works Act 1950 or by Part VI of Schedule 7 to this Act.

## PART II

### REGULATION OF SCHEDULED WORKS AND SUBSIDIARY PROVISIONS

#### SECTION A

##### PROVISIONS APPLICABLE TO CONCESSIONAIRES

###### *Use of electrical energy*

- 3 (1) The following provisions of this paragraph shall apply in respect of the use of electrical energy for the purposes of Works Nos. 3,4 and 5 (in this section referred to as "the authorised railway").
- (2) All reasonable precautions shall be taken in constructing, placing and maintaining electric lines and circuits, and in working the authorised railway, to prevent—

- (a) injurious affection (by the discharge of electrical currents into the ground, fusion or electrolytic action) of any gas or water pipes, electric lines or other metallic pipes, structures or substances; or
  - (b) interference with, or with the working of, any wire, line or apparatus used for the purpose of transmitting electrical energy or of telecommunications.
- (3) The Secretary of State may make regulations under this paragraph for regulating the use of electrical energy for the operation of the authorised railway, including regulations—
- (a) for preventing injurious affection (by the discharge of electrical currents into the ground, fusion or electrolytic action) of gas or water pipes, electric lines or other metallic pipes, structures or substances; and
  - (b) for minimising, so far as is reasonably practicable, interference with, and with the working of, electric wires, lines and other apparatus whether such apparatus does, or does not, use the earth as a return.
- (4) All reasonable precautions against interference with, or with the working of, any wire, line or apparatus shall be deemed to have been taken if and so long as use is made of either such insulated returns, or of such uninsulated metallic returns of low resistance and of such other means of preventing injurious interference with, and with the working of, electric wires, lines and apparatus, as may be prescribed by the said regulations; and in prescribing such means the Secretary of State shall have regard to the expense involved in relation to the protection afforded.
- (5) The provisions of this paragraph shall not give any right of action in respect of injurious interference with, or with the working of, any electric wire, line or apparatus, or the currents therein, unless in the construction, erection, maintaining and working of such wire, line or apparatus all reasonable and proper precautions, including the use of an insulated return, have been taken to minimise injurious interference therewith, and with the currents therein, by or from other electric currents.
- (6) If any difference arises between the Concessionaires and any other person with respect to anything in the foregoing provisions of this paragraph, the difference shall, unless the parties otherwise agree, be determined by the Secretary of State or, at his option, by an arbitrator to be appointed by him, and the costs of such determination shall be in the discretion of the Secretary of State or of the arbitrator, as the case may be.
- (7) The power to make regulations conferred on the Secretary of State by this paragraph shall be exercisable by statutory instrument.
- (8) In this paragraph reference to an insulated return includes a reference to a return by means of a combined neutral and earth cable which is covered by a sheath suitable for protection against corrosion and is approved for use below ground by the Secretary of State for the purpose of any regulations relating to the supply of electricity.

*Concessionaires' subsidiary works*

- 4 (1) The Concessionaires may, for the purposes of or in connection with their scheduled works, do any of the following things within the limits of deviation for those works, that is to say—
- (a) make, provide and maintain all such approaches, bridges, subways, interchanges, roundabouts, lifts, stairs, escalators, ramps, passages, means

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- of access, shafts, stagings, buildings, apparatus, plant and machinery as may be necessary or convenient;
- (b) make junctions and communications (including the provision of steps or ramps for the use of persons on foot) with any existing highway or access way intersected or interfered with by, or contiguous to, any of those works, and widen or alter the line or level of any existing highway or access way for the purpose of connecting it with any of those works or another highway, or of crossing under or over the existing highway or access way;
  - (c) construct, provide and maintain all such embankments, aprons, abutments, retaining walls, wing walls, culverts and other works as may be necessary or convenient;
  - (d) carry out any works, and do any things necessary, for the protection of any adjoining land;
  - (e) alter or remove any structure erected upon any highway or adjoining land and plant trees, shrubs or other vegetation; and
  - (f) raise, sink or otherwise alter the position of any of the steps, areas, cellars, boundary-walls, railings, fences, windows, sewers, drains, watercourses, pipes, spouts or wires of, or connected with, any building, and remove any other obstruction.
- (2) The Concessionaires shall pay compensation for any damage done in exercise of the powers conferred by this paragraph.
- (3) Any question of disputed compensation payable under the provisions of this paragraph shall be determined under and in accordance with Part I of the Land Compensation Act 1961.

*Use of lagoon for drainage*

- 5 (1) Subject to the requirements of sub-paragraph (2) below, the Concessionaires may—
- (a) raise, lower or regulate the water, or the level or flow of water, in the Seabrook Stream in such manner as may be necessary or expedient for the construction, maintenance or operation of the drainage lagoon (Work No. 16); and
  - (b) discharge water from the lagoon into the stream at a point immediately below the embankment by which that work is formed.
- (2) In the construction of that embankment, and thereafter in the maintenance and operation of that work, the Concessionaires shall take such steps as may be necessary to ensure compliance with the requirement that the rate at which water is discharged from that work into the stream is never more than such maximum rate nor less than such minimum rate as may be agreed between the Concessionaires and the Southern Water Authority or, in default of agreement or on notice being given by the Secretary of State to the Concessionaires and the water authority, shall be determined by him; and in the exercise of any of the powers of sub-paragraph (1) above the Concessionaires shall comply with such conditions as may be so agreed or determined.
- (3) Before agreeing rates of discharge or conditions under sub-paragraph (2) above the water authority shall consult the Nature Conservancy Council, the Shepway District Council and the Kent County Council.

