



# Heathrow Express Railway Act 1991

## 1991 CHAPTER vii

### PART I

#### PRELIMINARY

#### 1 Short title

This Act may be cited as the Heathrow Express Railway Act 1991.

#### 2 Interpretation

(1) In this Act, unless the context otherwise requires, words and expressions to which meanings are assigned by the enactments incorporated herewith have in relation to the related subject-matter the same respective meanings; and

“the Act of 1845” means the Railways Clauses Consolidation Act 1845;

“the Act of 1965” means the Compulsory Purchase Act 1965;

“the appropriate authority” means—

(a) in relation to the Company’s works and in relation to any land in respect of which powers for compulsory purchase are conferred upon the Company by this Act, the Company;

(b) in relation to the Board’s works and in relation to any land in respect of which powers for compulsory purchase are conferred upon the Board by this Act, the Board;

“the Board” means the British Railways Board;

“the Board’s works” means Works Nos. 6 to 13 and any works, apparatus or conveniences constructed or provided by the Board as part of, or in connection with, or for the purposes of, those works or any of them;

“the Company” means Heathrow Airport Limited and includes any subsidiary (within the meaning of section 736 of the Companies Act 1985) of the Company;

“the Company’s works” means Works Nos. 1A to 5, the railway stations referred to in section 7 of this Act and any works, apparatus or conveniences

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constructed or provided by the Company as part of, or in connection with, or for the purposes of, those works or any of them;

“constructed in tunnel” means constructed in tunnel in such manner as does not necessitate the cutting through or the removal of the surface soil;

“the limits of deviation” means the limits of deviation shown on the deposited plans;

“the tribunal” means the Lands Tribunal;

“the underground railways” means such portions of Works Nos. 2A to 5, and any necessary works and conveniences connected therewith, as are constructed in tunnel; and

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

- (2) All directions, distances and lengths stated in any description of works, powers or lands shall be construed as if the words “or thereabouts” were inserted after each such direction and length and distances between points on a railway shall be taken to be measured along the railway.
- (3) References in this Act to points identified by letters with numbers shall be construed as references to the points so marked on the deposited plans.
- (4) Unless the context otherwise requires, any reference in this Act to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Act.

### **3 Incorporation of general enactments**

- (1) The following enactments, so far as the same are applicable for the purposes of and are not inconsistent with this Act, are incorporated with this Act, and this Act shall be the special Act for the purposes of the said incorporated enactments:—
  - (a) the Act of 1845, except sections 1, 7, 8, 9, 11, 12, 13, 15, 17, 19, 20, 22, 23, 94 and 95 thereof; and
  - (b) in the Railways Clauses Act 1863, Part I (relating to the construction of a railway), except sections 13 to 19 thereof.
- (2)
  - (a) For the purposes of the enactments incorporated by subsection (1) above the expression “the company” where used in those enactments means the appropriate authority.
  - (b) For the purposes of sections 16 and 30 to 44 of the Act of 1845, as incorporated by subsection (1) above, Works Nos. 4A and 9 to 13 shall be deemed to be railways authorised by the special Act.
  - (c) Sections 18 and 21 of the Act of 1845, as incorporated by subsection (1) above, shall not extend to regulate the relations between the appropriate authority and any other person in respect of any matter or thing concerning which those relations are regulated in any respect by the provisions of—
    - (i) Part II of the Public Utilities Street Works Act 1950; or
    - (ii) section 37 (For protection of electricity, gas and water undertakers) of this Act.

### **4 Application of Part I of Compulsory Purchase Act 1965**

- (1) Part I of the Act of 1965 (except sections 4 and 27 thereof and paragraph 3 (3) of Schedule 3 thereto), so far as it is applicable for the purposes of and is not inconsistent

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with this Act, shall apply to the compulsory purchase of land under this Act as it applies to a compulsory purchase to which the Acquisition of Land Act 1981 applies and as if this Act were a compulsory purchase order under the said Act of 1981.

- (2) In section 11 (1) of the Act of 1965 (which empowers the acquiring authority to enter on and take possession of land the subject of a notice to treat after giving not less than 14 days' notice), as so applied, for the words "fourteen days" there shall be substituted, in respect of the land referred to in Schedule 2 to this Act, the words "twenty-eight days" and, in the case of any other land, the words "three months".
- (3) The Lands Clauses Consolidation Act 1845 shall not apply to the purchase of land under this Act.

## PART II

### WORKS, ETC.

#### 5 Power to Company to make works

The Company may, in the lines or situations shown on the deposited plans, and within the limits of deviation, and according to the levels shown on the deposited sections, make and maintain the following works with all necessary works and conveniences connected therewith:—

In the London borough of Hillingdon—

Work No. 1A A railway (500 metres in length in tunnel) commencing by a junction with Works Nos. 8A and 8B at their termination beneath a point 340 metres south-south-east of the junction of Lavender Rise with Stockley Road, and terminating beneath a point 125 metres east of the junction of Shepiston Lane with Cherry Lane Roundabout;

Work No. 2A A railway (120 metres in length in tunnel) commencing by a junction with Work No. 1A at its termination and terminating beneath a point 180 metres north-east of the centre of the circulatory system comprised in Junction 4 of the M4 motorway;

Work No. 3A A railway (1,773 metres in length in tunnel) commencing by a junction with Work No. 2A at its termination and terminating beneath a point 95 metres east of the junction of Sipson Road with Bath Road;

Work No. 4 A railway (1,685 metres in length in tunnel) commencing by a junction with Work No. 3A at its termination and terminating beneath a point 56 metres south-west of the south-west face of the Heathrow Airport Terminal 3 Departures Building;

Work No. 4A A draught relief shaft (62 metres in length) commencing by a junction with Work No. 4 beneath a point 96 metres south-east of the junction of Chard Road with the Inner Ring East road and terminating at a point 45 metres south-east of that junction:

In the London boroughs of Hillingdon and Hounslow and in the borough of Spelthorne, county of Surrey—

Work No. 5 A railway (2,677 metres in length in tunnel) commencing by a junction with Work No. 4 at its termination passing through the borough of Spelthorne and the London borough of Hounslow and terminating beneath a point in the London borough of Hillingdon 75 metres north-east of the north-western end of Swindon Road.

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## 6 Power to Board to make works

The Board may, in the lines or situations shown on the deposited plans, and within the limits of deviation, and according to the levels shown on the deposited sections, make and maintain the following works, with all necessary works and conveniences connected therewith:—

In the London borough of Hillingdon—

Work No. 6A A railway (2,095 metres in length), being a deviation of the relief lines of the railway between Paddington and Reading (“the existing railway”), commencing by a junction with those lines at a point 14 metres west of the bridge carrying Station Road, Hayes, over the existing railway and terminating by a junction with those lines 17 metres west of the bridge carrying Stockley Road over that railway;

Work No. 6B A railway (2,098 metres in length), being a deviation of the main lines of the existing railway, commencing by a junction with those lines at a point 7 metres west of the bridge carrying Station Road, Hayes, over the existing railway and terminating by a junction with those lines at a point 18 metres west of the bridge carrying Stockley Road over that railway;

Work No. 7A A railway (1,715 metres in length) commencing by a junction with the existing railway at the commencement of Work No. 6B and terminating at a point 350 metres south-east of the bridge carrying Stockley Road over the existing railway, including a bridge over the main lines of the existing railway;

Work No. 7B A railway (1,685 metres in length) commencing by a junction with the existing railway at the commencement of Work No. 6B and terminating at a point 378 metres south-east of the said bridge carrying Stockley Road over the existing railway;

Work No. 8A A railway (531 metres in length and partly in tunnel) commencing by a junction with Work No. 7A at its termination and terminating by a junction with Work No. 1A at its commencement beneath a point 340 metres south-south-east of the junction of Lavender Rise with Stockley Road;

Work No. 8B A railway (549 metres in length and partly in tunnel) commencing by a junction with Work No. 7B at its termination and terminating by a junction with Work No. 1A at its commencement at the termination of Work No. 8A;

Work No. 9 A reconstruction of the bridge (Bournes Bridge) carrying Dawley Road over the existing railway:

In the London borough of Ealing—

Work No. 10 A raising of the bridge carrying Hanger Lane over the existing railway and over the Central line railway of London Underground Limited between North Action and Ealing Broadway:

In the Royal borough of Kensington and Chelsea—

Work No. 11 A raising of the bridge carrying Ladbrooke Grove over the existing railway;

Work No. 12 A raising of the bridge carrying Golborne Road over the existing railway:

In the city of Westminster—

Work No. 13 A raising of the bridge carrying Great Western Road over the existing railway and over the railway of London Underground

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Limited between Paddington and Hammersmith, including a raising of the Westbourne Park Station buildings forming part of that bridge.

