



# Greater Nottingham Light Rapid Transit Act 1994

## 1994 CHAPTER xv

### PART I

#### PRELIMINARY

#### 1 Short title

This Act may be cited as the Greater Nottingham Light Rapid Transit Act 1994.

#### 2 Interpretation

- (1) In this Act, unless the context otherwise requires, the several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated herewith have 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 Act of 1991” means the New Roads and Street Works Act 1991;

“the Act of 1993” means the Railways Act 1993;

“the authorised railways” means the railways authorised by this Act, including, where the context so admits, any railway adapted for use as part of the LRT system under section 17 (Agreements with British Railways Board) of this Act;

“the authorised works” means the works (including railways) authorised by this Act;

“the City” means the City of Nottingham;

“the City Council” means the Nottingham City Council;

“the County Council” means Nottinghamshire County Council;

“enactment” means any enactment, whether public general or local, and includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

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“existing” means existing at the commencement of this Act;

“land” includes land covered by water, any interest in land and any easement or right in, to or over land;

“the limits of deviation” mean the limits so shown on the deposited plans and, where, in the case of a work in any street, no such limits are shown for that work, the boundaries of the street (including any verge or roadside waste adjoining it);

“the LRT system” means the light rail transit system comprising the authorised railways including such railways designated as tramways, and all works and conveniences provided in connection with any of those railways, as that system is constructed, extended or altered from time to time;

“the railways board” means the British Railways Board or, as the case may require, any person who pursuant to the Act of 1993 succeeds (whether before or after the date of this Act) to any functions of the British Railways Board, or any other person who derives title to any property from the British Railways Board or such successor and holds that property for railway purposes;

“the rivers authority” means the National Rivers Authority;

“statutory undertakers” means any of the following, namely a licence holder within the meaning of Part I of the Electricity Act 1989, a public gas supplier within the meaning of Part I of the Gas Act 1986, a sewerage undertaker or a water undertaker;

“street” has the meaning given by section 329 of the Highways Act 1980 and in sections 19 to 22 of this Act includes a bridleway, cycle track or footpath as defined in the said section 329;

“telecommunication system” has the meaning given by section 4 of the Telecommunications Act 1984;

“traffic sign” has the meaning given by section 64 of the Road Traffic Regulation Act 1984;

“tramcar” means any vehicle (whether or not used for the carriage of passengers) carried on flanged wheels on any railway forming part of the LRT system;

“tramway” means any railway, or any part of a railway, authorised by this Act and thereby designated as a tramway;

“the tribunal” means the Lands Tribunal;

“the undertakers” means the County Council and the City Council or either of them.

- (2) In the case of any street in relation to which an order made under section 249 (2) of the Town and Country Planning Act 1990 (a pedestrian planning order) is in force, the kerbline of the street, where there is no kerb, shall be taken to be the edge of the part of the street on which the passage of vehicles is permitted.
- (3) Unless the context otherwise requires, any reference in this Act to a work identified by the number of the work shall be construed as a reference to the work of that number authorised by this Act.
- (4) References in this Act to points identified by letters, with or without numbers, shall be construed as references to the points so marked on the deposited plans.
- (5) (a) Except as mentioned in paragraph (b) below, all 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 distance and length, and

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distances between points on a railway shall be taken to be measured along the railway.

- (b) This subsection does not apply to distances or lengths stated in the following provisions of this Act:—
- section 13 (Power to deviate);
  - section 15 (Gauge of railways and restrictions on working);
  - paragraph (7) of section 45 (For protection of certain statutory undertakers).
- (6) Any reference in this Act to rights over land includes reference to the right to do, or to place and maintain, anything in, on or under the land, or in the air space above its surface.
- (7) References in this Act to access to any place include egress from that place.

### **3 Incorporation and application of enactments relating to railways**

- (1) The following enactments, so far as they are applicable for the purposes and are not inconsistent with or varied by the provisions of this Act, are incorporated with and form part of this Act, and this Act shall be deemed to be the special Act for the purposes of those enactments:—
- the Act of 1845 (except sections 7 to 9, 11 to 15, 17, 19, 20, 22, 23, 47 to 62, 94, 95 and 115 to 124); and
  - section 4 of the Railways Clauses Act 1863.
- (2) In the enactments incorporated by subsection (1) above—
- (a) the expression “the company” means the undertakers; and
  - (b) sections 18 and 21 of the Act of 1845 shall not extend to regulate the relations between the undertakers and any other person in respect of any matter or thing concerning which those relations are regulated in any respect by—
    - (i) Part III of the Act of 1991; or
    - (ii) section 45 (For protection of certain statutory undertakers)of this Act;
  - (c) the reference in section 34 of the Act of 1845 to notice under section 33 of that Act shall include a notice under section 34 of this Act; and
  - (d) in section 4 of the said Act of 1863, the words “and subject to the limitations contained in sections eleven, twelve and fifteen of those Acts respectively,” and the proviso shall be omitted.
- (3) Notwithstanding anything in section 46 of the Act of 1845, as incorporated by subsection (1) above, or in any other enactment, the undertakers may carry any of the authorised railways, not being designated as a tramway, across and on the level of any footpath without obtaining the consent of two or more justices.
- (4) The following enactments shall not apply to the LRT system:—
- the Highway (Railway Crossings) Act 1839;
  - in the Railway Regulation Act 1842, sections 9 and 10;
  - in the Regulation of Railways Act 1868, section 22;
  - in the Regulation of Railways Act 1889, sections 1 to 4 and 8;
  - in the Road and Rail Traffic Act 1933, section 42.

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#### **4 Application of Street Works Acts and Road Traffic Regulation Act 1984**

- (1) In relation to so much of the authorised works as would, if executed by the highway authority, be works for road purposes or major highway works within the meanings given by section 86 of the Act of 1991, Part III of that Act shall have effect as if the undertakers were the highway authority.
- (2) Part III of the Act of 1991 shall not extend to regulate the relations between the undertakers and a highway authority in respect of any matter or thing concerning which those relations are regulated by section 39 (As to highways, traffic, etc.) of this Act.
- (3) Section 45 (17) (b) (betterment arising on provision of alternative apparatus for statutory undertakers) of this Act shall have effect notwithstanding the repeal by the Act of 1991 of the Public Utilities Street Works Act 1950.
- (4) Section 14 of the Road Traffic Regulation Act 1984 (temporary restriction or prohibition of the use of roads by vehicles in certain circumstances) shall apply to tramcars used on tramways forming part of the LRT system.
- (5) Section 65 (1) of the Road Traffic Regulation Act 1984 (placing of traffic signs by highway authorities) shall have effect with respect to the erection and display of any traffic sign by the undertakers as if it were a traffic sign erected and displayed by the traffic authority.

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

- (1) Part I of the Act of 1965 (except section 4 and paragraph 3 (3) of Schedule 3), in so far as it is applicable for the purposes and is not inconsistent with the provisions of this Act, shall apply to the compulsory acquisition of land under this Act as it applies to a compulsory purchase to which Part II of the Acquisition of Land Act 1981 applies and as if this Act were a compulsory purchase order under the said Act of 1981.
- (2) Section 11 (1) of the Act of 1965 (which relates to notice of entry) as so applied shall have effect as if for the word “fourteen” there were substituted, in respect of the lands over which rights only are required, the word “twenty-eight” and, in the case of any other lands, the word “ninety-one”.
- (3) The Lands Clauses Consolidation Act 1845 shall not apply to the acquisition of land under this Act.

### **PART II**

#### **WORKS**

#### **6 Power to make works**

- (1) Subject to the provisions of this Act, the undertakers may, in the lines or situations shown on the deposited plans and according to the levels shown on the deposited sections, make and maintain the works specified in Part I of Schedule 1 to this Act, with all necessary works and conveniences connected therewith.
- (2) Notwithstanding anything in this Act or shown on the deposited plans or the deposited sections, but without prejudice to the provisions of section 13 (Power to deviate) of this

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Act, the undertakers may, subject to the approval of the Secretary of State, construct the whole or part of so much of Work No. 9 as is to be situated to the west of Bagnall Road within the limits of deviation in accordance with dimensions and descriptions other than the dimensions and descriptions shown on the deposited plans and the deposited sections or specified in Part I of Schedule 1 to this Act.

## 7 Further works and powers

- (1) Subject to the provisions of this Act (and, in so far as the same are shown on the deposited plans and sections, in the lines or situations and according to the levels so shown), the undertakers may exercise the powers, and make and maintain the further works, described in Part II of Schedule 1 to this Act, with all necessary works and conveniences connected therewith.
- (2) Without prejudice to the specific powers conferred by subsection (1) above, for the purposes of constructing or maintaining the authorised railways in or adjoining any street, the undertakers may, with the consent of the highway authority—
  - (a) increase the width of the carriageway of the street by reducing the width of any footway, cycle track or verge or other land within the boundary of the street;
  - (b) alter or interfere with the level of any kerb, footway, cycle track, verge or other land within the boundary of the street; or
  - (c) at any stopping place on a tramway reduce the width of the carriageway of the street by forming a reserved area in the street or by setting forward the kerbline of the street and providing access for vehicles to adjoining premises and a footway on the side of that kerbline nearest to those premises.
- (3) Where the carriageway, or part of the carriageway, of any street in which a tramway is laid is of sufficient width to provide not less than 3 metres of width for vehicular traffic clear of the tramway path (as determined in accordance with the clearance required by the Secretary of State), the undertakers may, with the consent of the highway authority, carry out such works as may be required to deter, but not prevent, the passage of vehicular traffic along the tramway, whether by raising or lowering the level of the part of the carriageway occupied by the tramway path above or below the level of the adjoining carriageway or by placing a kerb or other obstruction along the edge of that adjoining carriageway.
- (4)
  - (a) Subject to the provisions of this Act, the undertakers may—
    - (i) lay down double lines in lieu of single lines or single lines in lieu of double lines or interlacing lines in lieu of double or single lines on any of the tramways, either when constructing it or at any time thereafter, and construct or take up and reconstruct any such tramway or associated work in such position in the street or land in which it is authorised to be constructed as they think fit; and
    - (ii) make, maintain, alter and remove such crossings, passing places, sidings, junctions and other works, in addition to those specified in and authorised by this Act, as they find necessary or convenient for the efficient working of the LRT system, for the purposes of the control of traffic or for providing access to any premises.
  - (b) The powers of paragraph (a) above shall not be exercised in any street which is a highway without the consent of the highway authority.
- (5)
  - (a) When, by reason of the carrying out of any work affecting any road along or across which any tramway is laid, it is, in the opinion of the undertakers,

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necessary or expedient temporarily to remove or discontinue the use of that tramway, or any part thereof, the undertakers may, with the consent of the highway authority, construct and maintain, in the same or any adjacent road, a temporary tramway in lieu of the length of tramway so removed or discontinued.

- (b) If the undertakers alter the route of a tramway under paragraph (a) above, they shall, in accordance with section 8 (2) of this Act, provide traffic signs to give warning of such alteration and any associated traffic arrangements.
- (6) Notwithstanding anything in section 68 of the Act of 1845, where any part of a railway is constructed on any verge or roadside waste comprised in a road, the undertakers shall not be required to fence that part of that railway.

## 8 Provisions as to tramways

- (1) The tramways shall be so laid and maintained that—
- (a) except as provided in section 7 (3) of this Act, the uppermost surface of the rails is level with the surrounding surfaces of the street in which they are laid; and
  - (b) the distance between the sides of the widest tramcars to be used on the tramways when passing one another thereon shall not be less than 380 millimetres (15 inches).
- (2) (a) On completion of any tramway the undertakers shall provide traffic signs to give warning to other traffic of the presence of the tramway.
- (b) Subject to any directions and any other requirements given or imposed by the Secretary of State with respect to such a traffic sign, the places at which the traffic signs are displayed shall be such as may be approved by the highway authority.
- (e) (a) Where a tramway has been constructed in a street in such manner that—
- (i) the uppermost surface of the rails is level with the surface of the street; or
  - (ii) the level of the width of the carriageway occupied by the tramway path is altered as provided in section 7 (3) of this Act; works for the purpose, or having the effect, of altering the level of the part of the street in which the tramway is situated shall not be carried out without the consent of the undertakers.
- (b) Consent under paragraph (a) above may be given subject to such reasonable terms and conditions as the undertakers may require, but shall not be unreasonably withheld, and any difference arising under this paragraph shall be determined by the Secretary of State.

## 9 Level crossings

- (1) The undertakers may, in the construction of the railways authorised by this Act, carry the same with a double line across and on the level of the streets, footpaths, cycleways and other ways specified in Schedule 2 to this Act.
- (2) In the exercise of the powers of subsection (1) above, the undertakers may alter or interfere with the level of any footway or cycleway upon which any railway or associated work is to be laid.

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## 10 Subsidiary works

- (1) Subject to the provisions of this Act the undertakers may, for the purposes of the LRT system and associated traffic control—
- (a) within the limits of deviation make, lay down, place, erect, repair, alter, renew, maintain, operate and use rails, rail fixings, plates, sleepers, channels, conduits, tubes, stations, platforms, islands, gates, junctions, points, turntables, turnouts, crossings, temporary or permanent cross-overs, passing places, pillars, posts, poles, brackets, wires, subways, manholes, shafts, engines, dynamos, substations, transformers, switchgear, cabling, signalling, monitoring and communications equipment, together with subsidiary and incidental machinery, apparatus, works and appliances;
  - (b) in, or under any street in which it may be necessary or convenient, or in other land over which the undertakers have or obtain sufficient right, lay, place, erect, maintain, renew and repair electric wires, conductors, cables, brackets, posts, tubes, substations, boxes and other electrical apparatus for connecting the authorised railways and associated works with any electricity generating station or substations or for the purposes of signalling, monitoring and communication in connection with the LRT system; and
  - (c) alter the position of mains, sewers, cables and other apparatus.
- (2) (a) For the purposes of exercising their powers under subsection (1) above in relation to any apparatus or works, or of inspecting or removing apparatus or works, the undertakers may break open any road, and any sewer, drain or tunnel in or under any road, and may remove and use the soil or other materials in or under the road.
- (b) In exercising their powers under this subsection the undertakers shall do as little damage as may be, and for any damage done shall (in so far as the matter of compensation is not governed by the provisions of Part III of the Act of 1991) pay compensation to be determined, in case of dispute, in accordance with Part I of the Land Compensation Act 1961.

