

SCHEDULES

SCHEDULE 1

Article 2(1)

SCHEDULED WORKS

In the metropolitan borough of Gateshead—

Work No. 1—A railway interchange (the Pelaw interchange), including alterations to the existing Pelaw junction, comprising—

Work No. 1A—A railway (755 metres in length) commencing by a junction with the Newcastle-bound track of the Newcastle to South Shields railway of the Metro at a point 60 metres east of the bridge (number 297) carrying the footpath from Shields Road (A 185), Pelaw, to Manor Gardens, Wardley, over that railway, passing eastwards then northwards and terminating by a junction with the Newcastle-bound track of the said Newcastle to South Shields railway at a point 25 metres south of the bridge carrying South Shields Road over that railway, including viaducts over the Leamside branch railway of Railtrack and over the Newcastle to Hartlepool railway of Railtrack and Work No. 1D.

Work No. 1B—A railway (100 metres in length) commencing by a junction with the South Shields-bound track of the Newcastle to South Shields railway at a point 85 metres east of the said bridge number 297, passing eastwards and terminating by a junction with the Newcastle-bound track of the Newcastle to South Shields railway at a point 15 metres west of the bridge carrying that railway over the Leamside branch railway.

Work No. 1C—A railway (390 metres in length) commencing by a junction with Work No. 1A at the eastern end of the viaduct carrying that work over the said Leamside branch railway, passing eastwards and terminating by a junction with the Newcastle-bound track of the Newcastle to Hartlepool railway of Railtrack at a point 1 metre west of the bridge carrying Wardley Lane over that railway.

Work No. 1D—A railway (380 metres in length) commencing by a junction with the Newcastle-bound track of the said Newcastle to South Shields railway at a point 65 metres east of the bridge carrying that railway over the said Leamside branch railway, passing north-eastwards over the bridge carrying the said Newcastle to South Shields railway over the said Newcastle to Hartlepool railway, then eastwards beneath Work No. 1A and terminating by a junction with the Sunderland-bound track of the said Newcastle to Hartlepool railway at a point 2 metres west of the bridge carrying Wardley Lane over that railway.

In the metropolitan borough of South Tyneside—

Work No. 2—A raising of the level of the track known as Monkton Waggonway, Hebburn, including a reconstruction of the bridge (number 294) carrying that track over the said Newcastle to Hartlepool railway.

Work No. 3—A reconstruction of the bridge (number 293) carrying Mill Lane (B 1306), Hebburn, over the said Newcastle to Hartlepool railway.

Work No. 4—An access road commencing at a point in Station Road, Brockley Whins, 44 metres north-east of the eastern end of the steps leading to Nailsworth Close, passing eastwards and terminating at a point 96 metres north of the northern end of the bridge carrying the footpath from Brisbane Avenue to Cotswold Lane over the river Don together with a turning-head at the point of termination.

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Work No. 4A—A realignment and improvement of Station Road and Station Approach, East Boldon, commencing at a point in Station Approach 47 metres north-east of the existing East Boldon level crossing, passing south-westwards across the said Newcastle to Hartlepool railway and terminating at a point in Station Road 50 metres south-west of that level crossing.

In the city of Sunderland—

Work No. 5—A reconstruction of the bridge (number 272) carrying Shields Road (A 1018), Seaburn, over the said Newcastle to Hartlepool railway.

Work No. 6—A reconstruction of the bridge (number 271) carrying Station Road, Seaburn over the said Newcastle to Hartlepool railway.

Work No. 7A—A road commencing at a point in Sheepfolds North, Monkwearmouth, 70 metres east of the junction of Hay Street with Sheepfolds North, passing southwards and terminating at a point adjacent to Sheepfolds South 15 metres south of the junction of that road with Sheepfolds Road.

Work No. 7B—A road commencing at a point in Sheepfolds Road 75 metres west of its junction with North Bridge Street (A 1018), passing south-eastwards and terminating by a junction with Work No. 7A at its termination.

Work No. 8—A railway (295 metres in length), being a lowering of the track of part of the Newcastle to Hartlepool railway, commencing by a junction with that railway on the Monkwearmouth Bridge carrying the railway over the river Wear at a point 47 metres north of the southern end of that bridge, passing southwards through the Sunderland North tunnel and terminating by a junction with that railway at the entrance to Sunderland Station.

Work No. 9—A railway (2,000 metres in length) commencing by a junction with the Newcastle to Hartlepool railway at a point below the southern side of the bridge carrying the road known as Holmeside over that railway, passing southwards along the course of the former Pallion railway, then south-westwards under Park Lane, in tunnel under the Park Lane/Cowan Terrace car park, then under Stockton Road, continuing westwards under Tunstall Road, New Durham Road, Chester Road, Chester Street East (Work No. 9C) and Hylton Road (Work No. 9D) and over Lisburn Terrace and terminating at a point 15 metres north of the junction of Neville Road and Shepherd Street including a subway to carry the footpath (Lisburn Terrace) under the railway.

Work No. 9A—A footbridge over Work No. 9 at the proposed University Station, Sunderland.

Work No. 9B—A footbridge over Work No. 9 between the junction of Chester Terrace North with Chester Terrace and University Precinct, Sunderland.

Work No. 9C—A footbridge over Work No. 9 between St Mark's Crescent and Chester Street East, Sunderland.

Work No. 9D—A reconstruction of Hylton Road bridge, Sunderland, to carry that road over Work No. 9.

Work No. 9E—A footbridge over Work No. 9 between Hadrian Street and Milton Street, Sunderland.

Work No. 10—A railway (3,115 metres in length) commencing by a junction with Work No. 9 at its termination, passing north-westwards along the course of former sidings to the former Pallion railway through the existing tunnel (to be refurbished) under Pallion New Road (B 1405), then along the north side of Pallion New Road, in tunnel under Woodbine Terrace (to be raised), passing westwards along the north side of European Way, then along the course of the former Pallion railway over Keelman's Lane (to be stopped up) and over Keelman's Road (to be stopped up) and terminating at a point 47 metres north of the junction of Floral Dene with Hylton Bank, South Hylton, including a subway to carry the footpath and cycleway (Keelman's Road) under the railway.