- (4) For the purposes of the Water Resources Act 1963 the provisions of this Act authorising the construction, maintenance and operation of the drainage lagoon shall be treated as if contained in a licence to construct impounding works granted to the Concessionaires subject to the requirement, and to any conditions relating to the exercise of the powers of sub-paragraph (1)(a) above, agreed or determined under sub-paragraph (2) above.
- (5) For the purposes of Part II of the Control of Pollution Act 1974 the discharge of water under sub-paragraph (1)(b) above shall be treated as if made with the consent of the water authority given in pursuance of that Act subject to such conditions relating to the discharge as may be agreed or determined under sub-paragraph (2) above.
- (6) In any proceedings for failure to comply with any such requirement or condition as is mentioned in sub-paragraph (4) above, it shall be a defence to prove that the failure was wholly or mainly attributable to exceptional shortage of rain, frost, accident or other unavoidable cause.

*Safety of lagoon*

- 6 For the purposes of the Reservoirs Act 1975 (which makes special provision about the construction, use, alteration and inspection of large reservoirs), the drainage lagoon (Work No. 16) shall be treated as a large raised reservoir within the meaning of that Act.

**SECTION B**

## PROVISIONS APPLICABLE TO COUNTY COUNCIL

*County Council's subsidiary works*

- 7 (1) The County Council may, for the purposes of or in connection with their scheduled works, do any of the following things within the limits of deviation for those works, that is to say—
- (a) make, provide and maintain all such approaches, bridges, subways, roundabouts, ramps, passages and means of access as may be necessary or convenient;
  - (b) make junctions and communications (including the provision of steps or ramps for the use of persons on foot) with any existing highway or access way intersected or interfered with by, or contiguous to, any of those works, and widen or alter the line or level of any existing highway or access way for the purpose of connecting it with any of those works or another highway, or of crossing under or over the existing highway or access way;
  - (c) construct, provide and maintain all such embankments, aprons, abutments, retaining walls, wing walls, culverts and other works as may be necessary or convenient;
  - (d) carry out any works, and do any things necessary, for the protection of any adjoining land;
  - (e) alter or remove any structure erected upon any highway or adjoining land and plant trees, shrubs or other vegetation; and
  - (f) raise, sink or otherwise alter the position of any of the steps, areas, cellars, boundary-walls, railings, fences, windows, sewers, drains, watercourses,

pipes, spouts or wires of, or connected with, any building, and remove any other obstruction.

- (2) The County Council shall pay compensation for any damage done in exercise of the powers conferred by this paragraph.
- (3) Any question of disputed compensation payable under the provisions of this paragraph shall be determined under and in accordance with Part I of the Land Compensation Act 1961.

## SECTION C

### PROVISIONS APPLICABLE TO RAILWAYS BOARD

#### *Passenger station at Ashford*

- 8 (1) Without prejudice to section 16 of the Railways Clauses Consolidation Act 1845, as applicable to them, the Railways Board may, on land in the borough of Ashford (town of Ashford) in which they have sufficient right or interest—
  - (a) make, maintain and operate a new passenger station adjacent to their existing station at Ashford on any part of the lands in that town numbered 21 on the deposited plans;
  - (b) construct and maintain facilities in connection with the said new passenger station, including a terminal building with frontier control facilities, footbridges linking that station with their said existing station and other works and conveniences, including road vehicle parks, on the lands in that town numbered 3,16,18,20 and 21 on the deposited plans with means of access for vehicles provided in accordance with sub-paragraph (2) below;
  - (c) lay out a new road vehicle park on any part of the lands in that town numbered 25, 27 and 28 to 31 on the deposited plans with means of access for vehicles either to the new road (Work No. 18C) or to such other road as may be agreed between the Railways Board and the Kent County Council or in default of agreement determined by the Secretary of State.
- (2) The means of access for vehicles to the facilities mentioned in sub-paragraph (1)(b) above shall be provided at such points as may be agreed between the Railways Board and the County Council or in default of agreement determined by the Secretary of State.

#### *Passenger station at Waterloo*

- 9 (1) In connection with the construction of Works Nos. 21, 21A and 2 IB, the Railways Board may, within the limits of deviation for those works in the London borough of Lambeth—
  - (a) enlarge, improve, and provide frontier control facilities at their existing Waterloo station with all necessary works and conveniences connected therewith;
  - (b) make junctions with and alter the line or level of any street or way adjoining, or affected by the construction of, those works;
  - (c) provide means of access for vehicles to Carlisle Lane at the points marked C and D on the deposited plans and to Upper Marsh at the points so marked E and F; and

- (d) appropriate, hold and use, for the purposes of Work No. 21 and the works at the station under paragraph (a) above, any lands within the said limits, including any works on those lands previously authorised by any enactment.
- (2) In connection with the construction of Work No. 21, the Railways Board may in the London borough of Lambeth—
- (a) reduce to a width not less than 1.83 metres so much of the footpath known as Leake Court as lies between the points marked G and H on the deposited plans;
  - (b) reduce to a width not less than 15 metres so much of Carlisle Lane as lies within the limits of deviation for that work between the points marked I and J on the deposited plans; and
  - (c) remove the parapets on the western sides of the existing bridges over Westminster Bridge Road and Upper Marsh.