## 11 Footpaths and cycleways at Cinderhill

Notwithstanding anything shown on the deposited plans and sections the undertakers, if they proceed with the construction of Work No. 9—

- (a) shall not stop up and discontinue so much of the footpath and cycleway at Cinderhill in the City as is between the points marked H1 and H2 on the deposited plans, but shall lower the surface thereof between those points to such extent as will enable pedestrians and cyclists to use the said footpath and cycleway where it is crossed by the bridge over the river Leen comprised in Work No. 9;
- (b) shall lay out the new footpath and cycleway authorised by section 7 (Further works and powers) of, and paragraph (33) of Part II of Schedule 1 to, this Act with convenient ramps for use by pedestrians and cyclists.

## 12 Provision of accommodation for apparatus

Where the undertakers lay down conduits for the accommodation of cables or other apparatus for the purposes of the LRT system or associated traffic control under section 10 above, they may, in pursuance of those powers, provide in, or in connection with, such conduits accommodation for the apparatus of any other person, and

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manholes and other facilities for access to such accommodation, and may permit the use of such conduits and facilities on such terms and conditions as may be agreed between the undertakers and such other person.

### **13 Power to deviate**

In the execution of the authorised works the undertakers may, except as may be otherwise provided by this Act, deviate from the lines or situations thereof shown on the deposited plans to the extent of the limits of deviation and deviate vertically from the levels shown on the deposited sections to any extent not exceeding 3 metres upwards and to such extent downwards as may be found necessary or convenient.

### **14 Plans to be approved by Secretary of State before works commenced**

- (1) Before constructing any of the authorised railways the undertakers shall submit to the Secretary of State for his approval plans, sections and particulars of their proposals concerning—
  - (a) permanent way, track or stations;
  - (b) signalling; and
  - (c) lighting.
- (2) Any such works shall be constructed and maintained in accordance with such plans, sections and particulars approved by the Secretary of State.

### **15 Gauge of railways and restrictions on working**

- (1) The railways shall be constructed on a gauge of 1,435 millimetres (4 feet 8½ inches) and the motive power to be used shall be electrical energy or such other motive power as the Secretary of State may approve.
- (2) No part of the LRT system shall be used for, or in connection with, the conveyance of passengers without the written permission of the Secretary of State and the undertakers shall comply with the conditions (if any) which the Secretary of State may from time to time prescribe for the safety of persons using the LRT system.
- (3) If, without reasonable excuse, the undertakers contravene the provisions of subsection (2) above they shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) Without prejudice to the generality of subsection (2) above, traction cables of the overhead line equipment of any tramway, and of so much of any authorised railway as is comprised in any level crossing shall be erected at a height agreed by the Secretary of State and, if at any place a height of less than 5·63 metres (18 feet 6 inches) above the surface of the ground is so agreed for a cable, the undertakers shall, in accordance with section 8 (2) of this Act, erect such traffic signs as may be directed by the Secretary of State to give warning of the cable.

### **16 Operation and use of tramways**

- (1) Subject to subsection (3) below and to section 71 (Powers of disposal, agreements for operation, etc.) of this Act, the undertakers shall, for the purpose of operating the tramways, have the exclusive right to use the rails, foundations, cables, masts, overhead wires and other apparatus provided for their operation.



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- (2) Any person who, without the consent of the undertakers or other reasonable excuse, uses any tramway, or other apparatus mentioned in subsection (1) above, for the passage of vehicles having wheels suitable only for running on the rails of such tramways shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (3) Nothing in this section shall restrict the exercise of any public right of way over any part of a road in which a tramway, or other apparatus mentioned in subsection (1) above, is situated except to the extent to which the exercise of that right is constrained by—
  - (a) the presence of the tramway or such other apparatus; or
  - (b) the exercise of the powers of section 7 (3) of this Act.

## **17 Agreements with British Railways Board**

- (1) The undertakers and the railways board may enter into, and carry into effect, agreements for the transfer to, and vesting in, the undertakers of any or any part of the existing railways of the railways board within or adjoining the limits of deviation of the authorised works, together with all lands and other property held in connection with that railway and all rights and obligations of the railways board in relation to that railway.
- (2) Where agreement is made for the transfer to, and vesting in, the undertakers of any existing railway of the railways board under subsection (1) above, or the undertakers otherwise acquire any such existing railway or sufficient rights therein, the undertakers may adapt for use, maintain, use and work that railway as part of the LRT system in accordance with the provisions of the Act of 1845 and the Railways Clauses Act 1863 incorporated with this Act and the provisions of the Railway Regulation Acts 1840 to 1889 applicable to the LRT system.
- (3) Any enactment by which any such existing railway was authorised, including the enactments specified in Schedule 3 to this Act, shall have effect subject to the provisions of this Act.
- (4) The provisions of sections 54 and 56 of the Transport Act 1962 (advance notice of discontinuance of certain services to be published and functions of transport consultative committees) and of sections 37 to 50 of, and Schedule 5 to, the Act of 1993 (closure of railway passenger services, passenger networks, etc.) shall not apply in respect of the discontinuance of any existing railway passenger services from any station or on any line or, as the case may be, the discontinuance of any railway passenger or goods services provided by the railways board, where such discontinuance is for the purposes of, or in connection with, the construction of the authorised works or the transfer of any parts of the existing railways to form part of the LRT system.

## **18 Temporary stoppage of highways**

- (1) During and for the purpose of the execution of the authorised works, the undertakers may temporarily stop up and interfere with the whole or any part of any street to the extent of the limits of deviation, or, if different, the limits of land to be acquired or used shown on the deposited plans, and may for any reasonable time divert the traffic therefrom and prevent all persons, other than those bona fide going to or from any

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land, house or building abutting on the said part of the street, from passing along and using the same.

- (2) The undertakers shall provide reasonable access for foot passengers bona fide going to or from any such land, house or building.

## **19 Stopping-up streets and footpaths without providing substitute**

- (1) After the stopping up of any part of any street under this Act, other than under section 18 (Temporary stoppage of highways) of this Act, without the provision of a substitute, all rights of way over or along the street, or portion thereof, authorised to be stopped up shall be extinguished and the undertakers may, without making any payment therefor, but subject to the provisions of the Act of 1845 incorporated with this Act with respect to mines lying under or near the railways, appropriate and use for the purposes of their undertaking the site of the street or portion thereof, so stopped up.
- (2) Any person who suffers loss by the extinguishment of any private right under this section shall be entitled to be paid by the undertakers compensation to be determined in case of dispute by the tribunal.

## **20 Stopping-up streets and footpaths in case of diversion or substitution**

- (1) Except as provided in section 18 of this Act, where this Act authorises the making of a new street, either by way of diversion of, or in substitution for, an existing street and the stopping-up of the existing street or portion thereof, the stopping-up shall not, in either case, take place until the highway authority are satisfied that the new street has been completed in accordance with their reasonable requirements and is open for public use or, in the case of any difference between the undertakers 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 determined by arbitration and the new street has been completed accordingly.
- (2) Before referring the matter to arbitration under this section the undertakers shall give to the highway authority 7 days' notice in writing of their intention to do so.
- (3) As from the completion of the new street to the satisfaction of the highway authority or, in the case of dispute, according to the decision of the arbitrator, all rights of way over or along the existing street, or portion thereof, authorised to be diverted or stopped-up shall be extinguished, and the undertakers may, without making any payment therefor, but subject to the provisions of the Act of 1845 incorporated with this Act with respect to mines lying under or near the railways, appropriate and use for the purposes of their undertaking the site of the street, or portion thereof, diverted or stopped-up so far as the same is bounded on both sides by lands in the possession of the undertakers.
- (4) Any person who suffers loss by the extinguishment of any private right under subsection (3) of this section shall be entitled to be paid by the undertakers compensation to be determined in case of dispute by the tribunal.

## **21 Provisions as to repair of streets, footpaths, etc**

- (1) Any street, or portion thereof, made, diverted or altered under this Act shall, when completed, unless otherwise agreed, be maintained by and at the expense of the undertakers for a period of 12 months from its completion and at the expiration of that period shall be maintained by and at the expense of the highway authority.

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- (2) The undertakers shall not, by reason of the obligation to maintain any street under subsection (1) above, be taken to be the street authority in relation to that street for the purposes of Part III of the Act of 1991.

## **22 Underpinning of houses near works**

The undertakers may, at their own expense, subject as hereinafter provided, underpin or otherwise strengthen any house or building within 30 metres of any of the authorised works, and for that purpose the following provisions shall have effect:—

- (a) At least 28 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 6 of the Acquisition of Land Act 1981 as if required to be served under that Act:
- (c) If any owner, lessee or occupier of any such house or building shall, within 21 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 undertakers may, from time to time after the completion of such underpinning or strengthening, and during the execution of the authorised work in connection with which such underpinning or strengthening was done, or within five years after the opening for traffic of the authorised works, 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 undertakers shall be liable to compensate the owner, lessee and occupier of every such house or building for any loss or damage which they may suffer by reason of the exercise of the powers of this section:
- (f) Nothing in this section shall affect liability to compensate under section 6 of the Act of 1845 or section 10 (2) of the Act of 1965 as incorporated or applied by this Act, or under any other enactment, except in so far as compensation is payable under paragraph (e) above:
- (g) Compensation payable under this section shall be determined, in case of dispute, in accordance with Part I of the Land Compensation Act 1961.

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

- (1) The undertakers may use for the discharge of any water pumped or found during the construction of the authorised works any available stream or watercourse, or any sewer or drain of the 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.
- (2) (a) The undertakers shall not—
- (i) discharge any water into any sewer or drain vested in or under the control of the relevant authority except with the consent of that authority and subject to such terms and conditions as that authority may reasonably impose; or

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- (ii) make any opening into any such sewer or drain except in accordance with plans approved by, and under the superintendence (if given) of, the relevant authority.
  - (b) Consent to a discharge, or approval of plans submitted, under this subsection shall not be unreasonably withheld.
- (3) (a) Section 85 of the Water Resources Act 1991 shall apply to, or to the consequence of, a discharge under this section into any controlled waters within the meaning given by section 104 of that Act as if this section were excluded from the reference to any local statutory provision mentioned in section 88 (1) (f) of that Act.
- (b) In the exercise of their powers under this section the undertakers shall not damage or interfere with the bed of any watercourse forming part of a main river of the rivers authority or the banks thereof within the meaning of section 72 of the Land Drainage Act 1991.
- (4) The undertakers shall take all such steps as may be reasonably required to secure that any water discharged 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 undertakers and the rivers authority, sewerage undertaker or local authority, as the case may be, under this section shall be determined by arbitration.
- (6) In this section “the relevant authority” means the City Council or any sewerage undertaker.

## **24 Attachment of brackets, etc., to buildings for purposes of works**

- (1) The undertakers may affix brackets, cables, wires and other apparatus required in connection with the LRT system to any building or structure: and for that purpose the provisions of subsections (2), (4) to (6), (8) and (9) of section 45 of the Public Health Act 1961 (affixing apparatus to buildings for street lighting) shall apply as if—
  - (a) the attachments therein mentioned included any such apparatus; and
  - (b) for the reference to the street lighting authority there were substituted reference to the undertakers.
- (2) For the purpose of the provisions of the said section 45 applied by subsection (1) above, consent to the affixing of attachments to a building under subsection (2) of that section shall be deemed to have been withheld if no such consent is received by the undertakers before the expiration of the period of 56 days beginning on the date on which the undertakers serve on the owner of the building, in accordance with section 285 of the Public Health Act 1936, notice of an application for such consent.

## **25 Provisions as to use of electrical energy**

The following provisions shall apply to the use of electrical energy for the purposes of the LRT system:—

- (1) The undertakers shall employ either insulated returns or uninsulated metallic returns of low resistance.
- (2) The undertakers shall take all reasonable precautions in designing, constructing, placing and maintaining their electric lines and circuits and other works of all

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

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## PART III

### LANDS

#### 26 Power to acquire lands

Subject to the provisions of this Act, the undertakers may enter upon, take and use—

- (a) so much 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 authorised works or for any purpose connected with, or ancillary to, their undertaking including (without prejudice to the generality of the foregoing) the provision of parking facilities for road vehicles and means of access thereto; and
- (b) so much of any land specified in columns (2) and (3) of Schedule 4 to this Act shown on the deposited plans within the limits delineated by the line marked “limit of land to be acquired or used” as they may require for the purpose specified in relation to that land in column (1) of that Schedule.

#### 27 Extinction of private rights of way

- (1) All private rights of way over any land that may be acquired compulsorily under this Act shall be extinguished on the acquisition of the land, whether compulsorily or by agreement, or on entry on the land in pursuance of section 11 (1) of the Act of 1965 as applied by this Act, whichever is the sooner.
- (2) All private rights of way over land owned by the undertakers which, being within the limits of deviation or the limits delineated on the deposited plans by the line marked “limit of land to be acquired or used”, is required for the purposes of this Act shall be extinguished on the appropriation of the land for any of those purposes by the undertakers.
- (3) Any person who suffers loss by the extinguishment of any right under this section shall be entitled to compensation to be determined, in case of dispute, in accordance with Part I of the Land Compensation Act 1961.

#### 28 Power to acquire new rights

- (1) In this section references to the purchase by the undertakers of new rights are references to the purchase of rights to be created in favour of the undertakers.
- (2) The undertakers may, for the purposes of constructing, maintaining, protecting, renewing and using any of the authorised works, purchase compulsorily such new rights as they may require over any of the lands that may be acquired compulsorily under this Act instead of acquiring those lands.
- (3) 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 rights under subsection (2) above as it applies to the compulsory purchase of land so that, in appropriate contexts, references in that Act to land are read as referring, or as including references, to the rights or to land over which the rights are or are to be exercisable, according to the requirements of the context.
- (4) Without prejudice to the generality of subsection (3) above, in relation to the purchase of rights under subsection (2) above—

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- (a) Part I of the Act of 1965 shall have effect with the modifications specified in Schedule 5 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.

## **29 Acquisition of part only 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 undertakers a counter-notice objecting to the sale of the part and stating that he is willing and able to sell the whole (hereafter 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 undertakers 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 material detriment to the remainder of the land subject to the counter-notice 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 material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the notice to treat shall be deemed to be a notice to treat for that part.
- (5) If, on such a reference to the tribunal, the tribunal determine that the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice but that the material detriment is confined to a part of the land subject to the counter-notice, the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertakers are authorised to acquire compulsorily under this Act.
- (6) If the undertakers 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 material detriment to the remainder of the land subject to the counter-notice 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;

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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 that land is land which the undertakers are authorised to acquire 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 undertakers may, within six weeks after the tribunal make their determination, withdraw the notice to treat, and if they do so shall pay to the person on whom the notice was served compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice, to be determined in default of agreement by the tribunal.
- (8) For the purposes of subsection (7) above, the determination shall not be taken to have been made so long as—
- (a) the time for requiring the tribunal to state a case with respect to the determination has not expired;
  - (b) any proceedings on points raised by a case stated have not been concluded; or
  - (c) any proceedings on appeal from any decision on points raised by a case stated have not been concluded.
- (9) Where a person is required under this section to sell part only of a house, building or factory, or of land consisting of a house together with any park or garden belonging thereto, the undertakers 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.