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Work No. 10A—An access road, being a realignment of the existing access road between Pallion Retail Park and Woodbine Terrace, commencing at its existing junction with Woodbine Terrace and terminating at a point in the said access road 150 metres west of its junction with Woodbine Terrace.

Work No. 10B—A footbridge over European Way and Work No. 10 at the proposed Pallion Station, Sunderland.

Work No. 10C—A footbridge over Work No. 10 at Claxheugh Rock, Sunderland.

SCHEDULE 2

Article 7

STATIONS

PART I

EXISTING STATIONS

(1) <i>Area</i>	(2) <i>Location of existing station</i>	(3) <i>Land numbered or otherwise shown on deposited plans</i>
Metropolitan borough of South Tyneside	Brockley Whins	23 to 27.
	East Boldon	28 (part), 29 (part), 30 (part) and 31 to 33.
City of Sunderland	Seaburn	9 and 10 (part).
	Sunderland	Land within limit marked “Limit of land to be used for station alterations”.

PART II

PROPOSED STATIONS

(1) <i>Area</i>	(2) <i>Location of proposed station</i>	(3) <i>Land numbered on deposited plans</i>
Metropolitan borough of South Tyneside	Fellgate	18 to 22b.
City of Sunderland	Roker	12, 14, 18 and 19.
	Monkwearmouth	20, 21 and 24 to 31.
	Civic Centre	48 (part), 49 to 51 and 52 (part).
	University	62 (part), 63 and 64.

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(1) <i>Area</i>	(2) <i>Location of proposed station</i>	(3) <i>Land numbered on deposited plans</i>
	Millfield	91 (part), 97 (part) and 100 (part).
	Pallion	127 (part), 128 and 130 (part).
	South Hylton	142 (part), 143 to 145 and 146 (part).

SCHEDULE 3

Article 9

STREETS TO BE STOPPED UP ETC.

NOTE: In this Schedule, and in Schedule 4 to this Order, references to a “footpath and cycleway” include (and in the cases of column (4) of Part I of this Schedule and column (2) of Schedule 4 exclusively mean) a way over which there is a right of way for both pedestrians and cyclists.

PART I

STREETS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

(1) <i>Area</i>	(2) <i>Street to be stopped up</i>	(3) <i>Extent of stopping up</i>	(4) <i>New street to be substituted</i>
Metropolitan borough of Gateshead	Footpath at Pelaw Junction (adjacent to Leamside branch railway)	Between points A1 and A2	Diversion between points A1, A3 and A2.
Metropolitan borough of South Tyneside	Footpath between Pathside and Durham Drive, Fellgate	Between points B1 and B2	Diversion between points B3 and B2.
	Station Road, Brockley Whins	Between points A and B	Work No. 4.
	Footpath between Station Road and footpath south of Brisbane Avenue footbridge	Between points B and D1	Footway to be provided between points C1 and D2; and footpath to be provided between points D2 and D3.
	Station Road/Station approach and subway, East Boldon	Between points A and B	Work No. 4A.
City of Sunderland	Sheepfolds Road	Between points A and B	

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(1) <i>Area</i>	(2) <i>Street to be stopped up</i>	(3) <i>Extent of stopping up</i>	(4) <i>New street to be substituted</i>
	Sheepfolds South	Between points C and D	Works Nos. 7A and 7B.
	Unnamed Road	Between points E and F	
	Footpath at Monkwearmouth	Between points E3 and E5	Footway to be provided between points E3 and E4.
	Footpaths and cycleways on former Pallion railway (Sunderland Technology Park to New Durham Road)	Between points— G1, G3, G4 and G11; and G2 and G3	Diversion between points G1, G2 and G11.
		Between points— G4, G5, G8 and G9; G5, G6 and G8; G7 and G8; G5 and G7; and G1, F2 and G7	Work No. 9A.
		Between points G7 and G10	Diversion between points G7 and G10.
	Footpaths and cycleways on former Pallion railway (University Precinct)	Between points— G17, G15, G14, G16 and G17; and G15 and G16	Work No. 9B.
	Footpaths and cycleways on former Pallion railway (University Precinct to Hylton Road)	Between points G14 and H1	Diversion between points G15 and H16.
	Chester Street East/St Mark's Crescent	Between points A and B	Work No. 9C.
	Albert Road (parking bay)	Between points C and D	Parking bay between points E and F.
	Footpath and cycleway between Hadrian Street and Milton Street	Between points H9 and H10	Work No. 9E.
	Access road between Pallion Retail Park and Woodbine Terrace	Between points A and B	Work No. 10A.
	Footway (part paved area, Woodbine	Between points J8, E, F and J5	Footway between points J8 and J13; footpath between

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(1) <i>Area</i>	(2) <i>Street to be stopped up</i>	(3) <i>Extent of stopping up</i>	(4) <i>New street to be substituted</i>
	Terrace/European Way)		points J13 and J7; and footpath between points J8 and J7.
	Footway (Pallion Subway) and footpath	Between points J1 and J2	Footpath between points J1, J3 and J2.
	Footpaths and cycleway (European Way/Victory Street)	Between points J4, J11 and J12	Footpath and cycleway between points J4 and J9; and footpath between points J9, J11 and J12.
	Footpath and cycleway (European Way)	Between points J11 and J10	Footpath and cycleway between points J9 and J3.
	Footway (European Way)	Between points J5 and J6	Footpath and cycleway between points J7 and J6.
	Footpaths and cycleways on former Pallion railway (European Way to Keelman's Lane)	Between points K1 and K2 Between points K4 and K5	Diversion between points J6, K1 and K3. Footpath between points K6 and K7.
		Between points— K2 and L3; and L17 and L4	Diversion between points K3, L1 and L5.
		Between points— L14 and L15; and K2 and K8	Footpaths between points— L14 and L16; and K3 and K8; and Work No. 10C.
	Footpath and cycleway on former Pallion railway (between Keelman's Lane and Keelman's Road)	Between points L5 and L9	Diversion between points L5 and L13.
	Keelman's Lane	Between points L5 and L6	Footpath and cycleway between points L5 and L6.
	Keelman's Road	Between points L7 and L10	Footpath and cycleway between points L7, L8 and L13 passing in subway (part of Work No. 10) between points L8 and L13.
	Footpaths and cycleways on former	Between points L9 and L12	Diversion between points L8 and L11.