*Railways at Stewart's Lane, Wandsworth*

- 10 (1) In connection with the construction of Works Nos. 23, 23A and 23B, the Railways Board may in the London borough of Wandsworth—
- (a) construct the bridge over Thessaly Road (part of Work No. 23 A) so as to provide a headroom not less than 4.40 metres over the surface of the street under the bridge;
  - (b) alter the level of Stewart's Road under the bridge over that road (part of Work No. 23B) so as to provide a headroom not less than 4.57 metres over the surface of the street;
  - (c) provide means of access for vehicles to Ascalon Street at the points marked A and B on the deposited plans, to Stewart's Road at the point so marked C and to Ponton Street at the point so marked D; and
  - (d) appropriate, hold and use, for the purposes of Works Nos. 23A and 23B, any lands within the limits of deviation for those works and any works on those lands previously authorised by any enactment.
- (2) In connection with the construction of Works Nos. 23, 23A and 23B or other works of the Railways Board in the vicinity thereof, the Railways Board may in the London borough of Wandsworth provide, for the purposes of such construction and of the maintenance and operation of those works, means of access for vehicles to Corunna Terrace at the point marked J on the deposited plans.

*Works Nos. 25A and 25B: nature consultations*

- 11 The Railways Board shall not begin to construct Work No. 25A or Work No. 25B until they have consulted—
- (a) the councils of the London borough of Ealing, the London borough of Hammersmith and Fulham and the Royal borough of Kensington and Chelsea; and
  - (b) the London Wildlife Trust;
- as to the likely effect of the construction of the works on nature conservation.

*Further works and powers*

- 12 The Railways Board may make and maintain the following further works (in so far as they are shown on the deposited plans and sections, in the lines or situations, and according to the levels, so shown) and may exercise the following powers—
- (1) In connection with the construction of Work No. 24, they may in the London borough of Wandsworth—
    - (a) provide means of access for vehicles to Sheepcote Lane at the points marked A and B on the deposited plans; and
    - (b) appropriate, hold and use, for the purposes of that work, any lands within the limits of deviation for that work, including any works on those lands previously authorised by any enactment.
  - (2) In connection with the construction of Works Nos. 25 A, 25B and 25C, they may, within the limits of deviation for those works, in the London boroughs of Ealing and Hammersmith and Fulham and the Royal borough of Kensington and Chelsea—
    - (a) make, maintain and operate a maintenance depot; and
    - (b) provide means of access for vehicles to Scrubs Lane and Mitre Way at the points marked B and C respectively on the deposited plans.
  - (3) In connection with the construction of Works Nos. 25 A, 25B and 25C and of other works of the Railways Board in the vicinity thereof, they may in those boroughs provide means of access for vehicles to Old Oak Common Lane and Barlby Road at the points marked A and D respectively on the deposited plans.
  - (4) On the completion of Work No. 26A they may, in the parish of Bletchingley in the district of Tandridge, in the county of Surrey, fill in so much of Nutfield Brook between the points marked B and C on the deposited plans as will be rendered unnecessary by that work.
  - (5) In connection with the construction of Works Nos. 30, 30A and 30B, they may in the parishes of Newington and Saltwood, in the district of Shepway, in the county of Kent—
    - (a) provide facilities for making emergency repairs to rolling stock on any part of the lands numbered, in the parish of Newington, 4 to 7, 12, 25, 26, 33 and 36 and, in the parish of Saltwood, 7 and 8 on the deposited plans; and
    - (b) provide means of access for vehicles for construction purposes to the road from Hythe to Bishopsbourne (B2065) at the point marked K on the deposited plans.

*Temporary possession of land*

- 13 (1) Subject to the provisions of this paragraph the Railways Board may, in connection with the construction of their scheduled works specified in column (1) of the following table or any works in connection with those works, enter upon and take possession of the lands in the areas specified in columns (2) and (3) of that table for such purposes as are specified in column (4) of that table and may, for any such purpose, remove any structures on those lands and provide means of access to those lands.



## THE TABLE

(1) <i>Works Nos.</i>	(2) <i>Area</i>	(3) <i>Number of land shown on .deposited plans</i>	(4) <i>Purpose for which temporary possession may be taken</i>
23, 23A and 23B	London borough of Wandsworth	26	The provision of vehicular access for construction.
		48	The provision of a working site and vehicular access for construction.
25A, 25B and 25C	London borough of Hammersmith and Fulham	4 and 8	The provision of a working site and vehicular access for construction.
26 and 26A	District of Tandridge (parish of Nutfield)	1,2, 4 to 7 and 7A	The provision of a working site and vehicular access for construction to Coopers Hill Road at the point marked A on the deposited plans.
	District of Tandridge (parish of Bletchingley)	1,2 and 5 to 7	The provision of a working site and vehicular access for construction to Outwood Lane at the point marked B on the deposited plans.
28A and 28B	Borough of Maidstone (parish of Lenham)	2 and 4	The provision of a working site and vehicular access for construction to Ham Lane at the point marked A on the deposited plans.
		10 and 11	The provision of a working site and vehicular access for construction to Lenham Road at the point marked B on the deposited plans.