## **7 Provision of railway stations by Company**

If the Company proceed with the construction of Works Nos. 4 and 5, or either of them, they may under any part of the lands numbered on the deposited plans—

- (a) 133, 135 to 140, 143 to 149 and 150A in the London borough of Hillingdon;
- (b) 158 to 163 in the London borough of Hillingdon and 10 to 15 in the borough of Spelthorne;

make, maintain and operate railway stations with all necessary works and conveniences connected therewith.

## **8 Further works and powers of Board**

- (1) Subject to the provisions of this Act (and in the lines or situations shown on the deposited plans, and according to the levels shown on the deposited sections) the Board may make and maintain the following further works, with all necessary works and conveniences connected therewith, and may exercise the following powers:—

In the London borough of Hillingdon—

- (a) Stop up and discontinue so much of the private road leading from Stockley Road to Hayes Public Record Office as lies between points B1 and B2 and substitute therefor a new road between points B1, B3 and B2 over Works Nos. 8A and 8B; and
- (b) Raise so much of the footpath between Stockley Road and Bourne Avenue as lies between points C1 and C2 over Work No. 1A.

- (2) The Board may, within the limits of deviation of Works Nos. 10 to 13, make junctions with and alter the line or level of any street or way interfered with by, or contiguous to, all or any of those works and alter and interfere with any steps, walls, gateways, railings, passages, pavements, pipes, wires and cables and execute any works for the protection of any adjoining land and building.

- (3) The Board shall erect a good and sufficient fence on each side of the raised bridges comprised in Works Nos. 10 to 13.

## **9 Gradients of certain bridge works**

Notwithstanding anything in the Act of 1845 the Board may construct Works Nos. 11 and 12 with the greatest inclinations shown on the deposited sections.

## **10 Power to deviate**

In the execution of the Company's works or the Board's works (as the case may be) or any part thereof, the appropriate authority may deviate from the lines or situations thereof shown on the deposited plans to the extent of the limits of deviation and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding 3 metres upwards or, in the case of Works Nos. 4 and 5, not exceeding 6 metres upwards, and in any case to such extent downwards as may be found necessary or convenient.

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## **11 Plans, etc., to be approved by Secretary of State**

The Company shall as regards the underground railways from time to time submit for the approval of the Secretary of State plans, sections and other details of their proposals with respect to—

- (a) permanent-way, tunnels, platforms, stairs, lifts, escalators and other communications;
- (b) rolling stock;
- (c) lighting;
- (d) signalling; and
- (e) ventilation;

and any rolling stock and work included in the said proposals shall be constructed and maintained only in accordance with plans, sections and other details as approved by the Secretary of State.

## **12 Stopping up roads, etc., in case of diversion or substitution**

- (1) Where this Act authorises—
  - (a) the diversion of an existing road or footpath; or
  - (b) the making of a new road or footpath and the stopping up of an existing road or footpath or portion thereof;

the stopping up of the existing road or footpath shall not in any case take place until the highway authority are satisfied that the new road or footpath has been completed in accordance with their reasonable requirements and is open for public use or, in the case of any difference between the appropriate authority and the highway authority as to whether the said requirements have been complied with or as to their reasonableness, until the matter in dispute has been referred to and determined by arbitration.

- (2) Before referring a matter to arbitration under this section, the appropriate authority shall give to the highway authority seven days' notice in writing of their intention to do so.
- (3) As from the completion to the satisfaction of the highway authority of the new road or footpath, or as from the date of the determination by arbitration of any difference under subsection (1) above, as the case may be, all rights of way over or along the existing road or footpath or portion thereof authorised to be diverted or stopped up shall be extinguished.
- (4) Any person who suffers loss by the extinguishment of any private right under this section shall be entitled to be paid by the appropriate authority compensation to be determined in case of dispute by the tribunal.

## **13 Appropriating sites of roads, etc**

After a road or footpath or portion thereof is diverted or stopped up under section 12 (Stopping up roads, etc., in case of diversion or substitution) of this Act, the appropriate authority may, subject to the provisions of the Act of 1845 with respect to mines lying under or near the railway as far as the said road or footpath or portion thereof is bounded on both sides by lands of the appropriate authority appropriate without making any payment therefor and use for the purposes of their undertaking the site thereof.

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#### **14 Repair of roads, etc**

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

#### **15 Agreements with highway authorities**

- (1) When a road or footpath or portion thereof will be altered or stopped up or interfered with under this Act, the appropriate authority may enter into and carry into effect agreements with the highway authority in reference to the construction or contribution towards the costs of such alteration or of any new road or footpath to be made under this Act and in reference to any other matters relating thereto.
- (2) The appropriate authority may by agreement delegate to the highway authority the power of constructing and maintaining all or any of such alterations or new road or footpath in which they may be interested including the structure of any bridge over or under any railway.
- (3) The purposes of this section shall be deemed to be purposes for which a highway authority may incur expenditure and borrow money.

#### **16 Temporary stoppage of roads, etc**

- (1) The appropriate authority during and for the purpose of the execution of the Company's works or the Board's works (as the case may be) may temporarily stop up and divert and interfere with any road, bridleway or footpath and may for any reasonable time divert the traffic therefrom and prevent all persons other than those bona fide going to or from any land, house or building abutting on the road, bridleway or footpath from passing along and using the same.
- (2) The appropriate authority shall provide reasonable access for persons on foot bona fide going to or from any such land, house or building.
- (3) The appropriate authority shall not exercise the powers of this section without the consent of the highway authority but such consent shall not be unreasonably withheld and any question as to whether such consent has been unreasonably withheld shall be referred to and settled by arbitration.
- (4) The appropriate authority shall not exercise the powers of this section with respect to any road unless they have given not less than 21 days' notice in writing of their intention so to do to—
  - (a) the traffic commissioner, constituted for the purposes of the Public Passenger Vehicles Act 1981, in whose area the road is situate; and
  - (b) the operator over that road of a local service as defined in the Transport Act 1985;except in case of emergency when such notice as is practicable shall be given.
- (5) The exercise by the appropriate authority of the powers of this section in relation to any road, bridleway or footpath shall not prejudice or affect the rights of the operator of any telecommunications code system (within the meaning of Schedule 4 to the Telecommunications Act 1984) to maintain, inspect, repair, renew or remove

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telecommunication apparatus (within the meaning of paragraph 1 of Schedule 2 to the said Act of 1984) or break open that road, bridleway or footpath for any of those purposes.

## **17 Underpinning of buildings near works**

- (1) The appropriate authority at their own costs and charges may, subject as hereinafter provided, underpin or otherwise strengthen any house or building within 35 metres of any of the works and the following provisions shall have effect:—
- (a) At least 14 days' notice shall (except in case of emergency) be given to the owner, lessee and occupier of the house or building intended to be so underpinned or otherwise strengthened;
  - (b) Each such notice shall be served in manner prescribed by section 30 of the Act of 1965, as applied by this Act;
  - (c) If any owner, lessee or occupier of any such house or building shall, within 10 days after the giving of such notice, give a counter-notice in writing that he disputes the necessity of such underpinning or strengthening, the question of the necessity shall be settled by arbitration;
  - (d) In any case in which any house or building shall have been underpinned or strengthened under the powers of this section the appropriate authority may, from time to time after the completion of such underpinning or strengthening, and during the execution of the work in connection with which such underpinning or strengthening was done, or within five years after the opening for traffic of that work, enter upon and survey such house or building and, after complying with the foregoing provisions of this section, do such further underpinning or strengthening as they may deem necessary or expedient;
  - (e) The appropriate authority shall be liable to compensate the owner, lessee and occupier of every such house or building for any loss or damage which may result to them by reason of the exercise of the powers of this section;
  - (f) Nothing in this section nor any dealing with any property under this section shall relieve the appropriate authority from the liability to compensate under section 10(2) of the Act of 1965, as applied by this Act, or under any other enactment in respect of loss or damage arising from the execution of any works, other than works of underpinning or strengthening authorised by this section;
  - (g) Every case of compensation to be ascertained under this section shall be ascertained according to the provisions of the Land Compensation Act 1961.
- (2) The appropriate authority shall, so far as is reasonably practicable, so exercise the powers of this section as not to obstruct or render less convenient the access to any telecommunication apparatus (within the meaning of paragraph 1 of Schedule 2 to the Telecommunications Act 1984) belonging to, or used by, the operator of any telecommunications code system (within the meaning of Schedule 4 to the said Act of 1984).