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(1) <i>Area</i>	(2) <i>Street to be stopped up</i>	(3) <i>Extent of stopping up</i>	(4) <i>New street to be substituted</i>
	Pallion railway (Keelman's Road to South Hylton)		
	Footpath (South Hylton)	Between points M9 and M11	Footpath between points M9 and M10.

PART II

STREETS FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

(1) <i>Area</i>	(2) <i>Street to be stopped up</i>	(3) <i>Extent of stopping up</i>
City of Sunderland	Footpaths and cycleway on former Pallion railway (Stockton Road to University Precinct)	Between points— F1 and F2; F3 and F4; F5 and F6 (steps); and F2, G5 and G14.
	Footpath and cycleway (Chester Road)	Between points G12 and G13.
	Footpath and cycleway on former Pallion railway (Chester Street East/St Mark's Crescent)	Between points— G19 and G18; and G20 and G21 (steps).
	Footpath and cycleway on former Pallion Railway (Hylton Road to Jobling House, University of Sunderland)	Between points— H2, H3 and H4; H5, H8 and H11; H6 and H7; H8 and H9; H11 and H12; and H11 and H15.
	Keelman's Lane	Between points L2 and L5.
	Footpaths and cycleways (South Hylton)	Between points— M1 and M2; M5 and M6; and M7 and M8.

PART III

STREET IN WHICH VEHICULAR RIGHTS ONLY ARE TO BE EXTINGUISHED

(1) <i>Area</i>	(2) <i>Street to be affected</i>	(3) <i>Extent of stopping up</i>
City of Sunderland	Albert Road	Between points A and B.

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SCHEDULE 4

Article 10

NEW STREETS TO BE PROVIDED

(1) <i>Area</i>	(2) <i>Street to be provided</i>
Metropolitan borough of South Tyneside (Brockley Whins Station)	Footpaths between points— C2 and C3; C2 and C4; C4 and C5; and C4 and C6.
City of Sunderland (Roker Station) (Lisburn Terrace)	Footpath between points E1 and E2. Footpath, in subway (part of Work No. 9), to be lowered between points H13 and H17.
(Jobling House, University of Sunderland)	Footpath and cycleway between points H14 and H15.
(Woodbine Terrace)	Road to be raised between points C and D.
(South Hylton)	Footpath and cycleway between points M3 and M4.

SCHEDULE 5

Article 11

STREETS TO BE TEMPORARILY STOPPED UP

(1) <i>Area</i>	(2) <i>Street to be temporarily stopped up</i>
Metropolitan borough of Gateshead	Wardley Lane
Metropolitan borough of South Tyneside	Monkton Waggonway Mill Lane (B 1306) Pathside, Fellgate Station Road, East Boldon Station Approach, East Boldon
City of Sunderland	Shields Road (A 1018) Alston Crescent, Seaburn Station Road, Seaburn Portobello Lane, Roker Newcastle Road (A 1018) North Bridge Street (A 1018) Sheepfolds North, Monkwearmouth Sheepfolds Road, Monkwearmouth Sheepfolds South, Monkwearmouth Matlock Street, Monkwearmouth

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(1) Area	(2) <i>Street to be temporarily stopped up</i>
	Park Lane, Sunderland
	Cowan Terrace, Sunderland
	Stockton Road, Sunderland
	Boughton Street car park, Sunderland
	Tunstall Terrace, Sunderland
	Tunstall Road, Sunderland
	Tunstall Terrace West, Sunderland
	New Durham Road (A 690)
	Durham Road, Sunderland
	Back Summerhill, Sunderland
	Chester Road (A 183)
	Back Chester Terrace, Sunderland
	East Cleft Road, Sunderland
	Unnamed road (former Hetton Colliery Railway), Sunderland
	Back Tintern Street, Sunderland
	Back Chester Terrace North, Sunderland
	Chester Street East, Sunderland
	St Mark's Crescent, Sunderland
	Hylton Road, Millfield
	Milton Street, Millfield
	Hadrian Street, Millfield
	Albert Road, Millfield
	Ailesbury Street, Millfield
	Shepherd Street, Millfield
	Back Shepherd Street, Millfield
	Neville Road, Pallion
	Back Neville Road, Pallion
	Lisburn Terrace, Pallion
	Pallion New Road (B 1405)
	Woodbine Terrace, Pallion
	Pallion Retail Park access road, Pallion
	Pallion Subway, Pallion
	European Way, Pallion

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(1) <i>Area</i>	(2) <i>Street to be temporarily stopped up</i>
	High Street, South Hylton

SCHEDULE 6

Article 21(2)