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- (2) Not less than 28 days before entering upon and taking temporary possession of any land under this paragraph the Railways Board shall give notice to the owners and occupiers of the land.
- (3) The Railways Board shall not, without the agreement of the owners and occupiers, remain in possession of any part of any land under this paragraph after a period of one year from the completion of the work or (as the case may be) all the works specified in relation to that land in column (1) of the table in sub-paragraph (1) above.
- (4) Except in the case of the land in the London borough of Wandsworth numbered 26 on the deposited plans, all private rights of way over any land of which the Railways Board take temporary possession under this paragraph shall be suspended and unenforceable for so long as the Railways Board remain in lawful possession of the land.
- (5) Before giving up possession of any land of which they have taken temporary possession under this paragraph, the Railways Board shall remove all temporary works and restore the land to the reasonable satisfaction of the owners and occupiers of the land.
- (6) The Railways Board shall not be empowered to purchase compulsorily, or be required to purchase, any part of any land of which they have taken temporary possession under this paragraph.
- (7) The Railways Board shall pay compensation to—
  - (a) the owner or occupier of any land of which they take temporary possession under this paragraph for any damage resulting from the exercise of the powers of this paragraph in relation to that land; and
  - (b) any person who suffers damage by reason of the suspension of any right under this paragraph.
- (8) Nothing in this paragraph shall affect liability to compensate under section 6 or 43 of the Railways Clauses Consolidation Act 1845, as incorporated with this Act, or section 10(2) of the Compulsory Purchase Act 1965, as applied by section 37 of this Act, or under any other enactment, except so far as compensation is payable under sub-paragraph (7) above.
- (9) Any dispute as to a person's entitlement to compensation under this paragraph, or as to the amount of the compensation, shall be determined under and in accordance with Part I of the Land Compensation Act 1961.

## SECTION D

### PROVISIONS APPLICABLE TO CONCESSIONAIRES, COUNTY COUNCIL AND RAILWAYS BOARD

#### *Use of sewers, etc. for removing water*

- 14 (1) The appropriate authority may use for the discharge of any water pumped or found during the construction of the scheduled works or any works in connection with those works any available stream or watercourse or any public sewer, 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 or public sewer within the limits of deviation for their scheduled works.

- (2) The appropriate authority shall not under the powers of this paragraph discharge any water into any sewer vested in or under the control of a water authority, internal drainage board or local authority except with the consent of that authority or board (which shall not be unreasonably withheld) and subject to such terms and conditions as that authority or board may reasonably impose; and the appropriate authority shall not make an opening into any such sewer except in accordance with plans reasonably approved by, and under the superintendence (if given) of, that authority or board.
- (3) The discharge of water under the powers conferred by this paragraph into any stream shall not prejudice the application of Part II of the Control of Pollution Act 1974 but section 31 of that Act shall have effect in relation to discharges under the powers of this paragraph into any relevant waters within the meaning of that section as if no matter so discharged were trade or sewage effluent or other matter mentioned in subsection (2)(e) of that section.
- (4) In the exercise of their powers under this paragraph the appropriate authority shall not damage or interfere with—
  - (a) the bed of any watercourse forming part of the main river of a water authority or the banks thereof within the meaning of section 116 of the Land Drainage Act 1976; or
  - (b) a metropolitan watercourse within the meaning of paragraph 1 of Schedule 5 to that Act.
- (5) The appropriate authority shall take all such steps as may be reasonably required to secure that any water discharged under the powers of this paragraph shall be as free as may be reasonably practicable from any gravel, chalk, soil or other solid substance or matter in suspension.
- (6) Any difference arising between the appropriate authority and a water authority, internal drainage board or local authority under this paragraph shall be determined by arbitration.

#### *Underpinning of buildings*

- 15 (1) If in the construction of any of the scheduled works or any works in connection with any such work ("the work in question") it becomes necessary to do so, the appropriate authority may, and if required by the owner or lessee shall, underpin or otherwise strengthen any building within 35 metres of the work in question in accordance with the provisions of this paragraph.
- (2) Except in case of emergency, the appropriate authority shall give to the owner, lessee or occupier of a building, or the owner or lessee of a building shall give to the appropriate authority, at least 28 days' notice in writing of the intention or (as the case may be) requirement, to underpin or otherwise strengthen that building under this paragraph, and if within 21 days of the giving of such notice the owner, lessee or occupier or (as the case may be) the appropriate authority give a counter-notice in writing disputing the necessity of the underpinning or strengthening, the question of necessity shall be settled by arbitration.
- (3) The appropriate authority may, at any time after the underpinning or strengthening of any building under the foregoing provisions of this paragraph is completed and before the expiration of a period of five years from the bringing into use of the work in

question, enter upon and survey the building and, after complying with the foregoing provisions of this paragraph, carry out such further underpinning or strengthening of the building as they may deem necessary or expedient or, if the owner, lessee or occupier of the building disputes the necessity or expediency, as may be settled by arbitration.