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

- (1) In this section “relevant authority” means any sewerage undertakers within the meaning of the Water Act 1989 or a local authority.
- (2) The appropriate authority may use for the discharge of any water pumped or found by them during the construction of the works any available stream or watercourse, or any



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sewer or drain of a relevant authority, and for that purpose may lay down, take up and alter conduits, pipes and other works and may make any convenient connections with any such stream, watercourse, sewer or drain within the limits of deviation but—

- (a) the appropriate authority shall not discharge any water into any sewer or drain vested in or under the control of a relevant authority except with the consent of the relevant authority, which consent shall not be unreasonably withheld, and subject to such terms and conditions as the relevant authority may reasonably impose; and
  - (b) the appropriate authority shall not make any opening into any such sewer or drain save in accordance with plans approved by, and under the superintendence (if given) of, the relevant authority in whom the sewer or drain shall be vested but approval of those plans by the relevant authority shall not be unreasonably withheld.
- (3) (a) Section 107 of the Water Act 1989 shall apply to, or to the consequence of, a discharge under the powers of this section into any controlled waters within the meaning given by section 103 of that Act as if this section were excluded from the reference to any local statutory provision mentioned in section 108 (1) (d) of that Act.
- (b) In the exercise of their powers under this section the appropriate authority shall not damage or interfere with the bed of any watercourse forming part of the main river of the National Rivers Authority or the banks thereof within the meaning of section 116 of the Land Drainage Act 1976 or forming part of a metropolitan watercourse within the meaning of paragraph 1 of Schedule 5 to that Act.
- (4) The appropriate authority shall take all such steps as may reasonably be required to secure that any water discharged by them under this section shall be as free as may be reasonably practicable from any gravel, soil or other solid substance or matter in suspension.
- (5) Any difference arising between the appropriate authority and a relevant authority under this section shall be referred to and settled by arbitration.

## **19 Exercise of powers with respect to works**

- (1) The Company and the Board may enter into and carry into effect agreements with respect to the construction, maintenance, use and operation of any of the works, or any part of any of those works, and any works required for the purposes thereof or in connection therewith by the Board or by the Company, or by the Company and the Board jointly, and any such agreement may make provision with respect to any other matters incidental or subsidiary thereto or consequential thereon, including the defraying of, or the making of contributions towards, costs incurred by either party to the agreement.
- (2) Without prejudice to the generality of subsection (1) above, any such agreement may provide for the exercise by the Board or by the Company, or by the Company and the Board jointly, of all or any of the powers of the Company or the Board (as the case may be) with respect to any of the works and any works required for the purposes thereof or in connection therewith.
- (3) The exercise by the Board or by the Company or by the Company and the Board jointly, under this section of any powers of the other of them with respect to the works, or any part of any of those works, or any works required for the purposes thereof or

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in connection therewith, shall be subject to the same provisions in relation to those powers as would apply if those powers were exercised by the Company or the Board (as the case may be) alone, and accordingly those provisions, with any necessary modifications, shall apply to the exercise of such powers by the Board or the Company, or by the Company and the Board jointly.

- (4) The Company and the Board may enter into, and carry into effect, agreements for the transfer to, and vesting in, the Board or the Company, or the Company and the Board jointly, of any of the works or any part of any of those works, or any works required for the purposes thereof or in connection therewith, together with the rights and obligations of the Company or the Board (as the case may be) in relation thereto.

### PART III

#### LANDS

#### 20 Purchase of land

- (1) Subject to the provisions of this Act—
- (a) the Company may purchase compulsorily and use such of the land delineated on the deposited plans and described in the deposited book of reference as they may require for the purposes of the Company's works or for any purpose connected with, or ancillary to, their undertaking; and
  - (b) the Board may purchase compulsorily and use such of the land delineated on the deposited plans and described in the deposited book of reference as they may require for the purposes of the Board's works or for any purpose connected with, or ancillary to, their undertaking.
- (2) Without prejudice to the generality of the powers conferred upon the Company by subsection (1) (a) above, the Company may enter upon, take and use for the purposes specified in column (3) of Schedule 1 to this Act so much of the land referred to in columns (1) and (2) of that Schedule as lies within the lines marked "Limit of land to be acquired or used" on the deposited plans.
- (3) The appropriate authority may enter upon, use and appropriate so much of the subsoil and under-surface of, or airspace over, any public street, road, footway or place delineated on the deposited plans and described in the deposited book of reference as shall be necessary for the purposes of the Company's works or the Board's works (as the case may be) without being required to purchase the same or any easement or other right therein or thereunder or to make any payment therefor.
- (4) The appropriate authority shall not exercise the powers of this section or section 21 (Purchase of subsoil or new rights only) of this Act in relation to any land to which the following provisions of this Act apply:—
- section 25 (Temporary use of land by Company);
  - section 26 (Temporary use of land and access by Board);
  - section 27 (Temporary use of further land and access by Board).

#### 21 Purchase of subsoil or new rights only

- (1) In this Part references to the purchase by the appropriate authority of new rights are references to the purchase of rights to be created in favour of the appropriate authority.

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- (2) Subject to the provisions of this Act, the appropriate authority may, for the purpose of constructing, maintaining, protecting, altering, renewing and using the Company's works or the Board's works (as the case may be), or for the purpose of obtaining access to the works or for the purpose of doing any other thing necessary in connection with the works, purchase compulsorily and use so much of the subsoil and undersurface of, or may purchase such new rights as they require in, under or over, any of the land delineated on the deposited plans and described in the deposited book of reference, other than the land referred to in Schedule 2 to this Act, without in either case being obliged or compellable to purchase any greater interest in, under or over the same respectively and may give notice to treat in respect of such purchase or using.
- (3) (a) If, in any case where the appropriate authority purchase compulsorily and use the subsoil and under-surface of, or purchase a new right in, under or over, any land under subsection (2) above they also require to take, use and pull down or open any cellar, basement, vault, arch or other construction forming part of any such land, they may enter upon, take and use such cellar, basement, vault, arch or other construction for the purposes of the Company's works or the Board's works (as the case may be), and (subject to the provisions of this Act) the provisions of the Act of 1965, as applied by this Act, shall extend and apply in relation to the purchase thereof as if such cellar, basement, vault, arch or other construction were lands within the meaning of those provisions.
- (b) Section 29 (Purchase of part of certain properties) of this Act shall apply in respect of the purchase by the appropriate authority under this subsection of any cellar, basement, vault, arch or other construction as if the same were a part of land to which that section applies.
- (4) Nothing in this section shall prejudice or affect the provisions of subsection (3) of section 20 (Purchase of land) of this Act.

## **22 Only subsoil or new rights to be purchased under certain lands**

- (1) In this section "the specified land" means the land referred to in Schedule 2 to this Act.
- (2) Notwithstanding the provisions of subsection (1) of section 20 (Purchase of land) of this Act, the Company shall not purchase compulsorily under the powers of this Act any interest in any part of the specified land except as provided in subsection (3) below.
- (3) The Company may, within the limits of deviation, purchase compulsorily and use so much of the subsoil and under-surface of the specified land as they may require for the purpose of constructing, maintaining, protecting, altering, renewing and using the Company's works and any necessary works and conveniences connected therewith, or purchase such new rights in the subsoil and under-surface of the specified land as they may require for the said purposes, without in either case being obliged or compellable to purchase any greater interest in, under or over the said land, and may give notice to treat in respect of such purchase and use.
- (4) For the purposes of this section the subsoil and under-surface of the specified land shall not include any such subsoil or under-surface which is within 9 metres of the level of the surface of the ground or, in the case of a building on the said land, the level of the surface of the ground adjoining the building, or, in the case of a river, watercourse or other water area, the level of the surface of the adjoining ground which is at all times above water level.