ADDITIONAL LANDS WHICH MAY BE ACQUIRED OR USED

(1) <i>Purpose</i>	(2) <i>Location</i>	(3) <i>Land numbered on deposited plans</i>
In the metropolitan borough of Gateshead		
Provision of a working site and access thereto and thereafter associated facilities including access and landscaping	Land at Pelaw Junction east of Works Nos. 1A and 1D	6a (part), 6b (part), 7 (part) and 8 (part).
In the metropolitan borough of South Tyneside		
Provision of a station and access thereto and associated facilities including landscaping, car parking and a footpath	Land at Fellgate	18 to 22b.
Provision of a station and associated facilities including landscaping and car parking	Brockley Whins Station and adjoining land	25 (part).
Provision of a station and associated facilities including landscaping and car parking	East Boldon Station and adjoining land	28 (part), 30 (part), 31 (part), 32 and 33 (part).
In the city of Sunderland		
Provision of an electricity substation and access thereto	Land on north-eastern side of Newcastle Road (A 184)	1 to 3a.
Provision of a station and access thereto and associated facilities including landscaping	Seaburn Station and adjoining land	9 (part).
Provision of a station and access thereto and associated facilities including landscaping, car parking and a footpath	Land adjoining Newcastle Road (A 1018) and Portobello Lane, Roker	12, 13, 13a, 14, 16 (part), 18 and 19.
Provision of road improvement works	Land adjacent to Portobello Lane, Roker	15.

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(1) <i>Purpose</i>	(2) <i>Location</i>	(3) <i>Land numbered on deposited plans</i>
Provision of a station and access thereto and associated facilities including landscaping, car parking and a footway	Land adjoining North Bridge Street (A 1018), Monkwearmouth	20, 21, 24, 25, 25a, 26 (part), 27 (part), 28 (part), 29 (part) and 31 (part).
Provision of access for maintaining Work No. 10	Land east of Woodbine Terrace (adjacent to site of former shipbuilding yard)	115 (part).
In the city of Sunderland		
Provision of rock ground anchors in constructing and thereafter maintaining Work No. 10	Pallion New Road (B 1405)	117 (part).
Provision of access to electricity substation	Land east of Woodbine Terrace (adjacent to site of former shipbuilding yard)	118 (part) and 121.
Provision of a working site and thereafter associated facilities including landscaping and footpaths and cycleways	Land adjoining European Way, Pallion	125.
Provision of rock ground anchors in constructing and thereafter maintaining Work No. 10	European Way, Pallion	126.
Provision of a footpath	Land east of Claxheugh Rock (adjacent to European Way) and footway (European Way)	126a and 132 (part).
Provision of station access and associated facilities including landscaping, car parking and a footpath and access for maintenance purposes	Land adjoining High Street, South Hylton	142 (part), 145 (part) and 146 (part).

SCHEDULE 7

Article 24

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land shall apply with the necessary modifications as respects compensation in the case of a compulsory acquisition under this Order of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

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2.—(1) Without prejudice to the generality of paragraph 1 above, the Land Compensation Act 1973⁽¹⁾ shall have effect subject to the modifications set out in sub-paragraphs (2) and (3) below.

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4 below—

- (a) for the words “land is acquired or taken” there shall be substituted the words “a right over land is purchased”; and
- (b) for the words “acquired or taken from him” there shall be substituted the words “over which the right is exercisable”.

(3) In section 58(1) (determination of material detriment where part of house etc. proposed for compulsory acquisition) as it applies to determinations under section 8 of the 1965 Act as substituted by paragraph 5 below—

- (a) for the word “part” in paragraphs (a) and (b) there shall be substituted the words “a right over land consisting”;
- (b) for the word “severance” there shall be substituted the words “right over the whole of the house, building or manufactory or of the house and the park or garden”;
- (c) for the words “part proposed” there shall be substituted the words “right proposed”; and
- (d) for the words “part is” there shall be substituted the words “right is”.

Adaptation of 1965 Act

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

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

(2) Without prejudice to the generality of sub-paragraph (1) above, Part I of the 1965 Act shall apply in relation to the compulsory acquisition under this Order of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

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

“7. In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of that land by reason of injurious affection of other lands of the owner held with that land by the exercise of the powers conferred by this or the special Act.”.

5. For section 8 of the 1965 Act (provisions as to divided land) there shall be substituted the following—

(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 over land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—

(1) 1973 c. 26.

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- (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 (“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 Tyne and Wear Passenger Transport (Sunderland) Order 1998 (“the Order”) 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 Order is deemed to authorise the purchase of an interest by virtue of subsection (1) of this section 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) of this section the Order 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 authority to withdraw the notice.”.

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

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

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

7. Section 11 of the 1965 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 right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) of the 1965 Act shall be modified correspondingly.

8. Section 20 of the 1965 Act (protection for interests of tenants at will etc.) shall apply with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if

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any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

9. Section 22 of the 1965 Act (protection of acquiring authority’s possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

SCHEDULE 8

Article 28

LANDS NOT TO BE ACQUIRED COMPULSORILY

(1) <i>Area</i>	(2) <i>Land numbered or otherwise shown on deposited plans</i>
Metropolitan borough of Gateshead	1, 9, 10, 11 and 12.
Metropolitan borough of South Tyneside	19, 21, 22, 22a, 24, 26, 27 and 33. So much of the land numbered 23 as comprises planted areas.
City of Sunderland	7, 13a, 25, 56, 59, 62, 63, 64, 78, 80, 85, 100, 112, 123, 125, 131a, 132, 133, 133a, 136, 137, 140, 140a, 141, 142 and 145. Land within the limits marked “Limit of land to be used for station alterations”. Land within the limits marked “Limit of listed buildings”. So much of the land numbered 28 as comprises landscaped and grassed areas and footpath. So much of the land numbered 57 as comprises public footpath and cycleway and landscaped area. So much of the land numbered 60 as comprises public footpath and cycleway and landscaped area. So much of the land numbered 72 as comprises public footpath and cycleway and landscaped area. So much of the land numbered 83 as comprises public footpath and cycleway and landscaped area.