- (4) Where any question of necessity or expediency is referred to arbitration under the foregoing provisions of this paragraph and the arbitrator, after inspecting the building, decides that the underpinning or strengthening is necessary or (as the case may be) that the further underpinning or strengthening is necessary or expedient, the arbitrator may, and if so required by the owner, lessee or occupier shall, prescribe the manner in which the underpinning or strengthening is to be carried out and the appropriate authority shall underpin or strengthen the building accordingly.
- (5) For the purpose of determining how to exercise their powers and duties under this paragraph the appropriate authority may at any reasonable time enter and survey any building within 3.5 metres of any of their scheduled works.
- (6) The appropriate authority shall pay compensation to the owner, lessee and occupier of every building underpinned or strengthened in pursuance of the powers conferred by this paragraph for any damage which they may suffer by reason of the exercise of those powers.
- (7) Nothing in this paragraph shall affect liability to compensate under section 6 of the Railways Clauses Consolidation Act 1845, as incorporated with this Act, or section 10(2) of the Compulsory Purchase Act 1965, as applied by section 37 of this Act, or under any other enactment, except so far as compensation is payable under sub-paragraph (6) above.
- (8) Any dispute as to a person's entitlement to compensation under this paragraph, or as to the amount of the compensation, shall be determined under and in accordance with Part I of the Land Compensation Act 1961.
- (9) Section 30 of the Compulsory Purchase Act 1965 shall apply to the service of notices under this paragraph with any necessary modifications.
- (10) In this paragraph "building" includes any structure and, in the case of a work under the surface of the ground, reference to a building within 3.5 metres of that work includes reference to any building within 3.5 metres of the point on the surface below which the work is situated

### PART III

#### HIGHWAYS, ROADS, ETC

##### *Stopping up of highways by Concessionaires, County Council and Railways Board*

- 16 (1) Subject to the provisions of this paragraph, the Concessionaires may, in connection with the construction of their scheduled works, stop up each of the highways or parts thereof specified, by reference to the letters and numbers shown on the deposited plans, in columns (1) and (2) of Section A in Part I or II of the following table and any other bridleways or footpaths within the limits of land to be acquired.

- (2) Subject to the provisions of this paragraph, the County Council may, in connection with the construction of their scheduled works, stop up each of the highways or parts thereof specified as aforesaid in columns (1) and (2) of Section B in Part I or II of the following table and any other bridleways or footpaths within the limits of land to be acquired.
- (3) Subject to the provisions of this paragraph, the Railways Board may stop up each of the highways or parts thereof specified as aforesaid in columns (1) and (2) of Section C in Part I or II of the following table and any other bridleways or footpaths within the limits of land to be acquired.
- (4) The stopping up under this paragraph of the existing highways or parts thereof specified in columns (1) and (2) of Part II of the following table is subject to the requirements of paragraph 18 below—
- (a) with respect to the new highway to be substituted therefor, specified as aforesaid or by reference to scheduled works, in column (3) of that Part of the table in relation to each such existing highway or part thereof; or
  - (b) where that new highway is not a scheduled work, with respect either to that new highway or to such other new highway as may be approved by the County Council as the highway to be substituted for any such existing highway or part thereof;

and references in paragraph 18, in relation to any such existing highway or part thereof, to an alternative approved highway are references to any other new highway approved as mentioned in paragraph (b) above as the highway to be substituted for it.

## THE TABLE

## PART I

## HIGHWAYS TO BE STOPPED UP

## SECTION A

*IN CONNECTION WITH THE CONCESSIONAIRES' SCHEDULED WORKS*

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Highway or part to be stopped up</i>
District of Shepway, parish of Newington	Footpath from A4 to A5 Footpath and access from C5 to C6 Footpath from C3 to C4
town of Folkestone	Access road (Waterworks Lane) from N3 to N5 Footpath and track from P3 to P4
Borough of Ashford, parish of Sevington	Road (Church Road) from S5 to S6 Road used as public path from T1 to T2 Footpath from T2 to U1

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Highway or part to be stopped up</i>
	Footpath from W1 to W2
	Footpath from V1 to U2
	Footpath from Z3 to Y2

SECTION B

IN CONNECTION WITH THE COUNTY COUNCIL'S SCHEDULED WORKS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Highway or part to be stopped up</i>
Borough of Ashford, town of Ashford	Road (New Town Road) from KA1 to KA2
	Footpath from KB1 to KB2
	Road (Rugby Gardens) from KB3 to KB4
	Track from KB5 to KB6
	Track from KB7 to KB8
town of Ashford and parish of Kingsnorth	Footpath from KD1 to KD6
parish of Sevington	Footpath from KE2 to KE3
	Footpath from KE1 to U1

SECTION C

IN CONNECTION WITH THE RAILWAYS BOARD'S SCHEDULED WORKS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Highway or part to be stopped up</i>
London borough of Lambeth	Road (Addington Street) from A to B

PART II  
HIGHWAYS TO BE STOPPED UP AND NEW HIGHWAYS SUBSTITUTED THEREFOR

## SECTION A

## IN CONNECTION WITH THE CONCESSIONAIRES' SCHEDULED WORKS

(1)	(2)	(3)
<i>Area</i>	<i>Highway or part to be stopped up</i>	<i>New highway to be substituted therefor</i>
District of Shepway, parish of Newington	Footpath from A2 to A3	New footpath from A 1 to A3
	Road (A20) from CA1 to CA3	Works Nos. 9A and 9B
	Road (B2065) from CC3 to CC1	Work No. 10A
	Road (B2065) from CC1 to CC2	Work No. 11
	Road (A20) from CE1 to CE2	Works Nos. 9A and 9B
	Footpath and access road from F6 to F2	New footpath from F6 to CE1
	Bridleway from F5 to F7	New bridleway from CE1 to F4 to F5
parishes of Hythe and Newington	Bridleway from G1 to G2	New bridleway on embankment from G1 to G2
town of Folkestone and parish of Newington	Footpath from H1 to H2	
	Footpaths from J1 to J2	
	Track from J1 to J3	
	Road (Danton Lane) from J4 to J5	New footpath from H3 to L1
	Bridleway from J4 to L2	
	Footpath from K1 to K2	
	Bridleway from L1 to L2	
town of Folkestone	Footpath from M1 to M2	
	Footpath from N1 to N2	New footpath from N3 to N4
	Footpath from P1 to P2	New footpath from P1 to P2
Borough of Ashford,		