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

In determining a question with respect to compensation claimed in consequence of the compulsory acquisition of land (including rights) 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 acquired, or, as the case may be, on the land over which rights are acquired, or on any other land with which the claimant is, or was, at the time of erection, executing or making of the building, works, improvement or alteration, directly or indirectly concerned;

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

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

- (1) In this section “relevant land” means any land or any new rights over any land purchased by the undertakers for the purposes of the authorised works.
- (2) In assessing the compensation payable to any person on the acquisition or purchase by the undertakers from him of any relevant land, the tribunal shall set off against the value of the relevant land any increase in value of any contiguous or adjacent lands belonging to the same person in the same capacity, or of the land over which new



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rights are acquired, which will accrue to him by reason of the construction of any of the authorised works.

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

### **32 Grant of rights by persons under disability**

- (1) Any person empowered by the Act of 1965 as applied by this Act to sell and convey or release lands may, if he thinks fit, subject to the provisions of the Act of 1965, grant to the undertakers any right required for the purposes of this Act over the lands.
- (2) Nothing in this section shall be construed as empowering persons to grant any right of water in which any other person has an interest, unless that other person concurs in the grant.
- (3) The provisions of the Act of 1965 with respect to lands and rent-charges so far as they are applicable shall extend and apply to any such grant and to any such right as aforesaid.

### **33 Compensation in respect of depreciation in value of interest in land subject to mortgage**

Where an interest in land is subject to a mortgage—

- (a) any compensation which is payable under this Act in respect of the depreciation in value of that interest shall be calculated as if the interest were not subject to the mortgage;
- (b) a claim for the payment of any such compensation may be made by any mortgagee of the interest under a mortgage made before the happening of the event giving rise to the compensation, but without prejudice to the making of a claim by any other person;
- (c) a mortgagee shall not be entitled to claim any such compensation in respect of his interest as such; and
- (d) any such compensation payable in respect of the interest subject to the mortgage shall be paid to the mortgagee or, where there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

### **34 Temporary possession of land**

- (1) In this section “the relevant land” means any of the lands in the City numbered 15, 16, 17, 18, 19, 21, 22, 107, 112, 113, 114 and 162 on the deposited plans, and any of the lands in the district of Ashfield numbered 19 on the deposited plans, shown on the deposited plans within the limits delineated by the line marked “limit of land to be acquired or used” and specified in Schedule 4 to this Act.
- (2) Subject to the provisions of this section, the undertakers may take temporary possession of and use the relevant land for the provision of working sites and access for construction purposes, and for that purpose may remove any structures and vegetation on the land.
- (3) Not less than 28 days before entering upon and taking temporary possession of the relevant land the undertakers shall give notice to the owners and occupiers of the land.

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- (4) All private rights of way over any land of which the undertakers take possession under this Act shall be suspended and unenforceable against the undertakers for so long as they shall remain in lawful possession of the land.
- (5)
  - (a) The undertakers shall not, without the agreement of the owners and occupiers, remain in possession of any part of the relevant land under the powers of this section after a period of 18 months from the completion of the work of construction for which possession was required.
  - (b) Before giving up possession of the relevant land, the undertakers shall remove all temporary works and, subject to any agreement to the contrary with the owners and occupiers of the land, restore the relevant land to the reasonable satisfaction of the owners and occupiers thereof.
- (6)
  - (a) The undertakers shall not be empowered to purchase compulsorily, or be required to purchase, any part of the relevant land of which they take possession under this section.
  - (b) The undertakers shall compensate the owners and occupiers of the relevant land for any loss or damage which may result to them by reason of the exercise of the powers of this section in relation to the relevant land.
  - (c) Nothing in this section shall relieve the undertakers 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 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 (b) above.
- (7) Compensation payable under this section shall be determined, in case of dispute, in accordance with Part I of the Land Compensation Act 1961.

### **35 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 undertakers, 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 or inadvertence, 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, House of Commons, and with the proper officer of the district council for the area in which the land is situated 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 undertakers to take the land or, as the case may be, a right over 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.

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### **36 Period of compulsory purchase of lands or rights**

- (1) The powers of the undertakers for the compulsory acquisition of the lands and rights which they are authorised to acquire by this Part of this Act shall not be exercised after the expiration of five years from the passing of this Act.
- (2) The powers of the undertakers for the compulsory acquisition of the said lands and rights shall, for the purposes of this section, be deemed to have been exercised if notice to treat has been served in respect of those lands and rights.

### **37 Acquisition of land in advance of requirements**

Without prejudice to the generality of their powers to acquire land by agreement under section 120 of the Local Government Act 1972 and section 26 of the Land Compensation Act 1973, the undertakers may acquire by agreement any land in their area which, in their opinion—

- (a) is likely to be required for the development of a light rail transit network in their area; or
- (b) by reason of published proposals indicating that it might be so required, is a hereditament in respect of which a valid blight notice could have been served on them under section 150 or 161 of the Town and Country Planning Act 1990 if it were land of the description specified in paragraph 21 of Schedule 13 to the said Act of 1990.

## **PART IV**

### **PROTECTIVE PROVISIONS**

### **38 Notice to police, etc**

before breaking up or otherwise interfering with any street in connection with the construction of the lrt system the undertakers shall give not less than 14 days' notice to the chief officer of police and to the fire authority of their intention to do so, except in the case of emergency when such notice as is practicable shall be given.

### **39 As to highways, traffic, etc**

for the protection of highway authorities the following provisions shall, unless otherwise agreed in writing between the undertakers and the highway authority concerned, have effect:—

- (1) in this section “highway” means a street vested in, or repairable or maintained by, the highway authority;
- (2) wherever in this section provision is made with respect to the approval or consent of the highway authority, that approval or consent shall be in writing and may be given subject to such reasonable terms and conditions as the highway authority may require, but shall not be unreasonably withheld;
- (3) before commencing to construct any part of the authorised works which will involve interference with a highway, or the traffic in any highway, or before temporarily stopping up any highway, the undertakers shall consult the highway authority as to—

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- (a) the time when such part shall be commenced;
- (b) the extent of the surface of the highway which it may be reasonably necessary for the undertakers to occupy, or the nature of the interference which may be caused to that traffic in the construction of such part; or
- (c) the time during which, and the extent to which, such highway shall be stopped up; and
- (d) the conditions under which such part shall be constructed or the highway shall be stopped up;

so as to reduce so far as possible inconvenience to the public and to ensure the safety of the public; and

- (i) such part shall not be constructed and the surface of the highway shall not be occupied by the undertakers; or
- (ii) such highway shall not be stopped up and the interference with traffic shall not be caused by the undertakers;

except at such time, to such extent, and in accordance with such conditions, as may be agreed between the undertakers and the highway authority or determined by arbitration:

- (4) At least 14 days before commencing to make any trial holes in any part of any highway in exercise of the powers of section 11 (3) of the Act of 1965 as applied by this Act, the undertakers shall serve notice in writing on the highway authority of their intention to do so describing the place or places at which the trial holes are intended to be made, and, if within 14 days after the receipt of such notice any objection is made by the highway authority, the matter shall (unless otherwise agreed) be determined by arbitration before the making of any trial hole is commenced, but if no such objection is made the undertakers may proceed with the making of any trial hole of which notice has been so given:
- (5) So much of the authorised works as is intended to become public highway, or part of any such highway, shall be completed in accordance with the reasonable requirements of the local highway authority or, in case of difference between the undertakers and the highway authority as to whether those requirements have been complied with or as to their reasonableness, in accordance with the determination of the Secretary of State upon any such difference:
- (6) It shall be lawful for the proper officer of the highway authority at all reasonable times, on giving to the undertakers such notice as may in the circumstances be reasonable, to enter upon and inspect any part of the authorised works in any highway, or which may affect any highway or any property or work of the highway authority, during the execution thereof, and the undertakers shall give to such officer all reasonable facilities for such inspection:
- (7) The undertakers shall not, except with the consent of the highway authority, alter, disturb or in any way interfere with any sanitary convenience, refuge, sewer, drain, lamp column, traffic sign, bollard, bin for refuse or road materials or apparatus connected therewith, or any other property or work belonging to, or under the jurisdiction or control of, the highway authority on or under any highway or repairable by them or the access thereto:
- (8) If the highway authority, after giving to the undertakers not less than 28 days' notice (or in the case of emergency such other notice as is reasonably practicable) of their intention to do so, incur any extra expense in the signposting of traffic diversions or the taking of other measures in relation thereto, or in the repair of any highway, by reason

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of the diversion thereto of traffic from a road of a higher classification in consequence of the construction of the authorised works, the undertakers shall repay the amount of the expense reasonably so incurred by the highway authority:

- (9) The undertakers shall not, except with the consent of the highway authority, deposit any soil or materials or stand any vehicle or plant on or over any highway so as to obstruct or render less safe the use of the highway by any person or, except with the like consent, deposit any soil or materials on any highway except within a hoarding:
- (10) The undertakers shall, if reasonably so required by the highway authority, provide and maintain to the reasonable satisfaction of the highway authority, during such time as the undertakers may occupy any part of a highway for the purpose of the construction of any part of the authorised works, temporary bridges and temporary ramps for vehicular traffic or pedestrian traffic, or both, in such position as may be necessary to prevent undue interference with the flow of traffic in any highway:
- (11) Where any part of any highway shall have been temporarily broken up or disturbed by the undertakers, the undertakers shall make good the subsoil foundations and surface of such part of the highway to the reasonable satisfaction of the highway authority and maintain the same to the reasonable satisfaction of the highway authority for such time as may be reasonably required for the permanent reinstatement of the highway:  

Provided that the reinstatement of such part of the highway shall in the first instance be of a temporary nature only and the permanent reinstatement shall be carried out by the highway authority as soon as reasonably practicable after the completion of the temporary reinstatement, and the costs, charges and expenses reasonably incurred by the highway authority in so doing shall be repaid by the undertakers:
- (12) It shall not be lawful for the undertakers to place any hoardings on any part of any highway except for such period and in such manner as may be reasonably necessary, and the provisions of sections 172 and 173 of the Highways Act 1980 shall apply to any hoarding erected on any part of any highway, and, for the purposes of the said section 172, any such hoarding shall be deemed to have been erected in compliance with subsection (1) of that section:
- (13) The undertakers shall make compensation to the highway authority for any subsidence of, or damage to, any highway or any sanitary convenience, refuge, sewer, drain, lamp column, traffic sign, bollard, bin for refuse or road materials or apparatus connected therewith or any other property or work belonging to, or under the jurisdiction or control of, the highway authority on or under any highway, or maintainable by them, which may be caused by, or in consequence of, any act or default of the undertakers, their contractors, servants or agents, whether such damage or subsidence shall happen during the construction of the authorised works or at any time thereafter:
- (14) The highway authority may require that the authorised works, so far as they involve any serious interference with the movement of traffic in any highway, shall be carried on, so far as reasonably practicable, continuously by day and night, and the undertakers shall take all such steps as may be reasonably necessary to reduce so far as possible the period of such interference:
- (15) Except as provided in paragraph (5) above, any difference arising between the undertakers and the highway authority under this section (other than a difference as to its meaning or construction) shall be determined by arbitration.

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#### **40 Approval of plans by local authorities, etc**

The following provisions shall, unless otherwise agreed in writing between the undertakers and the council, have effect:—

(1) In this section—

“construction” includes placing, alteration and renewal;

“the council” means whichever of the City Council, the Broxtowe Borough Council or the Ashfield District Council are the local authority for the area where the specified works are constructed or authorised to be constructed;

“plans” includes sections, drawings, specifications, particulars and descriptions (including descriptions of methods of construction);

“the specified works” means any of the authorised works constructed or to be constructed in the area of the council:

(2) The undertakers shall, before commencing the construction of the specified works, supply to the council proper and sufficient plans thereof for their approval:

Provided that if within 56 days after such plans have been supplied to the council they have not notified their disapproval thereof and the grounds of their disapproval, they shall be deemed to have approved the plans as supplied:

(3) The council may approve the plans subject to such reasonable conditions as may be necessary to prevent unacceptable detriment to the environment or to the amenity of the area of the council:

(4) The undertakers shall not commence the specified works until plans thereof have been approved in writing by the council, or settled by arbitration in accordance with subsection (7) below:

(5) The construction of the specified works shall, when commenced, be carried out in accordance with the plans as approved by the council or deemed to have been so approved or settled by arbitration in accordance with subsection (7) below, and in constructing the specified works the undertakers shall comply with such conditions (if any) as may be so approved or settled:

(6) The council may not withhold their approval under this section except in respect of any detail of the plans which—

(a) in their reasonable opinion will cause unacceptable detriment to the environment or to the amenity of the area of the council; and

(b) is susceptible of a reasonable alternative which will not in their reasonable opinion cause such detriment:

(7) Any difference arising between the undertakers and the council under this section shall be referred to and settled by arbitration but the undertakers and the council shall use their best endeavours to ensure that proceedings before an arbitrator commence in every case within 7 days of the undertakers or the council registering such a difference.