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### **23 Purchase of specific new rights over land by Board**

- (1) Section 21 (Purchase of subsoil or new rights only) of this Act shall have effect for enabling the Board to purchase such further new rights as they may require under this section.
- (2) The Board may, in addition to such new rights as they may purchase under the said section 21 of this Act, purchase compulsorily such new rights as they require over the land numbered on the deposited plans 59 to 61 in the London borough of Hillingdon within the line marked “Limit of easement to be acquired” for the provision of a means of access from and to Swallowfield Way for the purpose of constructing the Board’s works.

### **24 Modification of Part I of Compulsory Purchase Act 1965 for purchase of new rights**

- (1) Part I of the Act of 1965, as applied by this Act, shall have effect with the modifications necessary to make it apply to the compulsory purchase of new rights under this Part as it applies to the compulsory purchase of land so that, in appropriate contexts, references in the Act of 1965 to land are read as referring, or as including references, to the new rights or to land over which the new rights are, or are to be, exercisable, according to the requirements of the particular context.
- (2) Without prejudice to the generality of subsection (1) above, in relation to the purchase of new rights under this Part—
  - (a) Part I of the Act of 1965 shall have effect with the modifications specified in Schedule 3 to this Act; and
  - (b) the enactments relating to compensation for the compulsory purchase of land shall apply with the necessary modifications as they apply to such compensation.

### **25 Temporary use of land by Company**

- (1) In this section “the designated lands” means the land numbered on the deposited plans 75a in the London borough of Hillingdon and so much of the lands numbered on the deposited plans—
  - (a) 90 in the London borough of Hillingdon;
  - (b) 146 in the London borough of Hillingdon;
  - (c) 5 in the borough of Spelthorne;
  - (d) 17 in the borough of Spelthorne and 165 in the London borough of Hillingdon;as lies within the lines marked “Limit of temporary working site” on the deposited plans.
- (2) The Company, in connection with the construction of their works and after giving to the owners and occupiers of the designated lands not less than 28 days’ previous notice in writing, may—
  - (a) enter upon and take possession temporarily of the designated lands for the purpose of temporary working sites;
  - (b) construct on the designated lands such temporary works or structures as may be required by them; and
  - (c) remove any structures and vegetation on the designated lands.

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## **26 Temporary use of land and access by Board**

- (1) In this section “the designated lands” means any part of the land numbered on the deposited plans 55 in the London borough of Hillingdon and situate within the line marked “Limit of temporary working site” on the deposited plans.
- (2) The Board, in connection with the construction of Works Nos. 6 to 9 and after giving to the owners and occupiers of the designated lands not less than 28 days' previous notice in writing, may—
  - (a)
    - (i) enter upon and take possession temporarily of the designated lands for the purpose of temporary working sites;
    - (ii) construct on the designated lands such temporary works or structures as may be required by them; and
    - (iii) remove any structures and vegetation on the designated lands; and
  - (b) form and lay out means of temporary access—
    - (i) to and from Keith Road, Hayes, (at its junction with Station Road) at point “A1”; and
    - (ii) to and from the roundabout at the southern end of Dawley Road at point “A2”.

## **27 Temporary use of further land and access by Board**

- (1) In this section—

“the designated lands” means the Hanger Lane land or the Haven Green land, as the case may be;

“the Hanger Lane land” means the lands numbered on the deposited plans 4 and 5 in the London borough of Ealing, situate within the lines marked “Limit of temporary working site” and required by the Board in connection with the construction of Work No. 10; and

“the Haven Green land” means the land numbered on the deposited plans 1 in the London borough of Ealing, situate within the line marked “Limit of temporary working site” and required by the Board in connection with the reconstruction under their existing powers of the bridge carrying Haven Green and Spring Bridge Road over the railway between Paddington and Reading.
- (2) The Board, after giving to the owners and occupiers of the designated lands not less than 28 days' previous notice in writing, may—
  - (a)
    - (i) enter upon and take possession temporarily of the designated lands for the purpose of temporary working sites;
    - (ii) construct on the designated lands such temporary works or structures as may be required by them; and
    - (iii) remove any structures and vegetation (other than any trees) on the designated lands; and
  - (b) form and lay out means of temporary access—
    - (i) to and from Haven Green at point “A1”; and
    - (ii) to and from Hamilton Road at points “A2” and “A3”.

## **28 Provisions applicable to sections 25, 26 and 27**

- (1) The appropriate authority shall not by reason of the exercise of the powers of section 25, 26 or 27 of this Act be required to purchase any part of the designated lands.

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- (2) On the exercise of the powers conferred by section 25, 26 or 27 of this Act, the following provisions shall have effect:—
- (a) The appropriate authority shall not, without the agreement of the owners and occupiers of the designated lands, remain in possession of any part thereof after a period of one year from the completion of the works for which such possession has been taken:
  - (b) Before giving up possession of the designated lands, the appropriate authority shall remove all temporary works or structures and restore the designated lands to the reasonable satisfaction of the owners and occupiers thereof:
  - (c) The appropriate authority shall compensate the owners and occupiers of the designated lands for any loss or damage which may result to them by reason of the exercise of the powers of section 25, 26 or 27 of this Act:
  - (d) Nothing in this section shall relieve the appropriate authority from liability to compensate under section 6 or 43 of the Act of 1845 or section 10 (2) of the Act of 1965, as incorporated with or applied by this Act, or under any other enactment, in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (c) above:
  - (e) Any dispute as to a person's entitlement to compensation under paragraph (c) above or as to the amount thereof shall be determined by the tribunal.

## **29 Purchase of part of certain properties**

- (1) Where a copy of this section is endorsed on, or annexed to, a notice to treat served under the Act of 1965, as applied by this Act, the following provisions of this section shall apply to the land subject to the notice instead of section 8 (1) of that Act.
- (2) Where the land subject to the notice is part only of a house, building or factory, or part only of land consisting of a house, together with any park or garden belonging thereto, then, if the person on whom the notice is served, within 21 days after the day on which the notice is served on him, serves on the appropriate authority a counter-notice objecting to the sale of the part and stating that he is willing and able to sell the whole (in this section referred to as "the land subject to the counter-notice"), the question whether he shall be required to sell the part shall, unless the appropriate authority agree to take the land subject to the counter-notice, be referred to the tribunal.
- (3) If the said person does not serve such a counter-notice as aforesaid within 21 days after the day on which the notice to treat is served on him, or if on such a reference to the tribunal the tribunal determine that the part subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, in the case of part of land consisting of a house, together with a park or garden belonging thereto, without such detriment and without seriously affecting the amenity and convenience of the house, the said person shall be required to sell the part.
- (4) If on such a reference to the tribunal the tribunal determine that part only of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without such detriment and without seriously affecting the amenity and convenience of the house, the notice to treat shall be deemed to be a notice to treat for that part.
- (5) If on such a reference to the tribunal the tribunal determine that the land subject to the notice to treat cannot be taken without material detriment to the remainder of the

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land subject to the counter-notice but that the material detriment is confined to a part of the land subject to the counter-notice, the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the appropriate authority are authorised to purchase compulsorily under this Act.

- (6) If the appropriate authority agree to take the land subject to the counter-notice, or if the tribunal determine that—
- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without such detriment and without seriously affecting the amenity and convenience of the house; and
  - (b) the material detriment is not confined to a part of the land subject to the counter-notice;

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

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

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

- (a) the time for requiring the tribunal to state a case with respect thereto has not expired and any proceedings on the points raised by a case so stated have not been concluded; or
  - (b) any proceedings on appeal from any decision on the points raised by a case so stated have not been concluded.
- (8) (a) Where a person is required under this section to sell part only of a house, building or factory, or land consisting of a house, together with any park or garden belonging thereto, the appropriate authority shall pay him compensation for any loss sustained by him due to the severance of that part in addition to the value of his interest therein.
- (b) Any dispute as to a person's entitlement to compensation under this section or as to the amount of compensation shall be determined by the tribunal.