SCHEDULE 9

Article 29

LANDS OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

(1) <i>Purpose for which temporary possession may be taken</i>	(2) <i>Location</i>	(3) <i>Land numbered on deposited plans</i>
In the metropolitan borough of Gateshead		
Provision of a working site for construction purposes and access thereto	Land at Pelaw Junction adjoining and west of Wardley Lane	6b (part), 7 (part) and 8 (part).
In the metropolitan borough of South Tyneside		
Provision of access for construction purposes	Monkton Waggonway	8 (part).
Provision of a working site for construction purposes and access thereto	Land adjoining Mill Lane (B 1306) (site of former Coke Works)	9 and 10.
In the city of Sunderland		
Provision of working space for construction purposes	Alston Crescent/Station Road, Seaburn	9a and 10 (part).
Provision of working space for construction purposes	Portobello Lane/Newcastle Road (A 1018)	15, 16 (part) and 17.
Provision of working space for construction purposes	North Bridge Street (A 1018)/Sheepfolds North	22 and 23 (part).
Provision of working sites for construction purposes and access thereto	Lands at Matlock Street	33 (part).
Provision of working space for construction purposes	Boughton Street car park	54.
Provision of working space for construction purposes	Tunstall Terrace	55.
Provision of working space for construction purposes	Tunstall Terrace West	58.
Provision of a working site for construction purposes and access thereto	Land adjacent to New Durham Road and University of Sunderland	62 (part).
Provision of a working site for construction purposes	Land at Burn Field Park	62 (part).
Provision of working space for construction purposes and access thereto	Durham Road	65.
Provision of working space for construction purposes	Land at Durham Road	66 (part).

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(1) <i>Purpose for which temporary possession may be taken</i>	(2) <i>Location</i>	(3) <i>Land numbered on deposited plans</i>
Provision of working space for construction purposes	Back Summerhill	67.
Provision of working space for construction purposes	Land at Chester Oval	69 and 70.
Provision of working space for construction purposes	Back Chester Terrace	74.
Provision of working space for construction purposes	East Cleft Road	75.
Provision of working space for construction purposes	Land at University Precinct, Chester Road	76.
Provision of working space for construction purposes	Land at Carisbrooke Court	77 (parts).
Provision of working space for construction purposes	Back Tintern Street	81.
In the city of Sunderland		
Provision of working space for construction purposes	Back Chester Terrace North	82.
Provision of working space for construction purposes	Lands at former Handel Street/ Leopold Street and at Hylton Road	87 (parts).
Provision of working space for construction purposes and access thereto	Land at Hylton Road	90 (part).
Provision of working space for construction purposes	Land at Wear Glass Works, Millfield	103 (part).
Provision of a working site for construction purposes and access thereto	Land at Neville Road/ Shepherd Street	104 (part), 105, 106 (part) and 107 (part).
Provision of a working site for construction purposes	Land at Lisburn Terrace	107 (part).
Provision of working space for construction purposes and access thereto	Land at Lisburn Terrace	108 (part).
Provision of working space for construction purposes	Land at Pallion New Road	114.
Provision of a working site for construction purposes and access thereto	Land east of Woodbine Terrace (adjacent to site of former shipbuilding yard)	115 (part), 118 (part) and 121.
Provision of working space for construction purposes	Land at Pallion Subway	123.

(1) <i>Purpose for which temporary possession may be taken</i>	(2) <i>Location</i>	(3) <i>Land numbered on deposited plans</i>
Provision of working space for construction purposes	Pallion Subway, Pallion	124 (part).
Provision of a working site for construction purposes and access thereto	Land at Pallion Retail Park	127 (part) and 129 (part).
Provision of a working site for construction purposes and access thereto	Land east of Claxheugh Rock (adjacent to European Way)	132 (part).
Provision of access for construction purposes	Access roads (Brussels Road and Luxembourg Road) and land at Pallion West Industrial Estate	134, 134a and 135.
Provision of working space for construction purposes	High Street, South Hylton	146.

SCHEDULE 10

Article 44

PROVISIONS RELATING TO STATUTORY UNDERTAKERS ETC.*Apparatus of statutory undertakers etc. on land acquired*

1.—(1) Sections 271 to 274 of the 1990 Act (power to extinguish rights of statutory undertakers etc. and power of statutory undertakers etc. to remove or re-site apparatus) shall apply in relation to any land acquired or appropriated by the undertaker under this Order subject to the following provisions of this paragraph; and all such other provisions of that Act as apply for the purposes of those provisions (including sections 275 to 278, which contain provisions consequential on the extinguishment of any rights under sections 271 and 272, and sections 279(2) to (4), 280 and 282, which provide for the payment of compensation) shall have effect accordingly.

(2) In the provisions of the 1990 Act, as applied by sub-paragraph (1) above, references to the appropriate Minister are references to the Secretary of State.

(3) Where any apparatus of public utility undertakers or of a public telecommunications operator is removed in pursuance of a notice or order given or made under section 271, 272 or 273 of the 1990 Act, as applied by sub-paragraph (1) above, any person who is the owner or occupier of premises to which a supply was given from that apparatus shall be entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(4) Sub-paragraph (3) above shall not apply in the case of the removal of a public sewer but where such a sewer is removed in pursuance of such a notice or order as is mentioned in that sub-paragraph, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer;

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shall be entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of making his drain or sewer communicate with any other public sewer or with a private sewage disposal plant.

(5) The provisions of the 1990 Act mentioned in sub-paragraph (1) above, as applied by that sub-paragraph, shall not have effect in relation to apparatus as respects which Part III of the 1991 Act or paragraph 2 below applies.

(6) In this paragraph—

“public telecommunications operator” means—

- (a) a person authorised, by a licence to which section 9 of the Telecommunications Act 1984(2) applies, to run a public telecommunications system, or
- (b) a person to whom the telecommunications code has been applied pursuant to section 10 of that Act; and

“public utility undertakers” has the same meaning as in the Highways Act 1980.