#### **41 For protection of British Railways Board**

For the protection of the railways board the following provisions shall, unless otherwise agreed in writing between the undertakers and the railways board, have effect:—

(1) In this section—

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“construction” includes placing, alteration and renewal;

“the engineer” means an engineer to be appointed by the railways board;

“plans” includes sections, drawings, specifications and particulars (including descriptions of methods of construction);

“railway property” means any railway of the railways board and any works connected therewith for the maintenance or operation of which the railways board are responsible and includes any land held or used by the railways board for the purposes of such railway or works, not being railway property acquired by the undertakers;

“specified works” means so much of the authorised works as may be situated upon, across, under or over or within 15 metres of, or may in any way affect, any railway property:

- (2) (a) The undertakers shall not under the powers of this Act acquire any land or other property of the railways board, or any right in such land or other property, without the consent of the railways board, which consent shall not be unreasonably withheld;
- (b) Where any specified works are situated in land in respect of which easements or rights only in railway property are acquired, the undertakers shall fence off those works from that railway property to the reasonable satisfaction of the engineer where so required by him and shall thereafter be responsible for keeping in good repair the fencing so provided:

(3) In the exercise of the powers of section 18 (Temporary stoppage of highways) of this Act the undertakers shall at all times provide reasonable access, with or without vehicles, plant, machinery and materials, to any station or depot of the railways board or other railway property:

(4) The undertakers shall, before commencing the construction of the specified works, supply to the railways board proper and sufficient plans thereof for the approval of the engineer and shall not commence the construction of those works until such plans have been approved in writing by the engineer or settled by arbitration:

Provided that approval of plans supplied under this paragraph shall not be unreasonably withheld and, if within 56 days after the plans have been supplied to the railways board the engineer shall not have intimated his disapproval of the plans and the grounds of his disapproval, he shall be deemed to have approved them:

(5) If, within 56 days after such plans have been supplied to the railways board, the railways board give notice to the undertakers that the railways board desire themselves to construct any part of the specified works which, in the opinion of the engineer, will or may affect the stability of any operational railway or the safe operation of traffic on the railways of the railways board then, if the undertakers desire such part of the specified works to be constructed, the railways board shall construct the same with all reasonable dispatch on behalf of, and to the reasonable satisfaction of, the undertakers in accordance with the plans approved or deemed to be approved or settled as aforesaid:

(6) 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 commencement of the construction of the specified works to ensure the safety or stability of the railways of the railways board, and such protective works as may be reasonably necessary for those purposes shall be constructed by the railways board or by the undertakers, if the railways board so desire, with all

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reasonable dispatch, and the undertakers shall not commence the construction of the specified works until the engineer shall have notified them that the protective works have been completed to his reasonable satisfaction:

- (7) (a) The undertakers shall give to the railways board notice in writing of their intention to commence the construction of any of the specified works in accordance with sub-paragraph (b) below and, except in case of 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 railway property;
- (b) The period of notice required under sub-paragraph (a) above shall be—
- (i) 6 months in any case where the engineer, upon signifying his approval or disapproval of plans supplied to the railways board under paragraph (4) above, has reasonably given his opinion that the construction or maintenance of the specified works will require the undertakers to have temporary occupation of the permanent way of any operational railway (including land lying within a distance of 2 metres from any outer rail of the railway) or will necessitate the imposition of speed restrictions, or the substitution, diversion or suspension of train services; and
- (ii) 28 days in all other cases:
- (8) (a) When construction of any specified works is commenced the work shall be carried out—
- (i) with all reasonable dispatch in accordance with plans approved or deemed to have been approved or settled as aforesaid;
- (ii) under the supervision (if given) and to the reasonable satisfaction of the engineer;
- (iii) in such manner as to cause as little damage to railway property as may be; and
- (iv) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe user of any railway of the railways board or the traffic thereon and the use by passengers of railway property;
- (b) If any damage to railway property or any such interference or obstruction shall be caused or take place, the undertakers shall, notwithstanding any such approval as aforesaid, make good such damage and pay to the railways board all reasonable expenses to which they may be put and compensation for any loss which they may sustain by reason of any damage, interference or obstruction:
- (9) Nothing in paragraph (8) (b) above shall impose any liability on the undertakers for any damage, cost, expense or loss which is attributable to the neglect or default of the railways board or their servants or agents:
- (10) The undertakers shall—
- (a) at all times afford reasonable facilities to the engineer for access to the specified works during their construction; and
- (b) supply the engineer with all such information as he may reasonably require with regard to the specified works or the method of construction of those works:



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- (11) The railways board shall—
- (a) at all times afford reasonable facilities to the undertakers and their agents for access to any works carried out by the railways board under this section during their construction; and
  - (b) supply the undertakers with such information as they may reasonably require with regard to such works or the method of construction of those works:
- (12) If any alterations or additions (either permanent or temporary) to any operational railway of the railways board shall be reasonably necessary during the construction of the specified works, or during a period of 12 months after their completion, in consequence of the construction of the specified works, such alterations and additions may be made by the railways board and, if the railways board give to the undertakers reasonable notice of their intention to make such alterations or additions, the undertakers shall pay to the railways board the cost thereof as certified by the engineer, subject to the addition, in the case of permanent alterations and additions, of a capitalised sum representing the increased or additional cost of maintaining, working and, when necessary, renewing any such alterations or additions:
- Provided that if the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions, a capitalised sum representing such saving shall be set off against any sum payable by the undertakers to the railways board under this section:
- (13) If the cost to the railways board of altering any existing railway within its boundaries or of maintaining or reconstructing any existing railway under any powers existing at the passing of this Act is increased by reason of the existence of the specified works any such additional expense which the railways board, after giving 56 days' notice to the undertakers, reasonably so incur shall be repayable by the undertakers to the railways board:
- (14) The undertakers shall repay to the railways board all costs, charges and expenses reasonably incurred by the railways board—
- (a) in constructing any part of the specified works on behalf of the undertakers as provided by paragraph (5) above, or in constructing any protective works under the provisions of paragraph (6) above, including, in respect of any permanent protective works, a capitalised sum representing the reasonable cost of maintaining and renewing those works;
  - (b) 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 railways and for preventing interference, obstruction, danger or accident arising from the construction, maintenance, repair or failure of the specified works;
  - (c) in respect of any special traffic working resulting from any speed restrictions which may, in the opinion of the engineer, be necessary by reason of the construction, maintenance, repair or failure of the specified works or from the substitution, suspension or diversion of services which may be necessary for that reason;
  - (d) in respect of any additional temporary lighting of railways in the vicinity of the specified works, being lighting made reasonably necessary by reason of the specified works or the failure thereof;

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- (e) in respect of the approval by the engineer of plans supplied by the undertakers under paragraph (4) above and the supervision by him of the construction of the specified works:
- (15) If at any time after the completion of the specified works, not being works vested in the railways board, the railways board give notice to the undertakers that the state of repair of the specified works appears to affect prejudicially any operational railway of the railways board, the undertakers shall, on receipt of such notice, take such steps as may be reasonably necessary to remedy any such defect:
- (16) All temporary structures, erections, works, apparatus and appliances erected or placed by the undertakers under the powers of this Act upon, over or under any operational railway of the railways board shall, as soon as reasonably practicable, be removed by the undertakers at times to be agreed with, and to the reasonable satisfaction of, the engineer and in such a way as to cause as little damage to the railway and as little interference with, or delay or interruption to, the traffic on the railways of the railways board as may be; and if any damage to railway property or such interference, delay or interruption shall be caused by any such failure to remove any such temporary structures, erections, works, apparatus or appliances, the undertakers shall make good such damage and pay to the railways board the reasonable costs and expenses to which they may be put, and reasonable compensation for any loss which they may sustain, by reason of such damage, interference, delay or interruption:
- (17) Before providing any illumination or illuminated traffic sign on or in connection with the specified works, or otherwise in the vicinity of any railway of the railways board, the undertakers shall consult with the railways board and comply with their reasonable requirements with a view to ensuring that such illumination or illuminated sign could not be confused with any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway:
- (18) (a) The undertakers shall be responsible for and make good to the railways board all costs, charges, damages and expenses not otherwise provided for in this section which may be occasioned to, or reasonably incurred by, the railways board—
- (i) by reason of the construction or repair of the specified works or the failure thereof; or
  - (ii) by reason of any act or omission of the undertakers or of any person in their employ or of their contractors or others whilst engaged upon the construction or repair of the specified works;
- and the undertakers shall indemnify the railways board from and against all claims and demands arising out of, or in connection with, the construction or repair of the specified works or any such failure, act or omission as aforesaid;
- (b) The fact that any act or thing may have been done by the railways board on behalf of the undertakers or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not (if it was done without neglect or default on the part of the railways board or of any person in their employ or of their contractors or agents) excuse the undertakers from any liability under this paragraph;
- (c) The railways board shall give to the undertakers reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the undertakers:

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- (19) Any difference arising between the undertakers and the railways board under this section (other than a difference as to its meaning or construction) shall be determined by arbitration.

## **42 For protection of British Waterways Board**

For the protection of the British Waterways Board (in this section referred to as “the waterways board”) the following provisions shall, unless otherwise agreed in writing between the undertakers and the waterways board, have effect:—

- (1) In this section—
- “the canal” means any canal or inland waterway owned or managed by the waterways board, and any works connected therewith for the maintenance of which the waterways board are responsible, and includes any lands held or used by the waterways board for the purposes of any canal;
  - “construction” includes placing, alteration and renewal;
  - “the engineer” means an engineer to be appointed by the waterways board;
  - “plans” includes sections, drawings and particulars;
  - “the specified works” means so much of any of the authorised works as is situated over or upon or abuts on or in any way affects the canal:
- (2) Notwithstanding anything in this Act or shown on the deposited plans, the undertakers shall not acquire compulsorily or occupy any land or other property of the waterways board but they may subject to the consent of the waterways board (which consent shall not unreasonably be withheld) in accordance with the provisions of section 28 (Power to acquire new rights) of this Act acquire such easements and rights as they may reasonably require for the purposes of the works in any such land or property delineated on the deposited plans:
- (3) The undertakers shall not use any land or property of the waterways board (including the towing paths comprised in the canal) for the passage of vehicles, plant or machinery employed in the construction of the specified works other than—
- (a) with the consent in writing of the engineer, whose consent shall not be unreasonably withheld;
  - (b) subject to compliance with such reasonable requirements as the engineer may from time to time specify—
    - (i) for the prevention of damage to such land and property and of danger to persons thereon; and
    - (ii) in order to avoid or reduce any inconvenience to the waterways board, their officers and agents and all other persons lawfully on such land or property.
- (4) The undertakers shall, before commencing the construction of the specified works, supply to the waterways board proper and sufficient plans thereof for the approval of the engineer, and shall not commence the specified works until plans thereof have been approved in writing by the engineer or settled by arbitration:

Provided that approval of plans supplied under this paragraph shall not be unreasonably withheld and, if within 28 days after such plans have been supplied to the waterways board the engineer shall not have intimated his disapproval thereof and the grounds of his disapproval, he shall be deemed to have approved the plan as supplied:

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- (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 the canal, and such protective works as may be reasonably necessary for those purposes shall be constructed by the undertakers with all reasonable dispatch:
- (6) The undertakers shall pay to the waterways board a capitalised sum representing the increased or additional cost of maintaining and, when necessary, renewing any permanent protective works provided under paragraph (5) above, but if the cost of maintaining the canal, or of works of renewal on the canal, is reduced in consequence of any such protective works, a capitalised sum representing such saving shall be set off against any sum payable by the undertakers to the waterways board under this section:
- (7) The undertakers shall give to the engineer 28 days' notice of their intention to commence the construction or repair of any of the specified works, or, in the case of repair carried out in an emergency, such notice as may be reasonably practicable:
- (8) The undertakers 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) When construction of any specified works is commenced the works shall be carried out—
  - (a) in accordance with the plans approved or deemed to be approved or settled as provided in paragraph (4) above;
  - (b) under the supervision (if given) and to the reasonable satisfaction of the engineer;
  - (c) so as not to interfere with or obstruct the use of the towing paths of the canal so far as is reasonably practicable; and
  - (d) so as not to interfere or obstruct the passage of vessels on the canal—
    - (i) at any time in the period in each year beginning on 17th March and ending on 3rd November except in case of emergency; and
    - (ii) at any other time so far as is reasonably practicable:
- (10) Following the completion of the construction of the specified works the undertakers shall restore the canal to a condition no less satisfactory than its condition immediately prior to the commencement of those works:
- (11) The undertakers shall not in the course of constructing or repairing the specified works do or permit anything which may result in the pollution of the canal or the deposit of materials therein and shall take such steps as the engineer may reasonably require to avoid such pollution:
- (12) Nothing in section 23 (Use of sewers, etc., for removing water) of this Act shall authorise the undertakers—
  - (a) to discharge any water directly or indirectly into the canal except with the consent in writing of the waterways board; or
  - (b) to carry out any works to, or make any opening in, or otherwise interfere with the canal (including the banks and bed thereof) save in accordance with plans approved by, and under the supervision (if given), of the engineer:

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- (13) The consent of the waterways board under paragraph (12) (a) above and the approval of plans under paragraph (12) (b) above shall not be unreasonably withheld but may be given subject to reasonable conditions which (without prejudice to the generality of the foregoing) may include conditions—
- (a) requiring the undertakers to make payments to the waterways board for the discharge of water in accordance with the said section 23 including payments in respect of the employment of persons in connection with such discharges and the cost to the waterways board of pumping water so discharged;
  - (b) providing for the charges so payable by the undertakers (other than any charge in respect of the employment of persons, or the provision or alteration of works or facilities for the accommodation and disposal of water) to be determined by reference to the volume of such discharges as recorded by metering devices of a design approved by the waterways board and supplied and maintained by them at the expense of the undertakers;
  - (c) specifying the maximum volume of water which may be discharged in any period;
  - (d) authorising the waterways board to require the undertakers to suspend the discharge of water or reduce the flow thereof where this is necessary by reason of any operational requirement of the waterways board.
- (14) The undertakers shall pay to the waterways board all costs, charges and expenses reasonably incurred by them in respect of the approval by the engineer of plans supplied by the undertakers under paragraph (4) above and the supervision by him of the construction of the specified works:
- (15) If any damage to the canal or other land or property of the waterways board, any stoppage of the canal or any interference with the passage of vessels using the canal shall be caused by the carrying out of works for the construction of the specified works, the undertakers shall make good such damage and pay to the waterways board all reasonable expenses to which they may be put and compensation for any loss which they may sustain by reason of any such damage, stoppage or interference:
- Provided that nothing in this paragraph shall impose any liability on the undertakers with respect to any damage, expenses or loss which is attributable to the act, neglect or default of the waterways board or their servants, contractors or agents:
- (16) Nothing in this Act shall authorise the undertakers to make or maintain any permanent works in or over the canal so as to reduce the width thereof if such reduction in width would impede or prevent the passage of any vessel of a kind (as to its dimensions) for which the waterways board are required by section 105 (1) (b) and (2) of the Transport Act 1968 to maintain the canal:
- (17) (a) The undertakers shall be responsible for and make good to the waterways board all costs, charges, damages and expenses not otherwise provided for in this section which may be occasioned to, or reasonably incurred by, the waterways board—
- (i) by reason of the construction or repair of the specified works or the failure thereof; or
  - (ii) by reason of any act or omission of the undertakers or of any person in their employ or of their contractors or others whilst engaged upon the construction or repair of the specified works;

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- and the undertakers shall indemnify the waterways board from and against all claims and demands arising out of, or in connection with, the construction or repair of the specified works or any such failure, act or omission as aforesaid;
- (b) The fact that any act or thing has been done by the waterways board on behalf of the undertakers or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not (if it was done without neglect or default on the part of the waterways board or of any person in their employ or of their contractors or agents) excuse the undertakers from any liability under this paragraph;
- (c) The waterways board shall give to the undertakers reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the undertakers:
- (18) (a) The undertakers shall not exercise the powers of the sections of this Act mentioned in sub-paragraph (b) below in relation to the towing path forming part of the canal without the consent in writing of the waterways board;
- (b) The sections to which sub-paragraph (a) above applies are—  
     section 10 (Subsidiary works),  
     section 18 (Temporary stoppage of highways);
- (c) The consent of the waterways board under paragraph (a) above shall not be unreasonably withheld but may be given subject to reasonable conditions;
- (d) Where the waterways board own the towing path in respect of which consent is given under sub-paragraph (a) above for the exercise of the powers of the said section 10, they may require the payment of such charges as would have been fair and reasonable if that consent had been given willingly;
- (e) Nothing in this paragraph applies to anything done by the undertakers on the existing viaduct referred to in the description of Work No. 1:
- (19) Any difference arising between the undertakers and the waterways board under this section (other than a difference as to its meaning or construction) shall be determined by arbitration.