*Status: This is the original version (as it was originally enacted).*

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Highway or part to be stopped up</i>	<i>(3)</i> <i>New highway to be substituted therefor</i>
parish of Sevington	Footpath from S1 to S2	New footpath from S1 to S3 to S4 to S2
	Footpath from U1 to Z2	New footpath from X1 to X2
	Footpath from Z1 to Z4	New footpath from Y1 to Y2

#### SECTION B

#### IN CONNECTION WITH THE COUNTY COUNCIL'S SCHEDULED WORKS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Highway or part to be stopped up</i>	<i>(3)</i> <i>New highway to be substituted therefor</i>
Borough of Ashford, parish of Kingsnorth	Footpath from KC1 to KC2	New footpath from KC2 to KC3
	town of Ashford and parishes of Kingsnorth and Sevington	Bridleway from KD2 to KD7

#### SECTION C

#### IN CONNECTION WITH THE RAILWAYS BOARD'S SCHEDULED WORKS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Highway or part to be stopped up</i>	<i>(3)</i> <i>New highway to be substituted therefor</i>
Borough of Maidstone, parish of Lenham	Footpath from C to D	New footpath from E to D
	Borough of Ashford, town of Ashford	Footpath and track from B to C

(5) No part of any highway shall be stopped up under this paragraph until the appropriate authority 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.

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



- (7) After the extinguishment of all rights of way over or along any highway or any part thereof under the foregoing provisions of this paragraph the land forming the site of the highway or part so stopped up may be appropriated without payment therefor and may be used by the appropriate authority for the purposes of Part II or III of this Act.
- (8) Any person who suffers loss by the extinguishment of any private right under this paragraph shall be entitled to compensation to be determined, in case of dispute, under and in accordance with Part I of the Land Compensation Act 1961.
- (9) Compensation in respect of the extinguishment of any private right payable under sub-paragraph (8) above shall be paid by that one of the Concessionaires, the County Council and the Railways Board by whose action the private right is extinguished.
- 17 (1) The Concessionaires may, with the written consent of the Secretary of State, stop up in connection with the construction of any of the works authorised by this Act any part of the M20 within the limits of land to be acquired other than any part of its carriageways.
- (2) On the stopping up of any part of the M20 under sub-paragraph (1) above, all rights of way over or along that part shall be extinguished.

*Construction and completion of new or substituted highways*

- 18 (1) None of the following parts of highways to which sub-paragraph (4) of paragraph 16 above applies, namely—
- (a) the parts of the A20 road from Ashford to Folkestone for which parts of Work No. 9A and Work No. 9B are to be substituted; and
  - (b) the parts of the B2065 road from Hythe to Bishopsbourne for which Works Nos. 10A and 11 are to be substituted;
- shall be stopped up under that paragraph until the County Council have certified the date on which the new highway concerned has been completed and is open for public use or, on application made to the Secretary of State by the Concessionaires after refusal by the County Council so to certify, he has so certified.
- (2) If within 28 days after an application has been made to the County Council for them to certify a date under sub-paragraph (1) above they have neither done so nor refused to do so, they shall be deemed for the purposes of that sub-paragraph to have refused to do so.
- (3) The part of the A20 road from Ashford to Folkestone for which Work No. 9A is to be substituted shall not be stopped up under paragraph 16 above until, in addition, the County Council have certified that—
- (a) the new bridleway between CE1 and F5; or
  - (b) an alternative approved highway;
- has been completed in accordance with their reasonable requirements and is open for public use or, in case of a difference between the Concessionaires and the County Council as to whether a certificate has been unreasonably withheld or as to the reasonableness of their requirements, until the difference has been determined by the Secretary of State, on application made to him by the Concessionaires after not less than 28 days' notice to the County Council, and he has certified that the new bridleway or alternative approved highway has been completed in accordance with his determination and is open for public use.

- (4) No part of any highway specified in Section A of Part II of the table in paragraph 16 above, other than one mentioned in sub-paragraph (1) above, and no part of the highways specified in Section C of Part II of that table shall be stopped up under that paragraph until the County Council have certified that—
- (a) the new highway to be substituted therefor; or
  - (b) an alternative approved highway;
- has been completed in accordance with their reasonable requirements and is open for public use or, in case of a difference between the Concessionaires or the Railways Board and the County Council as to whether a certificate has been unreasonably withheld or as to the reasonableness of their requirements, until the difference has been determined by the Secretary of State, on application made to him by the Concessionaires or the Railways Board after not less than 7 days' notice to the County Council, and he has certified that the new highway or alternative approved highway has been completed in accordance with his determination and is open for public use.
- (5) No part of any highway specified in Section B of Part II of the table in paragraph 16 above shall be stopped up under that paragraph until the County Council are satisfied that—
- (a) the new highway to be substituted therefor; or
  - (b) an alternative approved highway;
- has been completed and is open for public use.
- 19 (1) Before commencing the construction of any of Works Nos. 9A, 9B, 10A, 11 or 17 the Concessionaires shall submit to the County Council for their approval plans, sections and specifications (below in this paragraph referred to as "plans") of the work and, unless the Concessionaires and the County Council otherwise agree, it shall not be constructed except in accordance with the plans submitted to the County Council and approved by them or, on application made to the Secretary of State by the Concessionaires after disapproval of the plans by the County Council, approved by him.
- (2) If within 28 days after the plans have been submitted the County Council have not approved or disapproved them, they shall be deemed to have approved the plans as submitted.
- 20 (1) If it appears to the County Council that the construction of Work No. 17 will not be completed on or before the date on which their scheduled works will be completed and open for public use, they may by notice require the Concessionaires to complete the construction of that work by such reasonable date as they may specify in the notice.
- (2) Any difference about the reasonableness of any date specified in a notice under sub-paragraph (1) above shall be determined by the Secretary of State.
- (3) The Secretary of State shall certify the date on which the construction of Work No. 17 has been completed.
- Repair of highways and agreements with highway authorities*
- 21 (1) Notwithstanding anything in section 46 of the Railways Clauses Consolidation Act 1845, as incorporated with this Act, the appropriate authority shall not be liable to maintain the surface of any highway under or over which the scheduled works shall be constructed or the immediate approaches thereto.