Apparatus of statutory undertakers etc. in stopped up streets

2.—(1) Where a street is stopped up under article 9 of this Order any statutory utility whose apparatus is under, in, upon, over, along or across the street shall have the same powers and rights in respect of that apparatus, subject to the provisions of this paragraph, as if this Order had not been made.

(2) Where a street is stopped up under article 9 of this Order any statutory utility whose apparatus is under, in, upon, over, along or across the street may where reasonably necessary for the efficient operation of the undertaking of the statutory utility and, if reasonably requested so to do by the undertaker, shall—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the statutory utility may reasonably determine and have power to place it, or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as aforesaid.

(3) Subject to the following provisions of this paragraph, the undertaker shall pay to any statutory utility an amount equal to the cost reasonably incurred by the statutory utility in or in connection with—

- (a) the execution of relocation works required in consequence of the stopping up of the street, and
- (b) the doing of any other work or thing rendered necessary by the execution of relocation works.

(4) If in the course of the execution of relocation works under sub-paragraph (2) above—

- (a) apparatus of better type, of greater capacity or of greater dimension is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions, or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the

(2) 1984 c. 12.

existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this paragraph would be payable to the statutory utility by virtue of sub-paragraph (3) above shall be reduced by the amount of that excess.

(5) For the purposes of sub-paragraph (4) above—

- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus, and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined.

(6) An amount which apart from this sub-paragraph would be payable to a statutory utility in respect of works by virtue of sub-paragraph (3) above (and having regard, where relevant, to sub-paragraph (4) above) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7½ years earlier so as to confer on the statutory utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(7) Sub-paragraphs (3) to (6) above shall not apply where the authorised works constitute major transport works or major highway works for the purposes of Part III of the 1991 Act (including that Part as applied by article 4 above), but instead—

- (a) the allowable costs of the relocation works shall be determined in accordance with section 85 of that Act (sharing of costs of necessary measures) and any regulations for the time being having effect under that section, and
- (b) the allowable costs shall be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.

(8) In this paragraph—

“apparatus” has the same meaning as in Part III of the 1991 Act;

“relocation works” means works executed, or apparatus provided, under sub-paragraph (2) above; and

“statutory utility” means a statutory undertaker for the purposes of the Highways Act 1980(3) or a public telecommunications operator as defined in paragraph 1(6) above.

Application of telecommunications code

3.—(1) Paragraph 23 of the telecommunications code shall apply for the purposes of the authorised works, save—

- (a) insofar as such works are regulated by the 1991 Act or any regulation made under that Act; or
- (b) where the undertaker exercises a right under subsection (4)(b) of section 272 of the 1990 Act or under an order made under that section to remove telecommunications apparatus.

(2) In this paragraph and in paragraph 4 below “telecommunications code” means the telecommunications code contained in Schedule 2 to the Telecommunications Act 1984 and “telecommunications apparatus” has the same meaning as in the telecommunications code.

4. The temporary stopping up or diversion of any street under article 11 above shall not affect any right of a public telecommunications operator under paragraph 9 of the telecommunications code

(3) 1980 c. 56.

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in respect of any telecommunications apparatus which at the time of the stopping up or diversion is in the street.

For protection of Railtrack PLC

5.—(1) The provisions of this paragraph shall have effect save in so far as may be otherwise agreed between Railtrack and the undertaker.

(2) The undertaker shall not compulsorily enter on, acquire or take temporary possession of, or acquire new easements or other rights in or over, designated property, save that it may, with the consent of Railtrack, exercise the powers of article 18, article 29 and article 30 above, or (subject to sub-paragraph (3) below) article 24 above in relation to any such property.

(3) The undertaker shall not, under article 24, acquire any right in or over any designated property comprising a railway facility or network installation which are capable of being acquired by means of an access agreement, but shall acquire any such rights which it requires by means of an access agreement entered into in accordance with the provisions of Part I of the 1993 Act.

(4) Where so required by the engineer, the undertaker shall, to the reasonable satisfaction of the engineer, fence off (whether on a temporary or permanent basis or both) any part of the specified works from designated property.

(5) Except with the consent of Railtrack, the undertaker shall not in the exercise of the powers of this Order interrupt or prejudicially affect pedestrian or vehicular access to any station of Railtrack or any other designated property.

(6) In relation to any rights over land comprising rights, belonging to Railtrack, of access to any designated property, the powers conferred by sections 271 and 272 of the 1990 Act, as applied by paragraph 1 above, to extinguish those rights shall not apply unless the undertaker makes available to Railtrack some suitable alternative means of access to the designated property in question.

(7) The undertaker shall not exercise the powers of section 271 or 272 of the 1990 Act, as applied by paragraph 1 above, so as to require the removal of any apparatus comprising designated property (or extinguish any rights relating to that apparatus), but such apparatus may be removed (or rights extinguished) with the consent of Railtrack.

(8) The consent of Railtrack under sub-paragraphs (2), (5), (6) and (7) above shall not be unreasonably withheld but may be given subject to reasonable conditions.

(9) The undertaker shall, before commencing the specified works, furnish to Railtrack proper and sufficient plans thereof for the approval of the engineer, whose approval shall not be unreasonably withheld, and shall not commence any specified works until plans thereof have been approved in writing by the engineer or settled by arbitration.

(10) If, within 56 days after plans have been furnished to Railtrack under sub-paragraph (9) above, the engineer shall not have intimated his disapproval thereof and the grounds of his disapproval, he shall be deemed to have approved the same.

(11) If within 56 days after such plans have been furnished to Railtrack, Railtrack shall give notice to the undertaker that Railtrack desire themselves to construct any part of the specified works which in the opinion of the engineer will or may affect the stability of designated property or the safe operation of Railtrack's railways, then, if the undertaker desires such part of the specified works to be constructed, Railtrack shall construct it with all reasonable dispatch on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled as aforesaid.