### **43 For protection of National Rivers Authority**

For the protection of the rivers authority the following provisions shall, unless otherwise agreed in writing between the undertakers and the rivers authority, have effect:—

- (1) In this section—

“construction” includes execution, placing and altering and, in relation to temporary works, includes removal; and “construct” and “constructed” have corresponding meanings;

“drainage work” means any watercourse and includes any land used for providing flood storage capacity for any watercourse and any bank, wall, embankment or other structure or appliance constructed or used for defence against water;

“the fishery” means fish in the river Leen and the spawn, habitat or food of such fish;

“plans” includes sections, drawings, specifications and method statements and other such particulars;

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- “specified work” means so much of any work or operation authorised by this Act (other than works required in an emergency) as is in, on, under, over or within 16 metres of a drainage work or is otherwise likely to—
- (a) affect any drainage work or the volumetric flow of water in or flowing to or from any drainage work;
  - (b) affect the purity or quality of water in any watercourse;
  - (c) cause obstruction to the free passage of fish in any watercourse; or
  - (d) affect the conservation, distribution or use of water resources; and
- “watercourse” has the meaning given in section 221 of the Water Resources Act 1991;
- (2) In the event that the undertakers commence to construct Work No. 7C or any other specified work the rivers authority may so far as is reasonably necessary for the protection of any drainage work or fishery or water resources or for the prevention of flooding and pollution require the undertakers to construct and complete the whole of that work and any other work required in the approval of that work under paragraph (3) below:
- (3) (a) Before beginning to construct any specified work, the undertakers shall submit to the rivers authority plans of the work and such further particulars available to them as the rivers authority may reasonably require;
- (b) Any such specified work shall not be constructed except in accordance with such plans as may be approved in writing by the rivers authority, or settled in accordance with paragraph (12) below;
- (c) Any approval of the rivers authority required under this paragraph—
- (i) shall not be unreasonably withheld;
  - (ii) shall be deemed to have been given if it is neither given nor refused in writing and with a statement of the grounds for refusal within two months of the submission of plans for approval;
  - (iii) may be given subject to such reasonable requirements as the rivers authority may impose for the protection of any drainage work or the fishery or water resources, for the prevention of flooding and water pollution and in the discharge of its environmental and recreational duties:
- (4) Without prejudice to the generality of paragraph (3) above, the requirements which the rivers authority may impose under that paragraph include—
- (a) requirements as to the levels and alignments within the limits of deviation for Work No. 7C;
  - (b) requirements as to sluices, gauges and other monitoring devices to be constructed as part of or in connection with Work No. 7C;
  - (c) conditions as to the time at which and the manner in which any work is to be carried out;
  - (d) conditions requiring the undertakers at their own expense—
- (i) to provide or maintain means of access for the rivers authority;
  - (ii) to undertake landscaping;
  - (iii) to construct such protective works whether temporary or permanent during the construction of the specified works (including the provision of flood banks, walls or embankments and other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary to safeguard any drainage

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work against damage or to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased by reason of any specified work:

- (5) Any specified work, and all protective works required by the rivers authority under paragraph (3) above, shall be constructed to the reasonable satisfaction of the rivers authority and the rivers authority shall be entitled by its officer to watch and inspect the construction of such works:
- (6) If by reason of the construction of any specified work the efficiency of any drainage work for flood defence purposes is impaired or that work is damaged, such impairment or damage shall be made good by the undertakers to the reasonable satisfaction of the rivers authority and, if the undertakers fail to do so, the rivers authority may make good the same and recover from the undertakers the expense reasonably incurred by it in so doing:
- (7)
  - (a) Without prejudice to the other provisions of this section, the undertakers shall take all such measures as may be reasonably practicable to prevent any interruption in the passage of fish during the construction of any specified work;
  - (b) The undertakers shall be responsible for and make good to the rivers authority all costs, charges, expenses and losses which may be occasioned to, suffered by, or reasonably incurred by the rivers authority in taking action—
    - (i) after notice in writing to the undertakers to protect the fishery against anticipated damage; or
    - (ii) to remedy any damage to that fishery; being damage anticipated or suffered by reason or in consequence of the execution of the authorised works, of the failure or want of repair of the works, or in consequence of any act or omission of the undertakers, their contractors, agents, workmen or servants in connection with those works:
- (8) The undertakers shall indemnify the rivers authority in respect of all costs, charges and expenses which the rivers authority may reasonably incur or have to pay or which it may sustain—
  - (a) in the examination or approval of plans under this section;
  - (b) in the inspection of the construction of the specified works or any protective works required by the rivers authority under this section:
- (9) (a) Without prejudice to the other provisions of this section the undertakers shall indemnify the rivers authority from all claims, demands, proceedings, costs, damages or expenses or loss which may be made or taken against, or recovered from or incurred by, the rivers authority by reason of—
  - (i) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence; or
  - (ii) any damage to the fishery; or
  - (iii) any raising of the water table in land adjoining the works or any sewers, drains and watercourses; or
  - (iv) any flooding or increased flooding of any such lands; or
  - (v) inadequate water quality in any watercourse or other surface waters or in groundwater;



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which is caused by the construction of any of the works or any act or omission of the undertakers, their contractors, agents, workmen or servants whilst engaged upon any such work;

- (b) The rivers authority shall give to the undertakers reasonable notice of any such claim or demand and no settlement or compromise thereof shall be made without the agreement of the undertakers which agreement shall not be unreasonably withheld:
- (10) The fact that any work or thing has been executed or done in accordance with a plan approved or deemed to be approved by the rivers authority, or to its satisfaction, or in accordance with any directions or award of an arbitrator, shall not relieve the undertakers from any liability under the provisions of this section:

Provided that this paragraph shall not apply to the extent that such liability arises from a failure by the rivers authority properly to perform its functions.

- (11) For the purposes of section 109 of the Water Resources Act 1991 (as to structures in, over or under watercourses) as applying to the construction of any authorised work, any consent or approval given or deemed to be given by the rivers authority under this section with respect to such construction shall be deemed also to constitute a consent or approval under that section:
- (12) (a) Unless the parties agree to arbitration any difference arising between the undertakers and the rivers authority under paragraph (3) above shall be settled by the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly on a reference to them by the undertakers or rivers authority after notice by one to the other;
- (b) Subject to sub-paragraph (a) above, any difference arising between the undertakers and the rivers authority under this section (other than a difference as to its meaning or construction) shall be referred to and settled by arbitration.

#### **44 For protection of public sewers**

For the protection of certain sewerage authorities the following provisions shall, unless otherwise agreed in writing between the undertakers and the sewerage authority concerned, have effect:—

- (1) In this section—

“construction” includes placing and altering;

“sewer” means a public sewer within the meaning of the Water Industry Act 1991 and includes a sludge main, disposal main (within the meaning of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such public sewer, main or outfall not being, in any such case, apparatus in respect of which the relations between the undertakers and the sewerage authority are regulated by the provisions of Part III of the Act of 1991;

“sewerage authority” means a sewerage undertaker and any local authority which is a relevant authority for the purposes of section 97 of the Water Industry Act 1991;

“new, altered or substituted works” includes any works required for the protection of any public sewer of the sewerage authority;

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“specified works” means any part of the authorised works which will or may be situated within 15 metres measured in any direction of any sewer vested in a sewerage authority:

- (2) Wherever in this section provision is made with respect to the approval or consent of the sewerage authority such approval shall be in writing, but shall not be unreasonably withheld:
- (3) The undertakers shall not commence the construction of the specified works until they have given to the sewerage authority not less than 56 days' notice in writing of their intention to do so with plans as described in paragraph (9) below (in this section referred to as “the said plans”) for their approval:

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

- (4) The undertakers shall comply with, and conform to, all reasonable orders, directions and regulations of the sewerage authority in the construction of the specified works and shall provide new, altered or substituted works in such manner as the sewerage authority shall reasonably require for the protection of, and for preventing injury or impediment to, or for securing access to, any existing sewer of the sewerage authority by reason of the specified works, and shall indemnify the sewerage authority against all expenses occasioned thereby:
- (5) The specified works and all such new, altered or substituted works—
  - (a) shall be constructed in accordance with such plans as may be approved or deemed to be approved by the sewerage authority as aforesaid or settled by arbitration, subject however to any modification of those plans from time to time agreed upon between the undertakers and the sewerage authority; and
  - (b) shall be constructed to the reasonable satisfaction of the sewerage authority who shall be given reasonable notice of the date and time on and at which any new, altered or substituted works are to be commenced:
- (6) All new, altered or substituted works shall, where so required by the sewerage authority, be constructed by the sewerage authority, or under the direction, superintendence and control of an officer of the sewerage authority duly appointed for the purpose, at the cost of the undertakers and all costs, charges and expenses reasonably incurred by the sewerage authority 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 sewerage authority by the undertakers:
- (7) When any new, altered or substituted works shall be completed by, or at the cost of, the undertakers under the provisions of this section the same shall thereafter be as fully and completely under the direction, jurisdiction and control of the sewerage authority as any sewers or works now or hereafter may be:
- (8) It shall not be lawful for the undertakers without the consent of the sewerage authority, in the exercise of the powers of section 11 (3) of the Act of 1965 as applied by this Act, to make any trial holes which interfere with any sewer:
- (9) The plans to be submitted to the sewerage authority for the purposes of this section shall be detailed plans, drawings, sections and specifications which shall describe the

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exact position and manner in which, and the level at which, the specified works are to be constructed and shall accurately describe the position of all sewers of the sewerage authority within the limits of deviation (for which purpose the sewerage authority shall allow the undertakers access to plans in their possession and to any of their sewers in order to enable the undertakers to obtain reliable information) and shall comprise detailed drawings of every alteration which the undertakers may propose to make in any such sewer:

- (10) The undertakers shall be liable to make good, or, if the sewerage authority so decide, to repay any expense reasonably incurred by the sewerage authority in making good, damage caused by, or resulting from, the construction of the specified works to any sewers, drains or works vested in the sewerage authority whether or not identified at the commencement of the construction of the specified works:
- (11) If the undertakers, in the construction of the specified works or any new, altered or substituted works provided in accordance with this section, damage, or, without the consent of the sewerage authority, alter or in any way interfere with, any existing sewer of the sewerage authority, the undertakers shall—
  - (a) pay to the sewerage authority any additional expense which may be reasonably incurred by the sewerage authority in the maintenance, operation, 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 sewerage authority free and uninterrupted access at all times to any such new, altered or substituted sewer and reasonable facilities for the inspection, maintenance, alteration and repair thereof:
- (12) It shall be lawful for the proper officer of the sewerage authority at any reasonable time, on giving to the undertakers such notice as may in the circumstances be reasonable, to enter upon and inspect the specified works or any other works constructed under the powers of this section:
- (13) The approval by the sewerage authority of any plans, or the superintendence by them of any work, under the provisions of this section shall not exonerate the undertakers from any liability, or affect any claim for damages, under this section or otherwise:
- (14) As soon as reasonably practicable after the completion of the construction of a specified work the undertakers shall deliver to the sewerage authority a plan and section showing the position and level of that work as constructed and all new, altered or substituted works of the sewerage authority provided under this section:
- (15) If by reason or in consequence of the construction or failure of any of the LRT system or any subsidence resulting from the LRT system any damage shall be caused to any sewer or property of the sewerage authority (other than a sewer the repair of which is not reasonably necessary in view of its intended removal), the undertakers shall repay the cost reasonably incurred by the sewerage authority in making good such damage and shall—
  - (a) make reasonable compensation to the sewerage authority for any loss sustained by them; and
  - (b) indemnify the sewerage authority against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from, or incurred by, the sewerage authority; by reason or in consequence of any such damage:

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- (i) nothing in this paragraph shall impose any liability on the undertakers with respect to any damage to the extent that such damage is attributable to the act, neglect or default of the sewerage authority, their officers, servants, contractors or agents; and
  - (ii) the sewerage authority shall give to the undertakers reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the consent of the undertakers:
- (16) Notwithstanding the temporary stopping up or diversion of any highway under the powers of section 18 (Temporary stoppage of highways) of this Act, the sewerage authority shall be at liberty at all times to construct and do all such works and things in, upon or under any such highway as may be reasonably necessary to enable them to inspect, repair, maintain, renew, alter, protect, remove or use any sewer which at the time of the stopping up or diversion was in that highway:
- (17) Where, in consequence of this Act, any part of any street, bridleway or footpath in which any sewer is situate ceases to be part of the street, bridleway or footpath, the sewerage authority may exercise the same rights of access to such sewer as they enjoyed immediately before the passing of this Act, but nothing in this paragraph shall prejudice or affect any right of the undertakers or of the sewerage authority to require alteration of such sewer under this section:
- (18) The undertakers shall, so far as is reasonably practicable, so exercise the powers conferred by section 22 (Underpinning of houses near works) of this Act as not to obstruct or render less convenient the access to any sewer:
- (19) Any difference arising between the undertakers and the sewerage authority under this section (other than a difference as to its meaning or construction) shall be determined by arbitration.