- (2) Except as provided in sub-paragraph (3) below, any new highway constructed by the Concessionaires or the Railways Board under this Act in substitution for an existing highway or part thereof shall, unless otherwise agreed between the Concessionaires or the Railways Board and the County Council, be maintained by and at the expense of the Concessionaires or the Railways Board for a period of twelve months from the date certified as the date on which it has been completed and is open for public use and, at the end of that period, shall be maintained by and at the expense of the County Council.
- (3) The new bridleway between the points G1 and G2 shown on the deposited plans to be substituted for the part of the existing bridleway in the district of Shepway (parishes of Hythe and Newington) between those points shall, when completed, be maintained by and at the expense of the Concessionaires.
- (4) Sections 116 and 117 of the Transport Act 1968 (responsibility for the maintenance of highway bridges over railways) shall apply to the Concessionaires as if they were one of the boards mentioned in those sections.
- (5) Where under this Act the appropriate authority are authorised to stop up or interfere with an existing highway or part thereof, they may enter into agreements with the persons having the charge, management or control of the highway concerning the construction, or a contribution towards the expense of the construction, of any new highway to be provided in substitution therefor or of any alteration of the existing highway and any other related matters.
- (6) The appropriate authority may, by agreement with any such persons, delegate to them the power of constructing any such new highway or any such alteration of an existing highway, including any bridge over any railway, and, where the appropriate authority are responsible for maintaining the new or altered highway (or bridge), the power to maintain it.

*Temporary interference with highways*

- 22 (1) The appropriate authority may, for the purpose of constructing or maintaining works which they are authorised to construct under this Act, temporarily stop up, break up or interfere with, or alter or divert, the whole or any part of any highway within the limits of land to be acquired or used and may carry out and do all necessary works and things for, or in connection with, the stopping up, opening, breaking up, interference, alteration or diversion and for keeping the highway open for traffic.
- (2) The appropriate authority shall provide reasonable access for all persons, with or without vehicles, going to or returning from premises abutting on any highway affected by the exercise of the powers conferred by this paragraph.

*Power to use subsoil of highways*

- 23 Subject to the provisions of this Act the appropriate authority may enter upon, take and use for the purposes of this Act so much of the subsoil and under-surface of any highway within the limits of deviation for their scheduled works as shall be required for the purpose of the construction or maintenance of those works, without being required to acquire that subsoil and under-surface or any interest therein.

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*Status: This is the original version (as it was originally enacted).*

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*Status of certain highways constructed by the Concessionaires*

- 24 (1) The Secretary of State shall certify points on Works Nos. 9E and 9F to which each of those works from their commencement shall be special roads.
- (2) On the date certified by the Secretary of State as the date on which the roads forming the parts of those works from their commencement to those points have been completed and are open for public use, those roads shall become trunk roads and special roads for the exclusive use of traffic of Classes I and II of the classes of traffic specified in Schedule 4 to the Highways Act 1980 as if they had been provided by the Secretary of State in pursuance of a scheme made by him under section 16 of that Act—
- (a) prescribing the route of those roads as the route for the special roads to be provided under the scheme;
  - (b) prescribing both those classes of traffic; and
  - (c) specifying that date as the date on which those special roads were to become trunk roads.
- (3) The provisions of sub-paragraph (2) above shall be treated for the purposes of that Act as provisions of a scheme under that section.
- (4) On the date certified in relation to any new highway under paragraph 18(1) above the road which is the highway shall be transferred to the Kent County Council.
- (5) Where the construction of any part of the road forming Work No. 17 has been completed the Secretary of State may, if the part concerned was not a highway at the passing of this Act, certify a date on which it is to be transferred to that Council.
- (6) In the case of any new road constructed by the Concessionaires in pursuance of this Schedule, other than one to which sub-paragraph (2), (4) or (5) above applies, the Secretary of State may certify a date on which that road is to be transferred to that Council.
- (7) On the date certified in relation to any road or part of a road under sub-paragraph (5) or (6) above, that road or part of a road shall be transferred to that Council.
- (8) Subject to paragraph 27(4Xb) below, following a transfer under sub-paragraph (4) or (7) above the road or part of a road transferred shall be treated as if it had been constructed by that Council in exercise of their powers under section 24(2) of the Highways Act 1980.
- (9) The Secretary of State may classify any road proposed to be constructed which may be transferred to that Council under this paragraph in any manner in which, and for any purposes for which, he could under section 12(3) of that Act classify a proposed highway for which that Council are the highway authority.
- (10) On the date of its transfer to that Council any road classified under sub-paragraph (9) above shall become a highway classified in the manner and for the purposes in question as if so classified under section 12(3) of that Act.