(12) Upon signifying his approval of the plans the engineer may specify any protective works, whether temporary or permanent, which in his opinion should be carried out before the commencement of the construction of the specified works to ensure the safety or stability of designated property or the continuation of the safe and efficient operation of the railways of Railtrack

or the services of operators using the same and such protective works as may be reasonably necessary for those purposes shall be constructed by Railtrack to the reasonable satisfaction of the undertaker or (if Railtrack so desires) by the undertaker with all reasonable dispatch and the undertaker shall not commence the construction of the specified works until the engineer shall have notified the undertaker that the protective works have been completed to his reasonable satisfaction.

(13) The undertaker shall not commence—

- (a) the construction of any of the specified works, or
- (b) the carrying out of any works for the maintenance of the specified works in so far as such works of maintenance affect or interfere with designated property,

unless it shall first have given to the engineer not less than 28 days' notice of its intention to do so, except that works for the maintenance of the specified works may be carried out in an emergency if such notice as is reasonably practicable has been given.

(14) The specified works shall, when commenced, be carried out—

- (a) with all reasonable dispatch in accordance with the plans approved or deemed to be approved or settled as aforesaid;
- (b) under the supervision (if given) and to the reasonable satisfaction of the engineer; and
- (c) in such manner as to cause—
 - (i) as little damage to designated property as may be, and
 - (ii) as little interference as may be with the conduct of traffic on any railway of Railtrack and the use by passengers of designated property,

and, if any damage to designated property or any such interference shall be caused by the carrying out of the specified works, the undertaker shall, notwithstanding any such approval as aforesaid, make good such damage and shall pay to Railtrack all reasonable expenses to which they may be put and compensation for any loss which they may sustain by reason of any such damage or interference.

(15) Nothing in sub-paragraph (14) above shall impose any liability on the undertaker with respect to any damage, costs, expenses or loss which is attributable to the act, neglect or default of Railtrack or their servants, contractors or agents.

(16) The undertaker shall at all times afford reasonable facilities to the engineer for access to the specified works during their construction and shall supply him with all such information as he may reasonably require with regard to the specified works or the method of construction thereof.

(17) Railtrack shall at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Railtrack under this paragraph during their construction and shall supply the undertaker with such information as it may reasonably require with regard to such works or the method of construction thereof.

(18) If any alterations or additions, either permanent or temporary, to designated property shall be reasonably necessary during the construction of the specified works or during a period of 12 months after the completion thereof in consequence of the construction of the specified works, such alterations and additions may be effected by Railtrack at a reasonable cost after not less than 28 days' notice in writing (save in case of emergency whereupon the engineer shall give such notice as is reasonable in the circumstances) from the date of submission of plans, programmes and estimates of costs of such alterations and additions having been given to the undertaker, and the undertaker shall pay to Railtrack the cost thereof as certified by the engineer including, in respect of permanent alterations and additions, a capitalised sum representing the increase in the costs which may be expected to be reasonably incurred by Railtrack in maintaining, working and, when necessary, renewing any such alterations or additions.

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(19) If the cost of maintaining, working or renewing designated property is reduced in consequence of any such alterations or additions as is mentioned in sub-paragraph (18) above a capitalised sum representing such saving shall be set off against any sum payable by the undertaker to Railtrack under that sub-paragraph.

(20) The undertaker shall repay to Railtrack all costs, charges and expenses reasonably incurred by Railtrack—

- (a) in respect of the approval by the engineer of plans submitted by the undertaker;
- (b) in constructing any part of the specified works on behalf of the undertaker as provided by sub-paragraph (11) above or in constructing any protective works under the provisions of sub-paragraph (12) above including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (c) in respect of the employment of any inspectors, signalmen, watchmen and other persons whom it shall be reasonably necessary to appoint for inspecting, watching, lighting and signalling any railway of Railtrack in order to prevent, as far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of the specified works;
- (d) resulting from any speed restrictions which may, in the opinion of the engineer, require to be imposed and which may be due to the construction or failure of the specified works or from the substitution, suspension or diversion of railway services which may be necessary for the same reason;
- (e) in respect of any additional temporary lighting of designated property in the vicinity of the works, being lighting made reasonably necessary during and by reason of the construction or failure of the specified works; and
- (f) in respect of the supervision by the engineer of the specified works.

(21) Any additional expenses which Railtrack may reasonably incur in altering, reconstructing or maintaining designated property under any powers existing at the date of the making of this Order by reason of the existence of the specified works shall, provided that 56 days' previous notice of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Railtrack.

(22) The undertaker shall be responsible for and make good to Railtrack all reasonable costs, charges, damages and expenses not otherwise provided for in this paragraph which may be occasioned to or reasonably incurred by Railtrack—

- (a) by reason of the construction or maintenance of specified works or the failure thereof; and
- (b) by reason of any act or omission of the undertaker or of any persons in its employ or of their contractors or others whilst engaged upon the construction or maintenance of the specified works;

and the undertaker shall indemnify Railtrack from and against all claims and demands arising out of or in connection with the construction or maintenance of the specified works or any such failure, act or omission as aforesaid and the fact that any act or thing may have been done in accordance with approved plans, or in accordance with any requirement of the engineer or under his supervision shall not (if it was done without negligence on the part of Railtrack or of any person in its employ or of their contractors or agents whilst engaged upon the construction of the specified works) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(23) Railtrack shall give to the undertaker reasonable notice of any claim or demand as mentioned in sub-paragraph (22) above and no settlement or compromise thereof shall be made without prior consent of the undertaker.

(24) The compensation payable by the undertaker under sub-paragraph (22) above shall include a sum equivalent to the relevant costs.

(25) Subject to the terms of any agreement between Railtrack and a train operator regarding the timing or method of payment of the relevant costs, Railtrack shall promptly pay to the train operator concerned any sum received by Railtrack by virtue of sub-paragraph (24) above in respect of that train operator.

(26) The obligation of the undertaker under sub-paragraph (24) above to pay the relevant costs shall, in the event of default, be enforceable directly by the train operator concerned.