#### **45 For protection of certain statutory undertakers**

For the protection of certain statutory undertakers the following provisions shall, unless otherwise agreed in writing between the undertakers and the undertakers concerned, apply and have effect:—

- (1) In this section, unless the context otherwise requires—
- “the company” means any of the following, namely a licence holder within the meaning of Part I of the Electricity Act 1989, a public gas supplier within the meaning of Part I of the Gas Act 1986 or a water undertaker;
  - “adequate alternative apparatus” means alternative apparatus adequate to enable the company to fulfil their statutory functions in a manner not less efficient than previously;
  - “apparatus” means—
    - (a) electric lines and works (as defined in Part I of the Electricity Act 1989) belonging to, or maintained by, a licence holder under that Part; or
    - (b) mains, pipes or other apparatus belonging to, or maintained by, a public gas supplier within the meaning of Part I of the Gas Act 1986; or
    - (c) mains, pipes or other apparatus belonging to, or maintained by, a water undertaker for the purposes of water supply;
- (not being apparatus in respect of which the relations between the undertakers and the company are regulated by the provisions of Part III of the Act of 1991), and includes any structure for the lodging therein of apparatus;

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“construction” includes placing and altering;

“in” in a context referring to apparatus includes under, over, across, along or upon:

- (2) Notwithstanding anything in this Act or shown on the deposited plans the undertakers shall not acquire any apparatus under this Act otherwise than by agreement:
- (3) If the undertakers 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, nor shall any right of the company to use, maintain, repair, renew or inspect any apparatus in those lands be extinguished, until any necessary adequate alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the company:
- (4)
  - (a) If the undertakers, for the purpose of constructing any of the authorised works in, on or under any lands (including lands forming part of any street) acquired, held or used under this Act, require the removal of any apparatus placed in those lands, and give to the company not less than 56 days' 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 company shall reasonably require to remove any apparatus, the undertakers shall, if it is practicable to do so, afford to the company the necessary facilities and rights for the construction of any necessary adequate alternative apparatus in other lands of the undertakers and thereafter for the maintenance, repair, renewal and inspection of such apparatus;
  - (b) If the alternative apparatus, or any part thereof, is to be constructed elsewhere than in other lands of the undertakers, the company shall, on receipt of a written notice to that effect from the undertakers, as soon as reasonably practicable exercise their powers to lay alternative apparatus:
- (5)
  - (a) Subject, in the case of any alternative apparatus to be laid in a road, to any requirements imposed under Part III of the Act of 1991 any alternative apparatus to be constructed in pursuance of paragraph (4) above shall be constructed in such manner, and in such line or situation, as may be agreed between the company and the undertakers or, in default of agreement, determined by arbitration;
  - (b) The company shall, after the manner of construction and the line and situation of any necessary alternative apparatus have been agreed or determined as aforesaid, proceed with all reasonable dispatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the undertakers to be removed under the provisions of this section:
- (6) Notwithstanding anything in paragraph (5) above, if the undertakers give notice in writing to the company that they desire to carry out 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, such work, instead of being carried out by the company, shall be carried out by the undertakers with all reasonable dispatch under the superintendence (if given) and to the reasonable satisfaction of the company:
- (7) Nothing in paragraph (6) above shall authorise the undertakers to carry out the actual placing, erection, installation, bedding, packing, removal, connection or disconnection

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of any apparatus or execute any filling around the apparatus (where the apparatus is laid in a trench, tunnel, heading or boring) within 600 millimetres (measured in any direction) of the apparatus:

- (8) Where, in accordance with the provisions of this section, the undertakers afford to the company facilities and rights for the construction, maintenance, repair, renewal and inspection in lands of the undertakers 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 undertakers and the company or, in default of agreement, determined by arbitration:
- (9) In determining such terms and conditions as mentioned in paragraph (8) above in respect of alternative apparatus to be constructed across or along the authorised works the arbitrator shall—
  - (a) give effect to all reasonable requirements of the undertakers for ensuring the safety and efficient operation of the authorised works and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any such works; and
  - (b) so far as it may be reasonable and practicable to do so in the circumstances of the case, give effect to any terms and conditions applicable to the apparatus (if any) constructed across or along the authorised works for which the alternative apparatus is to be substituted:
- (10) If the facilities and rights to be afforded by the undertakers in respect of any alternative apparatus under paragraph (8) above and the terms and conditions subject to which the same are to be granted are, in the opinion of the arbitrator, more or less favourable on the whole to the company than the facilities, rights, terms and conditions applying to the apparatus to be removed, the arbitrator shall make such provision for the payment of compensation to or by the undertakers by or to the company in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the case:
- (11)
  - (a) Not less than 56 days before commencing to construct any of the authorised works which are near to, or will or may affect, any apparatus the removal of which has not been required by the undertakers under paragraph (4) above, the undertakers shall submit to the company a plan, section and description of the works to be constructed;
  - (b) Such works shall be constructed 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 company for the alteration or otherwise for the protection of the apparatus, or for securing access thereto, and the company shall be entitled by their officer to watch and inspect the construction of such works:
- (12) If the company within 42 days after the submission to them of any plan, section and description under paragraph (11) above shall, in consequence of the works proposed by the undertakers, reasonably require the removal of any apparatus and give written notice to the undertakers of such requirement, the foregoing provisions of this section shall have effect as if the removal of such apparatus had been required by the undertakers under paragraph (4) above:
- (13) Nothing in paragraph (11) or (12) above shall preclude the undertakers from submitting at any time, or from time to time, but in no case less than 28 days before commencing the construction of any such works, a new plan, section and description thereof in lieu of the plan, section and description previously submitted, and thereupon

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the provisions of those paragraphs shall apply to, and in respect of, such new plan, section and description:

- (14) The undertakers shall not be required to comply with paragraph (11) (a) above in a case of emergency but, in such a case, they shall give to the company notice so soon as reasonably practicable, and a plan, section and description of the works so soon as reasonably practicable thereafter, and shall comply with paragraph (11) (b) above so far as reasonably practicable in the circumstances:
- (15) If in consequence of the exercise of the powers of this Act the access to any apparatus is materially obstructed the undertakers shall provide alternative means of access to such apparatus:
- (16) The following provisions of this paragraph shall have effect for the provision by the undertakers, in the construction of the railways authorised by this Act, of accommodation or other facilities for the laying of apparatus under the railways:—
  - (a) Not less than 6 months before the undertakers commence the construction of any of the railways in any highway they shall give notice thereof in writing to each of the companies;
  - (b) If, within 56 days from the service on them of notice of the intended construction of any works under paragraph (a) above, the company give to the undertakers notice in writing that they desire such accommodation or other facilities to be provided, and such information as the undertakers may require to enable them to determine the extent and description of the accommodation or facilities to be provided and the means of access to apparatus laid therein, the undertakers shall, so far as it is reasonably practicable to do so, provide in the construction of the railway such accommodation or facilities for the laying of apparatus under the railway as may be agreed between them and the company, or in default of agreement, determined by arbitration;
  - (c) Subject to the provisions of this section, the company shall be entitled to use accommodation or other facilities and the means of access thereto provided by the undertakers for the laying and installing therein of the apparatus for which they were provided and for the purpose of inspecting, repairing, removing or renewing that apparatus;
  - (d) Except in case of emergency when they shall give such notice as they can in the circumstances, the company shall give the undertakers not less than 42 days' notice of their intention to lay and install or to repair, remove or renew apparatus in any such accommodation or facilities;
  - (e) In laying and installing apparatus in accommodation or other facilities provided by the undertakers the company shall conform with the reasonable requirements of the undertakers as to the times at which, and the manner in which, such company's works affecting the railways shall be carried out, and the undertakers shall be entitled to superintend the carrying out of such works;
  - (f) The company shall maintain in good repair and to the reasonable satisfaction of the undertakers any apparatus laid and installed in accommodation or facilities provided by the undertakers and shall take such precautions as the undertakers reasonably require to be taken for ensuring the safety of the railway and the traffic thereon;
  - (g) The accommodation or facilities provided by the undertakers shall be maintained by the undertakers to the reasonable satisfaction of the company;
  - (h) Except in case of emergency when they shall give such notice as they can, the undertakers shall give to the company not less than 42 days' notice in writing

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of their intention to carry out any works affecting any such accommodation or facilities and, in carrying out the same, shall take such measures as the company may reasonably require for the protection of, or for preventing interference with, their apparatus laid or installed therein:

- (17) (a) The undertakers shall repay the reasonable expenses incurred by the company in, or in connection with—
- (i) the removal and re-laying or replacing, alteration or protection of any apparatus or the provision and construction of any new apparatus under any of the provisions of this section; and
  - (ii) the cutting off of any apparatus from any other apparatus;
- (b) Subsections (3) and (4) of section 23 of the Public Utilities Street Works Act 1950 shall, so far as material, apply to any payment to be made by the undertakers under sub-paragraph (a) above as if the works there mentioned were such undertakers' works as are referred to in the said subsection (3), and as if in that subsection for the words “specified as so necessary in a specification of the works settled under Part I of the Fourth Schedule to this Act or agreed so to be by the promoting authority” there were substituted the words “agreed or settled by arbitration under section 45 (For protection of certain statutory undertakers) of the Greater Nottingham Light Rapid Transit Act 1994”:
- (18) (a) If, by reason or in consequence of the construction or failure of any of the authorised works or any subsidence resulting from any of those works, any damage shall be caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal) or property of the company, or any interruption shall be caused in the supply of electricity, gas or, as the case may be, water by the company, the undertakers shall repay the cost reasonably incurred by the company in making good such damage, or restoring the supply, and shall—
- (i) make reasonable compensation to the company for any loss sustained by them; and
  - (ii) indemnify the company against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from, or incurred by, the company;
- by reason or in consequence of any such damage or interruption;
- (b) Nothing in sub-paragraph (a) above shall impose any liability on the undertakers with respect to any damage or interruption to the extent that such damage or interruption is attributable to the neglect or default of the company, their officers, servants, contractors or other agents;
- (c) The company shall give to the undertakers reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the consent of the undertakers:
- (19) Where, in consequence of this Act, any part of any street, bridleway or footpath in which any apparatus is situate ceases to be part of the street, bridleway or footpath, the company 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 undertakers or of the company to require removal of such apparatus under this section or the power of the undertakers to construct works in accordance with paragraph (11) above:



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- (20) Notwithstanding the temporary stopping-up or diversion of any highway under the powers of section 18 (Temporary stoppage of highways) of this Act, the company shall be at liberty at all times to carry out and do all such works and things in, upon or under any such highway as may be reasonably necessary to enable them to inspect, repair, maintain, renew, remove or use any apparatus which at the time of the stopping-up or diversion was in that highway:
- (21) The undertakers shall, so far as is reasonably practicable, so exercise the powers conferred by section 22 (Underpinning of houses near works) of this Act as not to obstruct or render less convenient the access to any apparatus:
- (22) (a) Any difference arising between the undertakers and the company under this section (other than a difference as to its meaning or construction) shall be determined by arbitration;
- (b) In determining any difference under this section the arbitrator may, if he thinks fit, require the undertakers to construct any temporary or other works so as to avoid, so far as may be reasonably possible, interference with the use of any apparatus.

#### **46 For protection of tele- communications operators**

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

- (1) In this section expressions defined in the Telecommunications Act 1984 have the same meanings as in that Act.
- (2) The temporary stopping-up or diversion of any highway under section 18 (Temporary stoppage of highways) of this Act shall not affect any right of a telecommunications operator under paragraph 9 of the telecommunications code to inspect, maintain, adjust, repair or alter any apparatus which, at the time of the stopping-up or diversion, is in that highway.

#### **47 Crown rights**

- (1) Nothing in this Act affects prejudicially any estate, right, power, privilege or exemption of the Crown and, without prejudice to the generality of the foregoing, nothing in this Act authorises the undertakers to take, use or in any manner interfere with any land or hereditaments or any rights of whatsoever description—
- (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 Her Majesty in right of Her Crown and under the management (pursuant to any statute or otherwise) of the Secretary of State, without his consent in writing; or
- (c) 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 may be considered necessary or appropriate.

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- (3) Nothing in this section shall prejudice or affect the exercise of statutory powers to carry out works in or affecting any highway vested in or maintained by the Secretary of State in relation to which the provisions of section 39 (As to highways, traffic, etc.) of this Act apply.

## PART V

### PENALTY FARES

#### 48 Interpretation for Part V

- (1) In this Part of this Act, unless the context otherwise requires—
- “authorised person” means, in relation to any purpose, a person authorised for that purpose by the undertakers;
  - “fare ticket” means a ticket authorising the person in respect of whom it is issued to travel on the LRT system;
  - “general travel authority” means any permit, other than a fare ticket, authorising the person in respect of whom it is issued to travel on the LRT system;
  - “LRT stop” means a station or other regular stopping place on the LRT system at which passengers may get on or off tramcars;
  - “penalty fare” means a penalty fare payable pursuant to section 50 of this Act;
  - “the penalty fare provisions” means sections 50 to 54 of this Act.
- (2) Any reference in this Part to a person producing a fare ticket or general travel authority on being required to do so by an authorised person is a reference to producing, when so required, a fare ticket or general travel authority which, either by itself or together with any other document produced by that person at the same time, is valid for the journey he has made.
- (3) For the purposes of subsection (2) above, a person who is on a tramcar shall be taken to have made a journey ending at the next scheduled LRT stop.

#### 49 Operation of Part

- (1) The penalty fare provisions have effect in relation to travel on any tramcar if an order under subsection (2) below is for the time being in force.
- (2) The Secretary of State may by order (referred to in subsections (3) to (5) below as an “activating order”) provide that the penalty fare provisions shall have effect as from such day as may be specified in the order.
- (3) The revocation by the Secretary of State of an activating order shall be without prejudice to the power of the Secretary of State to make further activating orders.
- (4) Any activating order, and any order revoking an activating order, may contain such supplementary, incidental and consequential provisions (including transitional provisions) as may appear to the Secretary of State to be necessary or expedient.
- (5) No activating order may be made except at the request of the undertakers.

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## **50 Penalty fares**

- (1) If a person travelling on a tramcar, on being required to do so by an authorised person, fails to produce a fare ticket or a general travel authority, he shall be liable to pay a penalty fare if required to do so by an authorised person.
- (2) (a) A person shall not be liable to pay a penalty fare if at the LRT stop where, and the time when, he boarded the tramcar—
  - (i) in the case of a person falling within paragraph (b) below, there were no facilities for making the required imprint on fare tickets; or
  - (ii) in the case of any other person, there were no facilities for the sale of the necessary fare ticket for his journey.
- (b) A person falls within this paragraph if (pursuant to a requirement under subsection (1) above) he produces a fare ticket which is invalid only by reason of its not bearing the required imprint.
- (3) Subsections (4) and (5) below have effect with respect to the burden of proof in any action for the recovery of a penalty fare under this section so far as concerns the question whether the facts of the case fall within subsection (2) above.
- (4) In any case where the defendant has provided the plaintiff with a relevant statement in due time it shall be for the plaintiff to show that the facts of the case do not fall within subsection (2) above, and in any other case it shall be for the defendant to show that the facts of the case fall within that provision.
- (5) For the purposes of subsection (4) above—
  - (a) a relevant statement is a statement giving an explanation of the defendant’s failure to produce a fare ticket or general travel authority, together with any information as to his journey relevant to that explanation (including, in every case, an indication of the LRT stop where he boarded the tramcar); and
  - (b) a statement is provided in due time if it is provided when the defendant is required to produce a fare ticket or general travel authority, or at any later time before the expiration of the period of 21 days beginning with the day following the day on which the journey is completed.
- (6) In this section “the required imprint” means an imprint signifying a date, time and stop (being the date and time when, and the LRT stop where, the imprint is made).