### **30 Disregard of recent improvements and interests**

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

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

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

### **31 Extinction or suspension of private rights of way**

- (1) All private rights of way over any land which may be purchased compulsorily under this Act shall be extinguished on the purchase of the land, whether compulsorily or by agreement or on the entry on the land under section 11 (1) of the Act of 1965, as applied by this Act, whichever is sooner.
- (2) All private rights of way over any land of which the appropriate authority may take temporary possession under this Act shall be suspended and unenforceable against the appropriate authority for so long as the appropriate authority shall remain in lawful possession thereof.
- (3) Any person who suffers loss by the extinguishment or suspension of any right under this section shall be entitled to be paid by the appropriate authority compensation to be determined in case of dispute by the tribunal.

### **32 Correction of errors in deposited plans and book of reference**

- (1) If the deposited plans or the deposited book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the appropriate authority after giving not less than 10 days' notice to the owner, lessee and occupier of the land in question may apply to two justices having jurisdiction in the place where the land is situated for the correction thereof.
- (2) If on any such application it appears to the justices that the misstatement or wrong description arose from mistake, the justices shall certify the fact accordingly and shall in their certificate state in what respect any matter is misstated or wrongly described.
- (3) The certificate shall be deposited in the office of the Clerk of the Parliaments, and a copy thereof in the Private Bill Office of the House of Commons, and with the proper officer or chairman of a local authority with whom a copy of the deposited plans has been deposited in accordance with the Standing Orders of the House of Parliament, or who has the custody of any such copy so deposited; and thereupon the deposited plans and the deposited book of reference shall be deemed to be corrected according to the certificate, and it shall be lawful for the appropriate authority to take the land and execute the works in accordance with the certificate.
- (4) A person with whom a copy of the certificate is deposited under this section shall keep it with the other documents to which it relates.

### **33 Set-off for enhancement in value of retained land**

- (1) In this section “relevant land” means any land or any subsoil or undersurface of, or new rights over, any land purchased by the appropriate authority for the purposes of the Company’s works or the Board’s works (as the case may be).
- (2) In assessing the compensation payable to any person on the purchase by the appropriate authority from him of any relevant land, the tribunal shall—



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- (a) have regard to the extent to which the land or the remaining contiguous lands belonging to the same person may be benefited by any of the works; and
  - (b) set off against the value of the relevant land any increase in value of the remaining contiguous lands belonging to the same person which will accrue to him by reason of the construction of any of the works.
- (3) The Land Compensation Act 1961 shall have effect subject to the provisions of this section.

### **34 Time for purchase of land and rights over land**

The powers of the appropriate authority for the compulsory purchase of land and rights in, under or over land under this Act shall cease on 31st December 1994.

## **PART IV**

### **PROTECTIVE PROVISIONS**

### **35 Notice of interference with roads**

Before breaking up or otherwise interfering with any road to which the public has access in connection with the construction of any works under the powers of this Act, the appropriate authority shall (except in case of emergency) give 14 days' notice in writing to the chief officer of police and make such arrangements with him as may be reasonably necessary so as to cause as little interference with the traffic in such road during the construction of such works as may be reasonably practicable.

### **36 Crown rights**

- (1) Nothing in this Act affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing in this Act authorises the appropriate authority to take, use, enter upon or in any manner interfere with, any land or hereditaments or any rights of whatsoever description (including any river)—
- (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those commissioners; or
  - (b) belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.
- (2) A consent under subsection (1) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.

### **37 For protection of electricity, gas and water undertakers**

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

- (1) In this section—

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“adequate alternative apparatus” means alternative apparatus adequate to enable the undertakers to fulfil their statutory functions in a manner not less efficient than previously;

“apparatus” means—

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

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

(not being, in either case, apparatus in respect of which the relations between the appropriate authority and the undertakers are regulated by the provisions of Part II of the Public Utilities Street Works Act 1950) and includes any building, structure or works for the lodging therein of apparatus;

“functions” includes powers and duties;

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

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

(2) Notwithstanding the temporary stopping up or diversion of any road, bridleway or footpath under the powers of section 16 (Temporary stoppage of roads, etc.) of this Act the undertakers shall be at liberty at all times to execute and do all such works and things in, upon or under any such road, bridleway or footpath as may be reasonably necessary or desirable to enable them to inspect, repair, maintain, renew, remove or use any apparatus which at the time of the stopping up or diversion was in that road, bridleway or footpath:

(3) The appropriate authority, in the case of the powers conferred by section 17 (Underpinning of buildings near works) of this Act, shall, so far as is reasonably practicable, so exercise those powers as not to obstruct or render less convenient the access to any apparatus and if by reason or in consequence of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of the undertakers or any interruption in the supply of electricity, gas or water as the case may be, by the undertakers shall be caused, the appropriate authority shall bear and pay the cost reasonably incurred by the undertakers in making good such damage or restoring the supply; and shall—

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

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

by reason or in consequence of any such damage or interruption:

Provided that—

(i) nothing in this paragraph shall impose any liability on the appropriate authority with respect to any damage or interruption to the extent that such

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- damage or interruption may be attributable to the act, neglect or default of the undertakers or their contractors or workmen;
- (ii) the undertakers shall give to the appropriate authority reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the appropriate authority:
- (4) Notwithstanding anything in section 18 (Use of sewers, etc., for removing water) of this Act no use shall be made by the appropriate authority in the construction of the works of pumping or other like modes of removing water except where reasonably necessary or in the case of emergency or unforeseen accident or for the purpose of removing rainwater or other small amounts of water, and the provisions of section 26 of the Public Utilities Street Works Act 1950 shall apply to, and in relation to, the laying down, taking up or altering of conduits, pipes or other works under the said section 18 as if executed by the appropriate authority as operating undertakers within the meaning of the said section 26 for purposes other than the purposes of a railway undertaking:
- (5) Notwithstanding anything in this Act or shown on the deposited plans the appropriate authority shall not acquire any apparatus under the powers of this Act otherwise than by agreement:
- (6) If the appropriate authority, in the exercise of the powers of this Act, acquire any interest in any land in which any apparatus is placed, that apparatus shall not be removed under this section and any right of the undertakers to maintain, repair, renew or inspect that apparatus in that land shall not be extinguished until adequate alternative apparatus shall have been constructed and be in operation to the reasonable satisfaction of the undertakers:
- (7) If the appropriate authority, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Act, require the removal of any apparatus placed in that land, and shall give to the undertakers written notice of such requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed so as to provide adequate alternative apparatus in lieu of the apparatus to be removed, or if, in consequence of the exercise of any of the powers of this Act, the undertakers shall reasonably require to remove any apparatus, the appropriate authority shall afford to the undertakers the necessary facilities and rights for the construction of such alternative apparatus in other land of the appropriate authority and thereafter for the maintenance, repair, renewal and inspection of such apparatus:
- Provided that, if the alternative apparatus or any part thereof is to be constructed elsewhere than in other land of the appropriate authority, and the appropriate authority are unable to afford such facilities and rights as aforesaid in the land in which the alternative apparatus or such part thereof is to be constructed, the undertakers shall, on receipt of a written notice to that effect from the appropriate authority, forthwith use their best endeavours to obtain the necessary facilities and rights in such last-mentioned land:
- (8) (a) Any alternative apparatus to be constructed in land of the appropriate authority under this section shall be constructed in such manner and in such line or situation as may be agreed between the undertakers and the appropriate authority or in default of agreement settled by arbitration;
- (b) The undertakers shall, after the alternative apparatus to be provided or constructed shall have been agreed or settled by arbitration as aforesaid and

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after the grant to the undertakers of any such facilities and rights as are referred to in paragraph (7) above, proceed with all reasonable dispatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the appropriate authority to be removed under the provisions of this section:

- (9) Notwithstanding anything in paragraph (8) above, if the appropriate authority give notice in writing to the undertakers that they desire themselves to execute any part of so much of the work necessary in connection with the construction of the alternative apparatus, or the removal of the apparatus required to be removed, as will be situated in any land of the appropriate authority, such work, in lieu of being executed by the undertakers, shall be executed by the appropriate authority with all reasonable dispatch under the superintendence, if given, and to the reasonable satisfaction of the undertakers:

Provided that nothing in this paragraph shall authorise the appropriate authority to execute the actual placing, installation, bedding, packing, removal, connection or disconnection of any apparatus or any filling around any apparatus extending (where the apparatus is laid in a trench) to 300 millimetres or more above the apparatus:

- (10) Where, in accordance with the provisions of this section, the appropriate authority afford to the undertakers facilities and rights for the construction, maintenance, repair, renewal and inspection in land of the appropriate authority of alternative apparatus in substitution for apparatus to be removed as aforesaid, those facilities and rights shall be granted upon such terms and conditions as may be agreed between the appropriate authority and the undertakers or in default of agreement determined by arbitration:

Provided that—

- (a) in determining such terms and conditions as aforesaid in respect of alternative apparatus to be constructed in or along any railway of the appropriate authority, the arbitrator shall—
- (i) give effect to all reasonable requirements of the appropriate authority for ensuring the safety and efficient operation of the railway and for securing any subsequent alterations which may be required to prevent interference with any proposed works of the appropriate authority or the traffic on the railway; and
  - (ii) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions applicable to the apparatus, if any, constructed in or along the railway for which the alternative apparatus is to be substituted;
- (b) if the facilities and rights to be afforded by the appropriate authority in respect of any alternative apparatus and the terms and conditions subject to which the same are to be granted are in the opinion of the arbitrator less favourable on the whole to the undertakers than the facilities and rights enjoyed by them in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator shall make such provision for the payment of compensation by the appropriate authority to the undertakers in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the particular case:
- (11) (a) Not less than 28 days before commencing to execute any such works as are referred to in paragraph (7) above and are near to or will or may affect any apparatus the removal of which has not been required by the appropriate

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authority under the said paragraph (7), the appropriate authority shall submit to the undertakers a plan, section and description of the works to be executed;

- (b) Such works shall be executed only in accordance with the plan, section and description submitted as aforesaid and in accordance with such reasonable requirements as may be made by the undertakers for the alteration or otherwise for the protection of the apparatus or for securing access thereto and the undertakers shall be entitled by their officer to watch and inspect the execution of such works:

Provided that—

- (i) if the undertakers within 14 days after the submission to them of any such plan, section and description shall, in consequence of the works proposed by the appropriate authority, reasonably require the removal of any apparatus and give written notice to the appropriate authority of such requirement, the foregoing provisions of this section shall apply and have effect as if the removal of such apparatus had been required by the appropriate authority under the said paragraph (7);
- (ii) nothing in this sub-paragraph shall preclude the appropriate authority from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any such works, a new plan, section and description thereof in lieu of the plan, section and description previously submitted, and thereupon the provisions of this paragraph shall apply to and in respect of such new plan, section and description;
- (c) The appropriate authority shall not be required to comply with sub-paragraph (a) above in a case of emergency but in such a case they shall give to the undertakers notice as soon as reasonably practicable and a plan, section and description of the works as soon as reasonably practicable thereafter and shall comply with sub-paragraph (b) above so far as reasonably practicable in the circumstances:
- (12) Where, in consequence of this Act, any part of any street, road, bridleway or footpath in which any apparatus is situate ceases to be part of a street, road, bridleway or footpath, the undertakers may exercise the same rights of access to such apparatus as they enjoyed immediately before the passing of this Act, but nothing in this paragraph shall prejudice or affect any right of the appropriate authority or of the undertakers to require removal of such apparatus under this section or the power of the appropriate authority to execute works in accordance with paragraph (11) above:
- (13) The appropriate authority shall pay to the undertakers the costs, charges and expenses reasonably incurred by the undertakers in or in connection with the inspection, removal, alteration or protection of any apparatus which may be required in consequence of any such works as are referred to in paragraph (7) above, less the value of any apparatus removed under the provisions of this section (such value being calculated after removal) and shall also make compensation to the undertakers—
- (a) for any damage caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal in accordance with the provisions of this section); and
- (b) for any other expenses, loss, damages, penalty or costs incurred by the undertakers;

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by reason or in consequence of the execution, maintenance, user or failure of any such works or otherwise by reason or in consequence of the exercise by the appropriate authority of the powers of this Act:

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

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

- (15) Any difference arising between the appropriate authority and the undertakers under this section (other than a difference as to the meaning or construction of this section) shall be referred to and settled by arbitration:
- (16) Nothing in this section shall be deemed to prejudice or affect the provisions of any enactment or agreement regulating the relations between the appropriate authority and the undertakers in respect of any apparatus laid or erected in land belonging to the appropriate authority at the date of the passing of this Act.

### **38 For protection of sewers of Thames Water Utilities Limited**

For the protection of the sewers of Thames Water Utilities Limited (hereinafter called “the undertaker”) the following provisions shall, unless otherwise agreed in writing between the appropriate authority and the undertaker, apply and have effect:—

- (1) In this section—

“construction” includes execution, placing and altering and, in relation to temporary works, includes removal and “constructed” shall be construed accordingly;

“new, altered or substituted works” includes any works required under paragraph (3) below for the protection of any sewer;

“sewer” includes any sewer, drain or other works vested in the undertaker under the Water Act 1989, any main used for the conveyance of sewage sludge or sewage effluent and any pipe subway vested in or maintained by the undertaker; and

“specified work” means so much of the works and of any work (whether temporary or permanent) forming part of, or constructed in connection with, the works, or any of them, as will or may be situated over or within 15 metres measured in any direction of, or (wherever situated) impose any load directly upon, any sewer, and includes the construction, maintenance or renewal of any such works:

- (2) The appropriate authority shall not commence any specified work (other than works of maintenance or repair) until they shall have given to the undertaker 56 days' previous

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notice in writing of their intention to commence the same by leaving such notice at the principal office of the undertaker with plans as described in paragraph (7) below (in this section referred to as “the said plans”) and until the undertaker shall have signified their approval of the said plans:

Provided that such approval shall not be unreasonably withheld and, if within 56 days after the submission of the said plans the undertaker have not approved or disapproved them, they shall be deemed to have approved the said plans:

- (3) The appropriate authority shall comply with and conform to all reasonable orders, directions and regulations of the undertaker in the construction of any specified work and shall provide new, altered or substituted works in such manner as the undertaker shall reasonably require for the proper protection of, and for preventing injury or impediment to, a sewer of the undertaker by reason of any specified work and shall save harmless the undertaker against all expenses to be occasioned thereby:
- (4) All such new, altered or substituted works shall, where so required by the undertaker be constructed by or under the direction, superintendence and control of an officer of the undertaker duly appointed for the purpose at the cost, charge and expense in all respects of the appropriate authority and all reasonable costs, charges and expenses to which the undertaker may be put by reason of such works, whether in the execution thereof, or in the preparation or examination of plans or designs or in such direction, superintendence or control as aforesaid, or otherwise, shall be paid to the undertaker by the appropriate authority on demand:
- (5) When any such new, altered or substituted works or any work of defence connected therewith shall be completed by or at the cost, charges and expense of the appropriate authority under the provisions of this section, the same shall thereafter be as fully and completely under the direction, jurisdiction and control of the undertaker as any sewers or works now or hereafter may be:
- (6) Nothing in this Act shall extend to prejudice, diminish, alter or take away any of the rights, powers or authorities vested or to be vested in the undertaker in relation to sewers but all such rights, powers and authorities shall be as valid and effectual as if this Act had not been passed:
- (7) The plans to be submitted to the undertaker for the purposes of this section shall be detailed plans, drawings, sections and specifications which shall describe the exact position and manner in which, and the level at which, any specified work is proposed to be constructed and shall accurately describe the position of all sewers of the undertaker within the limits of deviation (for which purpose the undertaker shall allow the appropriate authority access to plans in their possession and to any of their sewers in order to enable the appropriate authority to obtain reliable information) and shall comprise detailed drawings of every alteration which the appropriate authority may propose to make in any such sewers:
- (8) The undertaker may require such modifications to be made in the said plans as may be reasonably necessary to secure the sewerage system of the undertaker against interference or risk of damage and to provide and secure a proper and convenient means of access to their sewers:
- (9) The appropriate authority shall be liable to make good, or, if the undertaker so decide, to bear any expense reasonably incurred by the undertaker in making good, all injury or damage caused by or resulting from the construction of any specified work to any

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sewers, drains or works vested in the undertaker which shall have power to recover any expense so incurred by them from the appropriate authority:

- (10) If, in the construction of any specified work, or any new, altered or substituted works, or any work of defence connected therewith provided in accordance with this section, the appropriate authority damage, or, without the consent of the undertaker, alter or in any way interfere with any existing sewer of the undertaker the appropriate authority shall—
- (a) pay to the undertaker any additional expense to which they may be put in the maintenance, management or renewal of any new, altered or substituted sewer which may be necessary in consequence of the said construction; and
  - (b) give to the undertaker full, free and uninterrupted access at all times to any such new, altered or substituted sewer (but under the supervision and control of the appropriate authority which shall be provided as soon as possible) and every reasonable facility for the inspection, maintenance, alteration and repair thereof:
- (11) It shall be lawful for an officer of the undertaker duly appointed for the purpose at any reasonable time and, if required by the appropriate authority, under their supervision to enter upon and inspect any specified work or any other works constructed under the powers of this section:
- (12) The approval by the undertaker of any plans or the superintendence by them of any work under the provisions of this section shall not exonerate the appropriate authority from any liability or affect any claim for damages under this section or otherwise:
- (13) As soon as reasonably practicable after the completion of the construction of a specified work the appropriate authority shall deliver to the undertaker a plan and section showing the position and level of that work as constructed and all new, altered or substituted works provided under this section:
- (14) Any difference arising between the appropriate authority and the undertaker under this section (other than a difference as to the meaning or construction of this section) shall be referred to and settled by arbitration.

### **39 For protection of London Underground Limited**

For the protection of London Underground Limited (hereinafter called “the company”) the following provisions shall, unless otherwise agreed in writing between the appropriate authority and the company, apply and have effect:—

- (1) In this section—

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

“designated property” means any railways of the company and any works connected therewith for the maintenance or operation of which the company are responsible and includes any lands, premises, arches, cellars or vaults held or used by the company for the purposes of such railways or works;

“the engineer” means an engineer to be appointed by the company;

“plans” includes sections, drawings, calculations, methods of construction and particulars and “approved plans” means plans approved or deemed to be approved or settled by arbitration in accordance with the provisions of this section; and



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

(2) Notwithstanding anything in this Act or shown on the deposited plans, the appropriate authority shall not purchase compulsorily any designated property but they may purchase such easements or other rights in, under or over designated property in accordance with the provisions of section 21 (Purchase of subsoil or new rights only) of this Act as they may reasonably require for the purpose of the specified works:

(3) The appropriate authority shall, before commencing the specified works, furnish to the company proper and sufficient plans thereof for the approval of the engineer, whose approval shall not be unreasonably withheld, and shall not commence the specified works until plans thereof have been approved in writing by the engineer or settled by arbitration:

Provided that, if within 56 days after such plans have been furnished to the company the engineer shall not have intimated his disapproval thereof and the grounds of his disapproval, he shall be deemed to have approved the same:

(4) If within 56 days after such plans have been furnished to the company, the company shall give notice to the appropriate authority that the company 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 the company's railways, then, if the appropriate authority desire such part of the specified works to be constructed, the company shall construct it with all reasonable dispatch on behalf of and to the reasonable satisfaction of the appropriate authority in accordance with approved plans:

(5) Upon signifying his approval or disapproval 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 specified works to ensure the safety or stability of designated property and such protective works as may be reasonably necessary for those purposes shall be constructed with all reasonable dispatch and the appropriate authority shall not commence the construction of the specified works until the engineer shall have notified the appropriate authority that the protective works have been completed:

(6) The appropriate authority shall give to the engineer not less than 28 days' notice of their intention to commence the construction of any of the specified works and also, except in emergency (when they shall give such notice as may be reasonably practicable), of their intention to carry out any works for the repair or maintenance of the specified works in so far as such works of repair or maintenance affect or interfere with designated property:

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

- (a) with all reasonable dispatch in accordance with approved plans;
- (b) under the competent 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 the company and the use by passengers of designated property;

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and, if any damage to designated property or any such interference shall be caused by the carrying out of the specified works, the appropriate authority shall, notwithstanding any such approval as aforesaid, make good such damage and shall on demand pay to the company 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:

Provided that nothing in this paragraph shall impose any liability on the appropriate authority with respect to any damage, costs, expenses or loss which is attributable to the act, neglect or default of the company or their servants, contractors or agents:

- (8) The appropriate authority 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:
- (9) The company shall at all times afford reasonable facilities to the appropriate authority and their agents for access to any works carried out by the company under this section during their construction and shall supply the appropriate authority with such information as they may reasonably require with regard to such works or the method of construction thereof:
- (10) 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 the company 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 appropriate authority, and the appropriate authority shall pay to the company on demand the cost thereof as certified by the engineer:
- (11) The appropriate authority shall repay to the company all costs, charges and expenses reasonably incurred by the company—
  - (a) in respect of the approval by the engineer of plans submitted by the appropriate authority;
  - (b) in constructing any part of the specified works on behalf of the appropriate authority as provided by paragraph (4) above or in constructing any protective works under the provisions of paragraph (5) above;
  - (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 the company and for preventing, as far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of the specified works;
  - (d) in respect of any special traffic working 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 of the company which may be necessary for the same reason;

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- (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:
- (12) The appropriate authority shall be responsible for and make good to the company all costs, charges, damages and expenses not otherwise provided for in this section which may be occasioned to or reasonably incurred by the company—
- (a) by reason of the specified works or the failure thereof; and
  - (b) by reason of any act or omission of the appropriate authority or of any persons in their employ or of their contractors or others whilst engaged upon the construction of the specified works;

and the appropriate authority shall effectively indemnify and hold harmless the company from and against all claims and demands arising out of or in connection with the construction 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 by the company on behalf of the appropriate authority or 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 the company or of any person in their employ or of their contractors or agents whilst engaged upon the construction of the specified works) excuse the appropriate authority from any liability under the provisions of this paragraph:

Provided that the company shall give to the appropriate authority reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without prior consent of the appropriate authority:

- (13) Any differences between the appropriate authority and the company under this section shall be referred to and settled by arbitration.

#### **40 For protection of London Buses Limited**

For the protection of London Buses Limited (hereinafter called “the company”) the following provisions shall, unless otherwise agreed in writing between the Board and the company, apply and have effect:—

- (1) In this section—

“the company” includes any subsidiary of London Buses Limited (within the meaning of section 736 of the Companies Act 1985) or any other person providing bus services in accordance with an agreement between that person and London Regional Transport pursuant to section 3 (2) of the London Regional Transport Act 1984 or any statutory modification or re-enactment thereof;

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

“designated property” means any premises of the company and any works connected therewith for the maintenance or operation of which the company are responsible and includes any lands, arches, cellars or vaults held or used by the company;

“the engineer” means an engineer to be appointed by the company;

“plans” includes sections, drawings, calculations, methods of construction and particulars and “approved plans” means plans approved or deemed to be

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approved or settled by arbitration in accordance with the provisions of this section; and

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

(2) Notwithstanding anything in this Act or shown on the deposited plans, the Board shall not purchase compulsorily any designated property but they may purchase such easements or other rights in, under or over designated property in accordance with the provisions of section 21 (Purchase of subsoil or new rights only) of this Act as they may reasonably require for the purpose of the specified works:

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

Provided that, if within 56 days after such plans have been furnished to the company the engineer shall not have intimated his disapproval thereof and the grounds of his disapproval, he shall be deemed to have approved the same:

(4) If within 56 days after such plans have been furnished to the company, the company shall give notice to the Board that the company desire themselves to construct any part of the specified works which in the opinion of the engineer will adversely affect the company’s operations, then, if the Board desire such part of the specified works to be constructed, the company shall construct it with all reasonable dispatch on behalf of and to the reasonable satisfaction of the Board in accordance with approved plans:

(5) Upon signifying his approval or disapproval 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 specified works to ensure the safety or stability of designated property and such protective works as may be reasonably necessary for those purposes shall be constructed with all reasonable dispatch and the Board shall not commence the construction of the specified works until the engineer shall have notified the Board that the protective works have been completed:

(6) The Board shall give to the engineer not less than 28 days’ notice of their intention to commence the construction of any of the specified works and also, except in emergency (when they shall give such notice as may be reasonably practicable), of their intention to carry out any works for the repair or maintenance of the specified works in so far as such works of repair or maintenance affect or interfere with designated property:

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

- (a) with all reasonable dispatch in accordance with approved plans;
- (b) under the competent 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 the Company’s operations and the use by passengers of designated property;

and, if any damage to designated property shall be caused by the carrying out of the specified works, the Board shall, notwithstanding any such approval as aforesaid, make good such damage and shall on demand pay to the company all reasonable expenses to which they may be put and compensation for

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any loss which they may sustain by reason of any such damage and, if any interference shall be caused to the company's operations, the Board shall repay to the company all costs, charges and expenses reasonably incurred by the company in respect of any interference with the company's operations which may be due to the construction or operation of the specified works, including in particular, but without prejudice to the foregoing, any costs reasonably incurred, including the cost of employment of any inspectors or other persons whom it shall be reasonably necessary to appoint for the purpose of supervising any special arrangements for the movement of traffic arising from any of the specified works or the substitution, suspension or diversion of the company's services as a result thereof and any loss of revenue which the company shall incur as a result of the specified works:

Provided that nothing in this paragraph shall impose any liability on the Board with respect to any damage, costs, expenses or loss which is attributable to the act, neglect or default of the company or their servants, contractors or agents:

- (8) The Board 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:
- (9) The company shall at all times afford reasonable facilities to the Board and their agents for access to any works carried out by the company under this section during their construction and shall supply the Board with such information as they may reasonably require with regard to such works or the method of construction thereof:
- (10) 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 the company 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) from the date of submission of plans, programmes and estimates of costs for such alterations and additions having been given to the Board, and the Board shall pay to the company on demand such reasonable cost thereof as certified by the engineer:
- (11) The Board shall repay to the company all costs, charges and expenses reasonably incurred by the company—
  - (a) in respect of the approval by the engineer of plans submitted by the Board;
  - (b) in constructing any part of the specified works on behalf of the Board as provided by paragraph (4) above or in constructing any protective works under the provisions of paragraph (5) above;
  - (c) in respect of the employment of any inspectors and other persons whom it shall be reasonably necessary to appoint for inspecting and preventing, as far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of the specified works;
  - (d) 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
  - (e) in respect of the supervision by the engineer of the specified works:

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- (12) The Board shall be responsible for and make good to the company all costs, charges, damages and expenses not otherwise provided for in this section which may be occasioned to or reasonably incurred by the Company—
- (a) by reason of the specified works or the failure thereof; and
  - (b) by reason of any act or omission of the Board or of any persons in their employ or of their contractors or others whilst engaged upon the construction of the specified works;

and the Board shall effectively indemnify and hold harmless the company from and against all claims and demands arising out of or in connection with the construction 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 by the company on behalf of the Board or 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 the company or of any person in their employ or of their contractors or agents whilst engaged upon the construction of the specified works) excuse the Board from any liability under the provisions of this paragraph:

Provided that the company shall give to the Board reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without prior consent of the Board:

- (13) Any differences between the Board and the company under this section shall be referred to and settled by arbitration.

## PART V

### MISCELLANEOUS AND GENERAL

#### **41 Transport consultative committees**

- (1) Sections 54 and 56 of the Transport Act 1962 and section 54 of the Transport Act 1968 shall not apply to services and facilities provided wholly or partly on the lines comprising Works Nos. 1A to 5 and 7A to 8B or at or from the stations authorised by section 7 of this Act.
- (2) On the opening of those works for passenger services it shall be the duty of the London Regional Passengers' Committee to consider and, where it appears to them to be desirable, make recommendations with respect to any matter affecting the services and facilities provided on the lines comprising those works or at those stations—
  - (a) which has been the subject of representations (other than representations appearing to the committee to be frivolous) made to the committee by or on behalf of users of those services or facilities; or
  - (b) which has been referred to the committee by the Secretary of State or by the Company or the Board; or
  - (c) which appears to the committee to be a matter to which consideration ought to be given;

and copies of the minutes, conclusions and recommendations of the committee shall be sent to the Company and the Board and to the central committee (as defined in section 56 of the said Act of 1962).

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- (3) Nothing in subsection (2) above shall entitle the London Regional Passengers' Committee to consider the charges made for any service or facility, or to consider any question relating to the discontinuance or reduction of railway services.
- (4)
  - (a) If the Company propose the discontinuance of all railway passenger services on the lines comprising those works or at or from those stations, they shall, not less than six months before carrying the proposal into effect, give to the Secretary of State notice of that proposal.
  - (b) Upon receipt of such notice the Secretary of State shall consider, having consulted the London Regional Passengers' Committee and such other persons or bodies as he may think fit, what measures, if any, he should in all the circumstances take.

#### **42 Byelaws relating to Company's railway**

- (1) In this section and in section 43 of this Act "the Company's railway" means the railways comprised in Works Nos. 1A to 5.
- (2) The Company may make byelaws regulating the use and working of, and travel on, the Company's railway, the maintenance of order on the Company's railway and their railway premises, including the stations authorised by section 7 of this Act, the approaches to those stations and any escalators, lifts, stairs and other communications constructed by them, and the conduct of all persons, including their officers and servants, while on those premises.
- (3) Without prejudice to the generality of subsection (2) above byelaws under this section may contain provisions—
  - (a) with respect to tickets issued for entry on railway premises or travel on the Company's railway or escalators, lifts, stairs and other communications, the payment of fares and charges and the evasion of payment of fares or charges;
  - (b) with respect to interference with, or obstruction of, the Company's railway or escalators, lifts, stairs and other communications;
  - (c) with respect to the use of tobacco or other substances in railway vehicles and elsewhere and the prevention of nuisances;
  - (d) for regulating the passage of bicycles and other vehicles on footways and other premises controlled by the Company and intended for the use of persons on foot;
  - (e) for the safe custody and redelivery or disposal of property found in railway premises or vehicles of the Company or elsewhere upon the Company's railway, and for fixing the charges which may be made in respect thereof.
- (4) Any byelaws made under this section may provide that any person contravening them shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale for each offence.
- (5) Without prejudice to the taking of proceedings under subsection (4) above, if the contravention of any byelaw having effect under this section is attended with danger or annoyance to the public, or hindrance to the Company in the lawful conduct of their railway, it shall be lawful for the Company summarily to take action to obviate or remove the danger, annoyance or hindrance.

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- (6) The provisions of subsections (5) to (12) of section 67 of the Transport Act 1962 shall apply to any byelaws made by the Company under this section as if for references to the Board, or to the board in question, there were substituted references to the Company.

#### **43 Power for Company to contract for police**

- (1) The Company may from time to time make agreements with the chief officer of police and a police authority for the employment by the Company of any members of the police establishment of that police authority for police duty within railway premises of the Company or elsewhere upon the Company's railway.
- (2) Any such agreement may contain such terms and conditions and provide for such payment or consideration as the Company shall agree with the police authority.
- (3) Where agreement under this section is made with the Board, constables of the British Transport Police Force may act, in accordance with the terms of the agreement, as constables in, on and in the vicinity of any premises of the Company notwithstanding the provisions of subsection (1) of section 53 (As to appointment of constables) of the British Transport Commission Act 1949.
- (4) In this section "police authority" includes—
- (a) a police authority within the meaning of the Police Act 1964; and
  - (b) the Board.

#### **44 Planning permission**

- (1) In this section "Part 11 development" means development permitted by article 3 of, and Class A in Part 11 of Schedule 2 to, the Town and Country Planning General Development Order 1988 (which permit development authorised by private Act designating specifically both the nature of the development thereby authorised and the land on which it may be carried out).
- (2) Subject to subsection (3) below, in its application to development authorised by this Act, the planning permission granted for Part 11 development shall have effect as if the authority to develop given by this Act were limited to development begun within 10 years after the passing of this Act.
- (3) Subsection (2) above shall not apply to the carrying out of any development consisting of the alteration, maintenance or repair of works or the substitution of new works therefor.

#### **45 Arbitration**

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

#### **46 Costs of Act**

The costs, charges and expenses of and incidental to the preparing for, obtaining and passing of this Act, or otherwise in relation thereto, shall be paid by the Company



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and the Board in such proportions as may be agreed between them and the amounts so payable by the Company and the Board may in whole or in part be defrayed out of revenue.