(27) Nothing in sub-paragraphs (24) to (26) above shall entitle Railtrack or any train operator to any compensation in relation to works which have been transferred to and vested in Railtrack by any agreement made under article 20 above; but nothing in this sub-paragraph shall prejudice any entitlement of Railtrack or any train operator to compensation—

- (a) which has arisen at the date of the transfer and vesting; or
- (b) in respect of the failure of any works resulting from any defect present at the date upon which they are so transferred to and vested in Railtrack.

(28) In this paragraph—

“construction” includes execution, placing and altering and “construct” and “constructed” shall be construed accordingly;

“designated property” means any railway of Railtrack and any works, apparatus and equipment of Railtrack connected therewith and any land held or used by Railtrack for the purposes of such railway or works, apparatus or equipment;

“the engineer” means an engineer appointed by Railtrack;

“plans” includes sections, drawings, calculations, methods of construction, particulars, soil reports, staging proposals and programmes;

“the relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by a train operator as a consequence of any restriction of use of Railtrack’s railway network as a result of the construction or maintenance of the specified works or any failure, act or omission mentioned in sub-paragraph (22) above;

“the specified works” means so much of the authorised works as may be situated within 15 metres of, or may in any way affect, designated property; and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the 1993 Act;

and terms which are defined in the 1993 Act shall have the same meanings as in that Act.

6.—(1) Notwithstanding the provisions of article 37 above, the provisions of this paragraph shall have effect except in so far as may be otherwise agreed between Railtrack and the undertaker.

(2) If Railtrack gives notice to the undertaker, at any time prior to the opening of the Sunderland extension for public services operated by the undertaker, informing the undertaker that any designated apparatus is interfering with any specified equipment, the undertaker shall forthwith cease to use its designated apparatus until all necessary alterations and modifications have been carried out—

- (a) by the undertaker, to any designated apparatus, and
- (b) by Railtrack, to any specified equipment,

in order to remove the source of the interference.

(3) If Railtrack gives notice to the undertaker after the opening of the Sunderland extension for public services operated by the undertaker that such interference as is mentioned in sub-paragraph (2) above is taking place, the undertaker and Railtrack shall use their best endeavours to determine what alterations and modifications to any designated apparatus or specified equipment should be carried out in order to remove the source of the interference.

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(4) Any alterations and modifications to any designated apparatus under sub-paragraph (2) above shall be carried out and completed by the undertaker with all reasonable despatch under the supervision (if given) and to the reasonable satisfaction of the engineer and the undertaker shall afford reasonable facilities to the engineer for access to the Sunderland extension during the carrying out of alterations and modifications under this paragraph.

(5) Railtrack shall afford reasonable facilities to the undertaker for access to any specified equipment during the carrying out of any alterations and modifications thereto under this paragraph and such alterations and modifications shall be carried out and completed by Railtrack with all reasonable despatch.

(6) The undertaker shall repay to Railtrack all costs, charges and expenses reasonably incurred by Railtrack—

(a) in carrying out any alterations and modifications to specified equipment under sub-paragraphs (2) and (3) above; and

(b) in respect of any supervision given by the engineer under sub-paragraph (4) above;

and the undertaker shall pay compensation to Railtrack for any loss which it may sustain by reason of any designated apparatus interfering with any specified equipment.

(7) In this paragraph—

“designated apparatus” means any electric lines, circuits, wires, apparatus and other works of any description belonging to or used by the undertaker for the purpose of operating the Sunderland extension;

“the engineer” means an engineer to be appointed by Railtrack; and

“specified equipment” means any wire, line or apparatus from time to time used by Railtrack for the purpose of transmitting electrical energy or of radio, telegraphic, telephonic or electric signalling communications.

For protection of Environment Agency

7.—(1) For the protection of the Environment Agency (in this paragraph referred to as “the Agency”) the following provisions shall, unless otherwise agreed in writing between the undertaker and the Agency, have effect.

(a) (2) (a) Before carrying out under the powers of this Order—

(i) any operation on the banks of any watercourse;

(ii) the erection or raising of any obstruction to the flow of any watercourse which is not part of a main river within the meaning of section 113 of the Water Resources Act 1991(4); or

(iii) the construction, alteration or replacement of any culvert or any structure designed to contain or divert the flow of any such watercourse in or through any land within the limits of deviation or the further limits;

the undertaker shall furnish to the Agency proper and sufficient plans thereof for the approval of the Agency and shall not carry out any such operation or work otherwise than in accordance with such plans as are approved.

(b) The approval of plans furnished under this sub-paragraph shall not be unreasonably withheld and if, within 2 months of such plans being supplied to the Agency, the Agency does not indicate in writing its disapproval and the grounds of its disapproval, it shall be deemed to have approved the plans as supplied.

(4) 1991 c. 57.

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- (c) For the purposes of this sub-paragraph, “banks” has the meaning given by section 72 of the Land Drainage Act 1991⁽⁵⁾ and “plans” includes sections, drawings, specifications, calculations and descriptions.
- (a) (3) (a) Any culvert or any structure designed to contain or divert the flow of any watercourse being a culvert or structure situated within any land within the limits of deviation or the further limits, whether constructed under the powers of this Order or in existence prior to the making hereof, shall be maintained by the undertaker in good repair and condition and free from obstruction.
- (b) Nothing in this sub-paragraph shall have the effect of requiring the undertaker to carry out works of maintenance in respect of any culvert or structure which the Agency or other person is liable to maintain.
- (4) If any operation or work is carried out in contravention of this paragraph the undertaker shall upon receiving notice from the Agency take such action as may be necessary to remedy the effect of the contravention to the Agency’s reasonable satisfaction and in default the Agency may itself take such action as may be necessary and recover the expenses reasonably incurred by it in doing so from the undertaker as a debt due from it to the Agency.

(5) 1991 c. 59.