*Status of the County Council's works*

- 25 The construction by the Kent County Council of a highway in pursuance of this Act shall be treated as the construction of a highway in pursuance of section 24(2) of the Highways Act 1980.

*Regulation of traffic on new roads*

- 26 (1) Subject to sub-paragraph (2) below, any power under the Road Traffic Regulation Act 1984 to make an order or to give a direction with respect to any road shall be exercisable in relation to any road forming or forming part of any of the Concessionaires' or the County Council's scheduled works before that road is open for public use, in any case where it appears to the Secretary of State to be expedient that the order or (as the case may be) the direction should have effect immediately on the road's becoming open for public use.
- (2) The procedure otherwise applicable under that Act in relation to the making of any such order or the giving of any such direction shall apply in any such case with such modifications as the Secretary of State may determine; and he shall publish notice of those modifications in such manner as appears to him to be appropriate for bringing them to the notice of persons likely to be affected by the provisions of any such order or (as the case may be) by any such direction.

*Compensation for, and mitigation of, adverse effects of certain authorised works*

- 27 (1) Subject to the following provisions of this paragraph, the Secretary of State is the responsible authority for the purposes of Parts I and II of the Land Compensation Act 1973 (compensation for, and mitigation of, injurious effects of public works) as respects the Concessionaires' scheduled works and any other works of the Concessionaires authorised by this Act (including the construction or alteration of any highway).
- (2) Where a claim under Part I of that Act relates to depreciation caused by use of the road forming Work No. 17—
- (a) if and so far as it relates to depreciation that would not have been caused but for the opening to public traffic of Kent County Council's scheduled works, that Council shall be the responsible authority in relation to it; and
  - (b) if and so far as the Secretary of State is the responsible authority in relation to it, no account shall be taken in assessing compensation of any use or expected intensification of use of that road due to that opening.
- (3) If and so far as the Kent County Council are the responsible authority in relation to a claim under that Part of that Act by virtue of sub-paragraph (2)(a) above, that Part of that Act shall have effect in relation to the claim as if—
- (a) the relevant date were the date on which all of their scheduled works were first open to public traffic;
  - (b) the increase in value to be taken into account under section 6 were any increase that would not have been caused but for the opening to public traffic of those works; and
  - (c) subsection (1) of section 8 did not preclude the payment of compensation unless the previous claim was in respect of depreciation that would not have been caused but for that opening and subsection (2) of that section did not preclude the payment of compensation.
- (4) Subject to the following provisions of this paragraph, the Noise Insulation Regulations 1975 shall have effect as if—
- (a) the Secretary of State were the appropriate highway authority in relation to all of the Concessionaires' scheduled works and other works of the Concessionaires authorised by this Act which are highways, except the road forming Work No. 17;

- (b) Work No. 17 were, as from the commencement of its construction, the construction of a highway by the Kent County Council; and
- (c) the relevant noise level, in relation to the road forming that work, did not include any level of noise caused or expected to be caused by traffic using or expected to use it before the date on which all of Kent County Council's scheduled works are first open to public traffic.

(5) Notwithstanding anything in sub-paragraph (1) or (4) above, the Secretary of State—

- (a) is not liable to satisfy any claim under Part I of the Land Compensation Act 1973 in connection with the use of any highway for which he is not the highway authority; and
- (b) does not have any obligation or power under the Noise Insulation Regulations 1975 in connection with the use or alteration of any such highway;

if and so far as the claim, obligation or power arises in connection with the alteration of the highway otherwise than in pursuance of this Act.

(6) Subject to the following provisions of this paragraph, in the case of any of the Concessionaires' scheduled works and any other works of the Concessionaires authorised by this Act which involve the construction or alteration of a highway, the Secretary of State shall have the powers and duties of a highway authority under—

- (a) section 28 of that Act (power to pay expenses of persons moving temporarily during construction works); and
- (b) sections 246, 253 and 282 of the Highways Act 1980 (which relate respectively to acquisition of land, agreements with respect to use of land and execution of works for the purpose of mitigating adverse effects of highways);

as if he were constructing or altering, or proposing to construct or alter, the highway, and references in those sections to a highway authority shall be construed accordingly.

(7) The Secretary of State may with the consent of the Kent County Council by order made by statutory instrument transfer to that Council, on such terms as may be provided in the order—

- (a) any land acquired by him under section 246 of the Highways Act 1980; and
- (b) any rights and liabilities acquired by or accrued to him under that section, section 253 or 282 of the Highways Act 1980 or the Noise Insulation Regulations 1975;

by virtue of this paragraph.

(8) For the purposes of section 26 of the Land Compensation Act 1973 (power of responsible authority to acquire land by agreement for the purpose of mitigating any adverse effects of public works) the Concessionaires' and the Railways Board's scheduled works and any other works of the Concessionaires or (as the case may be) of the Railways Board authorised by this Act shall be treated as public works notwithstanding that they form part of a statutory undertaking as denned by section 290(1) of the Town and Country Planning Act 1971.