## **51 Amount of penalty fare**

- (1) Subject to subsection (2) below, a penalty fare shall be £10 and shall be payable to the undertakers before the expiration of the period of 21 days beginning with the day following the day on which the journey in respect of which it is payable is completed.
- (2) The Secretary of State may by order prescribe that the amount of the penalty fare shall be different (whether higher or lower), and any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **52 Document to be issued in connection with penalty fare requirement**

- (1) An authorised person who requires a person (referred to below as “the passenger”) to pay a penalty fare shall give him either a receipt for the payment of the amount of the penalty (where the passenger makes that payment to the authorised person) or a notice stating that the requirement has been made.

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- (2) A receipt or notice given under subsection (1) above shall specify the passenger's destination on the tramcar on which he is travelling when required to pay the penalty fare, and shall operate as an authority to him to complete his journey to that destination.
- (3) For the purposes of subsection (2) above, the passenger's destination shall (unless only one destination is possible in the circumstances) be taken to be the destination stated by the passenger or, in default of any statement by him for that purpose, such destination as may be specified by the authorised person.

### **53 Notice of penalty fare provisions**

- (1) It shall be the duty of the undertakers to secure that a warning notice meeting the requirements of subsection (2) below shall be posted—
  - (a) at every LRT stop, in such a position as to be readily visible to prospective passengers; and
  - (b) in every tramcar for travel on which the penalty provisions have effect, in such a position as to be readily visible to passengers travelling on that tramcar.
- (2) A warning notice posted pursuant to subsection (1) above shall (however expressed) indicate the circumstances (as provided in section 50 of this Act) in which persons travelling on a tramcar may be liable to pay a penalty fare and state the amount of the penalty fare.

### **54 Supplementary provisions**

- (1) A person who is required to pay a penalty fare shall, unless he pays, immediately and in cash, the amount of the penalty fare to an authorised person requiring such payment, give to that authorised person, if that person requires him to do so, his name and address; and any person failing to do so shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (2) Where an authorised person requires any person to do anything pursuant to any provision of this Part of this Act he shall, if so requested by the person concerned, produce to that person a duly authenticated document showing his authority; and a requirement by an authorised person shall be of no effect if, as respects that requirement, he fails to comply with this subsection.

### **55 Exclusion of double liability**

- (1) Where a person has become liable to pay a penalty fare in respect of any journey (referred to below as "the relevant journey"), no proceedings may be brought against him for any of the offences specified in subsection (2) below before the end of the period mentioned in section 51 (1) of this Act; and no such proceedings may be brought after the end of that period if—
  - (a) he has paid the penalty fare to the undertakers before the end of that period; or
  - (b) an action has been brought against him for the recovery of that fare.
- (2) The offences mentioned in subsection (1) above are—
  - (a) any offence under byelaws made under section 62 below involving a failure to obtain or produce a fare ticket or general travel authority for the relevant journey;

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- (b) any offence under section 25 (3) of the Public Passenger Vehicles Act 1981 of contravening or failing to comply with any provision of regulations for the time being having effect by virtue of that section and section 63 (Tramcars on LRT system deemed public service vehicles) of this Act by failing to pay the fare properly payable for the relevant journey or any part of it; and
  - (c) any offence under section 5 (3) (a) or (b) of the Regulation of Railways Act 1889 (travelling without paying the correct fare with intent to avoid payment) arising from the relevant journey.
- (3) If proceedings are brought against any such person for any such offence he shall cease to be liable to pay the penalty fare and, if he has paid it, the undertakers shall be liable to repay to him an amount equal to the amount of that fare.

## 56 Orders under this Part

Any power to make an order conferred on the Secretary of State by this Part shall be exercisable by statutory instrument.

## PART VI

### MISCELLANEOUS AND GENERAL

#### *noise insulation*

## 57 Insulation against noise

- (1) The undertakers shall make a scheme providing for the making of grants towards the cost of insulating buildings, or such classes of buildings as the undertakers may think fit, or any parts of any such buildings, against noise caused, or expected to be caused, by the use of the LRT system.
- (2) (a) A scheme under subsection (1) above shall in particular require the undertakers to make grants towards the cost of insulating any habitable room comprised in a residential building if noise caused by the use of the LRT system and audible within that room habitually exceeds either of the levels specified in column (2) of the following table between the hours specified in relation to that level in column (1) of the table; but nothing in this paragraph shall preclude the undertakers from including in a scheme under subsection (1) above provisions authorising them to make grants at their discretion towards any other cost falling within that subsection.

TABLE

Hours (1)	Noise level (dB(A) – LAeq) (2)
Between 0700 hours and 2300 hours on any day	68
Between 2300 hours on any day and 0700 hours on the following day	63

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- (b) In this subsection “habitable room” means a room which could reasonably be lived in or slept in and includes a living room, a dining room, a kitchen and a bedroom, but excludes a bathroom, a water-closet, a staircase, corridor or landing, a cloakroom, a utility room and an outhouse.
  - (c) The following provisions of this section are without prejudice to this subsection and in particular, but without prejudice to the generality of the foregoing, an application for a grant for which provision is made by this subsection shall not be invalid by reason of the fact that it is not made on the date specified in accordance with subsection (4) (d) below if it is made during a period beginning with the opening to the public of the part of the LRT system to which the application relates and ending five years thereafter.
- (3) The undertakers may make grants in accordance with a scheme made under subsection (1) above.
- (4) A scheme under subsection (1) above—
- (a) shall specify the areas in respect of which grants are payable;
  - (b) shall make provision as to the persons to whom, the expenditure in respect of which, and the rate at which the grants are to be paid;
  - (c) may make the payment of any grant dependent upon compliance with such conditions as may be specified in the scheme;
  - (d) shall specify a date, not less than two years after first publication of the notice referred to in subsection (6) below, for the submission of a valid application for a grant; and
  - (e) shall require the undertakers, in any case where application for a grant is refused, to give to the applicant at his request a written statement of their reasons for the refusal.
- (5) A scheme under subsection (1) above may make different provisions with respect to different areas or different circumstances and may be varied or revoked by a subsequent scheme under subsection (1) above without affecting grants already made.
- (6) (a) As soon as may be after the making of a scheme under this section the undertakers shall publish, once at least in each of two successive weeks in one or more newspapers circulating in the areas to which the scheme relates, a notice stating the general effect of the scheme and specifying a place or places in each such area where a copy of the scheme may be inspected by any person free of charge at all reasonable hours.
- (b) A photostatic or other reproduction certified by the secretary of the undertakers or some other person authorised by the undertakers for that purpose to be a true reproduction of a page, or part of a page, of any newspaper bearing the date of its publication and containing a notice mentioned in this subsection shall be evidence of the publication of the notice and of the date of publication.

## **58 Orders for insulating new buildings**

- (1) Where the undertakers have made a scheme under section 57 (Insulation against noise) of this Act in respect of any area or areas, they may apply to the Secretary of State for an order requiring provision for insulation against noise to be made in any building of a class to which the scheme applies which is erected after a date specified in the order, or in any extension of, or alteration to, any building of such class made after that date.

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- (2) The order shall define by reference to a map the areas to which it applies, which may comprise the whole or part of any areas to which the scheme relates.
- (3) Application for an order under this section shall be accompanied by a draft of the order and a map defining the areas to which it relates.
- (4) Before making application for an order under this section the undertakers shall publish, once at least in each of two successive weeks in one or more newspapers circulating in the areas to which the draft order applies, a notice—
  - (a) stating the general effect of the intended order;
  - (b) specifying a place in the said areas where a copy of the draft order and of the relevant map may be inspected by any person free of charge at all reasonable hours during a period of 28 days from the date of the first publication of the notice;
  - (c) stating that within that period any person may, by notice to the Secretary of State, object to the application.
- (5) Any person claiming to be affected by the application may object to it by sending notice of his objection stating the grounds of objection to the Secretary of State within the period specified in the notice and a copy of the notice of objection to the undertakers.
- (6) The Secretary of State may make the order in the terms of the draft or in those terms as modified in such manner as he thinks fit:

Provided that, if any objection is duly made by any person appearing to the Secretary of State to be affected by the application and is not withdrawn, the Secretary of State shall not make the order unless he has caused a public local inquiry to be held into the proposed order and has considered the report of the person who held the inquiry.
- (7) If the Secretary of State makes an order under this section the undertakers shall publish notice of the making, and of the effect of the order, in one or more newspapers circulating in the areas to which the order relates.
- (8) An order under this section shall be a local land charge.
- (9) Where—
  - (a) plans are in accordance with building regulations deposited with a local authority; or
  - (b) an initial notice is given to a local authority under section 47 of the Building Act 1984;for the erection, extension or alteration of a building in an area to which an order under this section relates, the local authority shall, notwithstanding anything in section 16 or 47 of the said Act, reject the plans or, as the case may be, the notice unless it is shown to them—
  - (i) that satisfactory provision will be made for insulating the building (or, as the case may be, the extension or alteration of the building) against noise; or
  - (ii) that in the case of an extension or alteration no such insulation is necessary.
- (10) Section 16 (6) to (8) and section 36 (2) to (6) and section 48 (2) of the Building Act 1984 (notice of rejection or passing of plans, enforcement of requirements and effect of initial notice) shall have effect as if this section were a section of that Act and specified in section 48 (3) of that Act.

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- (11) The Secretary of State may cause such local inquiries to be held as he may consider necessary for the purpose of any of his functions under this section, and section 250 (2) to (5) of the Local Government Act 1972 shall apply to any such inquiry.

## **59 Repeal of sections 57 and 58**

- (1) If it appears to the Secretary of State that, as a result of the passing of any enactment after the date of this Act, it is appropriate that sections 57 (Insulation against noise) and 58 (Orders for insulating new buildings) of this Act should be repealed, he may make an order repealing those sections.
- (2) An order under this section may contain such transitional, consequential and saving provisions as may be appropriate.
- (3) Subsection (11) of section 58 (Orders for insulating new buildings) of this Act shall apply to the functions of the Secretary of State under this section as it applies to his functions under that section.
- (4) An order under this section shall be made by statutory instrument and shall not be made except on application by the undertakers.

### *Prevention of obstacles*

## **60 Removal of obstructions**

- (1) If any obstruction to traffic on the LRT system is caused by—
- (a) a vehicle on any tramway or at any level crossing waiting, loading, unloading or breaking down; or
  - (b) a load falling on any tramway or at any level crossing from a vehicle; the person in charge of the vehicle shall forthwith remove the vehicle or the load so as to prevent the continuance of the obstruction and, if he fails to do so, the undertakers may remove the vehicle or load, taking all necessary steps for that purpose, and may recover from the person responsible the expenses reasonably incurred in doing so.
- (2) In subsection (1) above “person responsible” means—
- (a) in the case of a vehicle waiting, loading, unloading or breaking down—
    - (i) the owner of the vehicle at the time at which it became an obstruction to traffic on the LRT system unless he shows that he was not concerned in, or aware of, the vehicle being put or left in that place at that time; and
    - (ii) the person by whom the vehicle was put or left in the place in which it became an obstruction to traffic on the LRT system; and
  - (b) in the case of a load falling from a vehicle—
    - (i) the owner of the vehicle at the time of that event unless he shows that he was not concerned in, or aware of, the vehicle being put or left, or as the case may be, being in the place at which the load fell from it; and
    - (ii) the person in charge of the vehicle at the time when the load fell from it.



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## **61 Power to lop trees overhanging railway**

- (1) The undertakers may cut and lop any trees in or near any railway forming part of the LRT system which may in any way interfere with the construction or working of the railway or cables, wires or other apparatus, or with the clear and safe passage of tramcars and their passengers.
- (2) In exercising the powers of this section the undertakers shall do no unnecessary damage to trees and shall pay compensation to any person who may sustain damage by reason of the exercise of the powers.
- (3) Every case of compensation under subsection (2) above shall be ascertained in accordance with Part I of the Land Compensation Act 1961.

### *Public order*

## **62 Byelaws relating to LRT system**

- (1) The undertakers may make byelaws regulating the use of and, working of, and travel on, the LRT system, the maintenance of order on the LRT system and on the undertakers' premises or other facilities provided in connection with the LRT system and the conduct of all persons including officers and servants of the undertakers while on those premises.
- (2) Without prejudice to the generality of subsection (1) above, byelaws under this section may contain provisions—
  - (a) with respect to tickets issued for travel on the LRT system, the payment of fares and charges and the evasion of payment of fares and charges;
  - (b) with respect to interference with, or obstruction of, the working of the LRT system or other facilities provided in connection with the LRT system;
  - (c) for prohibiting or regulating the carriage of dangerous goods on the LRT system;
  - (d) regulating the use of vehicles (other than tramcars) on any road along which a tramway is laid;
  - (e) with respect to the use of tobacco or other substances and the prevention of nuisances;
  - (f) for regulating the passage of bicycles and other vehicles on ways and other places intended for the use of persons on foot within railway premises of the undertakers, not being premises within the boundary of any street;
  - (g) for the safe custody and re-delivery or disposal of property found in premises of the undertakers forming part of, or provided in connection with, the LRT system, or elsewhere on the LRT system and for fixing the charges which may be made in respect thereof; and
  - (h) for prohibiting or restricting the placing or leaving of any vehicle without its driver on any authorised railway, or in premises of the undertakers forming part of the LRT system.
- (3) Byelaws made under this section may provide that any person contravening them shall be liable on summary conviction to a fine not exceeding for each offence level 3 on the standard scale.
- (4) Without prejudice to the taking of proceedings under subsection (3) above, if the contravention of any byelaw having effect under this section is attended with danger

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or annoyance to the public, or hindrance to the undertakers in the conduct of the LRT system, it shall be lawful for the undertakers summarily to take action to obviate or remove the danger, annoyance or hindrance.

- (5) In subsection (4) above the reference to action to obviate or remove danger, annoyance or hindrance includes, in the case of a vehicle parked in any part of any premises provided in connection with the LRT system which is not a public highway, in contravention of any byelaw having effect under this section, action to fix to the vehicle a device or appliance for the purpose of preventing it from being driven or put in motion, together with a notice specifying the steps to be taken to secure the release of the vehicle from the device or appliance.
- (6) Subsections (5) to (11) of section 67 of the Transport Act 1962 (confirmation of byelaws) shall apply to any byelaws made by the undertakers under this section as if for references to the board, or to the board in question, there were substituted references to the undertakers.

### **63 Tramcars on LRT system deemed public service vehicles**

- (1) On such day as may be appointed under subsection (2) below, regulations made, or having effect as if made, under sections 24, 25, 26 or 60 (1) (j) or (k) of the Public Passenger Vehicles Act 1981 shall have effect as if the tramcars used on the LRT system were public service vehicles used in the provision of a local service within the meaning of the Transport Act 1985.
- (2) (a) The undertakers may by resolution appoint a day for the purpose of any regulation mentioned in subsection (1) above, the day so appointed being fixed in accordance with paragraph (b) below.
- (b) The undertakers shall publish in a newspaper circulating in their area, notice—
- (i) of the passing of any such resolution and of the day fixed thereby; and
  - (ii) of the general effect of the enactments for the purposes of which the day has been fixed;
- and the day so fixed shall not be earlier than the expiration of 28 days from the date of the publication of the notice.
- (c) A photostatic or other reproduction certified by the secretary of the undertakers to be a true reproduction of a page, or part of a page, of any newspaper bearing the date of its publication and containing the notice mentioned in paragraph (b) above shall be evidence of the publication of the notice and of the date of publication.

### **64 Intentional obstruction of works or operation of tramways**

- (1) Any person who, without reasonable excuse, intentionally obstructs another person in the laying out, construction, repair or renewal of any authorised work shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (2) Any person who, without reasonable excuse, intentionally—
- (a) removes or alters any part of a tramway;
  - (b) operates, moves, or tampers with, any mechanical or electrical apparatus forming part of a tramway; or

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(c) places any obstruction on any part of a tramway or otherwise obstructs a tramcar on any tramway;  
shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## 65 For better prevention of trespass on railways

- (1) Any person who trespasses upon any railway lines or sidings or in any tunnel or upon any viaduct, bridge embankment, cutting or similar work forming part of any railway of the LRT system which is not designated as a tramway and which is sufficiently fenced to deter trespass, or upon any other lands of the undertakers in dangerous proximity to any such lines or other works or to any electrical apparatus used for or in connection with the working of any such railway, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) No person shall be convicted of an offence under this section unless it shall be proved to the satisfaction of the court before which complaint is laid that public warning has been given to persons not to trespass upon the railways of the LRT system by notice clearly exhibited and maintained at the station on the LRT system nearest to the place where the offence is alleged to have been committed.

## 66 Modification of railway regulation enactments

- (1) In their application to the undertakers and the LRT system the enactments specified in column (1) of the following table (which create the offences broadly described in column (2) of the table) shall each have effect as if the maximum fine which may be imposed on summary conviction of any offence specified in the enactment were, instead of that specified in column (3) of the table, a fine not exceeding the level specified in column (4) of the table.

THE TABLE

Enactment	Description of offence	Maximum fine otherwise applicable (level on standard scale)	Maximum fine (level on standard scale)
(1)	(2)	(3)	(4)
Section 16 of the Railway Regulation Act 1840.	Obstruction of officers of railway company or trespass upon railway.	Level 1.	Level 3.
Section 17 of the Railway Regulation Act 1842.	Misconduct of persons employed on railways.	Level 1.	Level 3.
In section 5 of the Regulation of Railways Act 1889—			

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Enactment	Description of offence	Maximum fine otherwise applicable (level on standard scale)	Maximum fine (level on standard scale)
(1)	(2)	(3)	(4)
Subsection (1)	Failure to produce ticket, to pay fare or to give name and address.	Level 1.	Level 2.
Subsection (2)	Travel with intent to avoid payment of fare.	Level 2.	Level 3.

- (2) In its application to the undertakers and the LRT system subsection (2) of section 5 of the said Act of 1889 (power to arrest passenger who fails to produce ticket and refuses to give his name and address) shall have effect as if in subsection (2) after the word “refuses” there were inserted the words “or fails”.

*Other provisions*

**67 Power to contract for police**

- (1) The undertakers may from time to time make agreements with the chief officer of police and a police authority for the employment by the undertakers of any members of the police establishment of that police authority for police duty within railway premises of the undertakers or elsewhere upon the LRT system or any part of the LRT system.
- (2) Any such agreement may contain such terms and conditions and provide for such payment or consideration as the undertakers may agree with the police authority.
- (3) In this section “police authority” includes—
  - (a) a police authority within the meaning of the Police Act 1964; and
  - (b) the railways board.

**68 Power to operate LRT system and charge**

- (1) The undertakers may operate and use the LRT system for the carriage of passengers and goods.
- (2) The undertakers may demand, take and recover such charges for the use of the LRT system and any services and facilities provided in connection therewith, and may make such use subject to such terms and conditions, as they think fit.

**69 Arrangements with other operators**

- (1) The undertakers may enter into and carry into effect agreements with other persons providing public passenger transport services with regard to the issue of travel cards and the making of through ticketing arrangements.

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- (2) In this section “public passenger transport service” has the meaning given by section 63 (10) (a) of the Transport Act 1985.

## **70 Power to form companies, etc**

The undertakers may form and promote, or join with any other person in forming and promoting, a company for carrying on any activities which the undertakers have power to carry on under this Act.

## **71 Powers of disposal, agreements for operation, etc**

- (1) The undertakers may, with the consent of the Secretary of State, sell, lease, charge or otherwise dispose of, on such terms and conditions as they think fit, the whole or any part of the LRT system or the right to operate the LRT system under this Act, to any person, including Greater Nottingham Rapid Transit Limited or any company formed under section 70 (Power to form companies, etc.) of this Act.
- (2) Without prejudice to the generality of subsection (1) above, the undertakers may enter into and carry into effect agreements with any person, including Greater Nottingham Rapid Transit Limited or any company formed under section 70 (Power to form companies, etc.) of this Act with respect to any of the following matters, namely, the construction, maintenance, use and operation of the LRT system, or any part or parts of that system, by any such person, and other matters incidental or subsidiary thereto or consequential thereon, and the defraying of, or the making of contributions towards, the cost of the matters aforesaid by the undertakers or any such person.
- (3) Any agreement under subsection (2) above may provide (inter alia) for the exercise of the powers of the undertakers in respect of the LRT system or any part or parts thereof, and for the transfer to any person of the LRT system or any part or parts thereof together with the rights and obligations of the undertakers in relation thereto.
- (4) The exercise of the powers of any enactment by any person in pursuance of any sale, lease, charge or disposal under subsection (1) above, or any agreement under subsection (2) above shall be subject to the same restrictions, liabilities and obligations as would apply under this Act, or under any agreement or undertaking concerning the exercise of the powers of this Act, if those powers were exercised by the undertakers.
- (5) The railways board may enter into and carry into effect agreements with the undertakers under subsection (2) above.

## **72 Application of landlord and tenant law**

- (1) This section applies to any agreement for leasing to any person the whole or any part of the LRT system or the right to operate the same under section 71 (1) of this Act or any agreement entered into by the undertakers with any person for the construction, maintenance, use or operation of the LRT system, or any part of that system under section 71 (2) of this Act, so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person’s use.
- (2) No enactment or rule of law regulating the rights and obligations of landlords and tenants shall prejudice the operation of any agreement to which this section applies.

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- (3) Accordingly no such enactment or rule of law shall apply in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—
- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
  - (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
  - (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

### **73 Substitute road services**

- (1) The undertakers may provide or secure the provision by other persons of services for the carriage of passengers by road (“substitute services”) where the LRT system has been temporarily interrupted, curtailed or discontinued.
- (2) The route, frequency and stopping places of any substitute service need not correspond with the route of the interrupted, curtailed or discontinued service.
- (3) Section 6 of the Transport Act 1985 shall not apply to any substitute services.

### **74 Advisory committee**

- (1) The undertakers shall establish a committee to be known as the Greater Nottingham Light Rapid Transit Advisory Committee (“the advisory committee”) to advise the undertakers as regards the construction and operation of the LRT system.
- (2) Before making appointments to the advisory committee the undertakers shall consult the Rail Users' Consultative Committee for the time being established under section 2 (2) of the Act of 1993 for the area where the LRT system is situated.
- (3) It shall be the duty of the advisory committee to consider representations made to them as regards the construction and operation of the LRT system by members of the public.

### **75 Disapplication of enactment**

Section 21 (For the protection of the Corporation of Nottingham) of the Manchester, Sheffield and Lincolnshire Railway (Extension to London &c.) Act 1893 shall not apply to any of the authorised works.

### **76 Forest Recreation Ground**

- (1) In this section—
  - “the car park” means the interchange car park and associated facilities to be provided pursuant to section 26 of, and Schedule 4 to, this Act on the lands in the City numbered 192 on the deposited plans;
  - “the designated works” means so much of Works Nos. 2E, 3A and 3B as is situated on the relevant land;
  - “the particular purpose” means the provision of the car park; and

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“the relevant land” means so much of the lands in the City numbered 192 on the deposited plans as is not required for Work No. 2J.

- (2) Nothing in this Act shall authorise the undertakers to acquire any part of the relevant land for the particular purpose but the City Council may make the relevant land or any part thereof available to the undertakers for the particular purpose on the terms specified in subsection (3) of this section.
- (3) The terms to which this subsection applies are such terms as the City Council considers appropriate and shall in particular include provisions such as are referred to in Schedule 6 to this Act.
- (4) If at any time after the opening to traffic of the designated works the undertakers cease to operate any part of those works with the intention that that cessation shall be permanent, they shall as soon as reasonably practicable, unless otherwise agreed with the City Council—
  - (a) remove the rails and any other works, equipment and apparatus which have become redundant; and
  - (b) restore, to the reasonable satisfaction of the City Council, the relevant land to as good a condition as that in which it was before the making of the designated works.
- (5) Following the completion of any restoration pursuant to subsection (4) (b) above so much of the relevant land as is so restored shall continue to be held by the City Council as though this Act had not been passed.

## **77 Fencing of railways**

Nothing in this Act or any other enactment shall require the undertakers to fence—

- (a) so much of the authorised railways as is constructed in or adjoining the Forest Recreation Ground; or
- (b) any other portion of the authorised railways which, not being designated as a tramway, adjoins any public open space or other unenclosed land.

## **78 Level crossings at Basford Vernon**

(1) In this section—

“the additional David Lane crossing” means the level crossing authorised to be provided by the undertakers adjoining the existing David Lane crossing pursuant to section 9 of this Act, whereby Work No. 7 will be carried over David Lane, Basford Vernon;

“the board’s new level crossing” means the new level crossing authorised to be provided by the railways board at Basford Vernon pursuant to the relevant section;

“the existing David Lane crossing” means the existing David Lane level crossing as defined in the relevant section;

“the new road” means the new road referred to in the relevant section;

“the northern crossings” means the board’s new level crossing and the undertakers’ new level crossing;

“the relevant section” means section 21 of the British Railways Act 1990;

“the southern crossings” means the additional David Lane crossing and the existing David Lane crossing;

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“the undertakers' new level crossing” means the new level crossing authorised to be provided by the undertakers adjoining the board's new level crossing pursuant to section 9 of this Act, whereby Work No. 7 will be carried over the new road.

- (2) (a) This subsection shall apply if, at the date when the undertakers are ready to carry Work No. 7 over David Lane by the additional David Lane crossing, the board's new level crossing has not been completed and opened for public use.
- (b) If this subsection applies, then, notwithstanding anything in the relevant section, the extinguishment of all rights of way over the existing David Lane crossing pursuant to the relevant section shall not take effect until—
- (i) both the board's new level crossing and the undertakers' new level crossing have been completed and opened for public use; and
- (ii) the County Council determine that the existing David Lane crossing and the additional David Lane crossing shall be closed.
- (c) Upon the extinguishment, as from the completion and opening for public use of the board's new level crossing, of all rights of way over the existing David Lane crossing pursuant to subsection (4) of the relevant section (as that section has effect subject to paragraph (b) above) all rights of way over the additional David Lane crossing shall also be extinguished.
- (3) (a) This subsection shall apply if—
- (i) before the date when the undertakers are ready to carry WorkNo. 7 over David Lane, the board's new level crossing has been completed and opened for public use; and
- (ii) the County Council and the railways board have not entered into an agreement pursuant to subsection (4) below whereby both the northern crossings and the southern crossings shall be kept open for public use.
- (b) If this subsection applies—
- (i) the undertakers shall not be required to provide the additional David Lane crossing; and
- (ii) all rights of way over so much of David Lane as is required for Work No. 7 shall be extinguished as from the completion and opening for public use of the board's new level crossing.
- (4) Notwithstanding anything in the foregoing provision of this section or in the relevant sections the County Council and the railways board may enter into and carry into effect agreements whereby both the northern crossings and the southern crossings shall be kept open for public use.

## **79 Restoration of streets if tramway discontinued**

If the undertakers cease to operate any tramway with the intention that that cessation shall be permanent, they shall as soon as reasonably practicable, unless otherwise agreed with the highway authority—

- (a) remove from the street in which that discontinued tramway is laid, the rails and any other works, equipment and apparatus which have become redundant; and
- (b) restore, to the reasonable satisfaction of the highway authority, the part of the street along which the discontinued tramway was laid, regard being had to the condition of the street before the tramway was laid.



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## **80 Local inquiries**

- (1) Subject to subsection (2) below, subsections (2) to (5) of section 250 of the Local Government Act 1972 (supplementary provisions with respect to local inquiries held in pursuance of that section) shall apply to local inquiries under this Act as they apply to inquiries under that section.
- (2) Subsection (4) of the said section 250 shall apply in accordance with subsection (1) above, in relation to such local inquiries as are held with respect to any order under this Act as if the reference to a local authority in that subsection were a reference to the undertakers.

## **81 Arbitration**

Where under this Act any difference (other than a difference to which the provisions of the Act of 1965 apply) is to be determined by arbitration, then, unless otherwise provided, the 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)—

- (a) in the case of a difference under section 40 (Approval of plans by local authorities, etc.) relating to works in the Forest Recreation Ground, by the President of the Landscape Institute;
- (b) in the case of any other difference arising under the said section 40, by the President of the Royal Town Planning Institute following consultation with the President of the Royal Institute of British Architects;
- (c) in any other case, by the President of the Institution of Civil Engineers.

## **82 Planning permission**

- (1) Subject to subsection (2) below, in its application to development authorised by this Act, the planning permission specified in subsection (3) below 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.
- (2) Subsection (1) above shall not apply to the carrying out of any development consisting of the alteration, maintenance or repair of the authorised works or the substitution of new works therefor.
- (3) The planning permission referred to in subsection (1) above is that granted for development permitted by article 3 of, and Class A in Part 11 of Schedule 2 to, the Town and Country Planning General Development Order 1988 (which permits development authorised by private Act designating specifically both the nature of the development thereby authorised and the land on which it may be carried out).