

British Railways Order Confirmation Act 1976

CHAPTER i

ARRANGEMENT OF SECTIONS

Section

1. Confirmation of Order in schedule.
2. Short title.

SCHEDULE

BRITISH RAILWAYS

PART I

PRELIMINARY

1. Short title.
2. Division of Order into Parts.
3. Interpretation.
4. Incorporation of general Acts.

PART II

WORKS

5. Power to make works.
6. Power to deviate.
7. General provisions as to construction of underground railways.
8. Provisions as to use of electrical power.
9. Power to open surface of highways.
10. Temporary stoppage of highways.
11. Repair of roads and footpaths.
12. Underpinning of houses near works.
13. Use of sewers, etc., for removing water.
14. Agreements with Passenger Transport Executive.

PART III

LANDS

Section

15. Power to acquire lands.
16. Period for compulsory acquisition of lands and servitudes.
17. Correction of errors in deposited plans and book of reference.
18. Power to acquire only subsoil or servitudes in certain cases.
19. Only subsoil or servitudes to be acquired under certain lands.
20. Grant of servitudes by persons under disability.
21. Acquisition of part only of certain properties.
22. Disregard of recent improvements and interests.
23. Power to enter, survey, etc., lands.
24. Further powers of entry.
25. Extinction of private rights of way.
26. As to cellars under streets not referenced.

PART IV

MISCELLANEOUS AND GENERAL

27. As to certain level crossings.
28. Confirmation of agreement with Leven Town Council.
29. As to highways and road traffic, etc.
30. For further protection of local authorities.
31. For protection of sewers of Strathclyde Regional Council.
32. For protection of Greater Glasgow Passenger Transport Executive.
33. For protection of certain statutory undertakers.
34. For protection of Post Office.
35. Crown rights.
36. Saving for Town and Country Planning (Scotland) Act 1972.
37. Arbitration.
38. Costs of Order.

SCHEDULES:

Schedule 1—

Part I.

Part II.

Schedule 2—Lands referred to in subsection (2) of section 15 (Power to acquire lands) of this Order.

Schedule 3—Lands referred to in section 19 (Only subsoil or servitudes to be acquired under certain lands) of this Order.

Schedule 4—Level crossings.

Schedule 5—Scheduled agreement.

ELIZABETH II



1976 CHAPTER i

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to British Railways. [4th March 1976]

WHEREAS the Provisional Order set forth in the schedule hereunto annexed has been made by the Secretary of State under the provisions of the Private Legislation Procedure (Scotland) Act 1936, and it is requisite that the said 1936 c. 52. Order should be confirmed by Parliament:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. The Provisional Order contained in the schedule hereunto annexed is hereby confirmed. Confirmation of Order in schedule.
2. This Act may be cited as the British Railways Order Short title Confirmation Act 1976.

SCHEDULE

BRITISH RAILWAYS

Provisional Order to empower the British Railways Board to construct works and to acquire lands; to confer further powers on the Board; and for other purposes.

1962 c. 46.

Whereas by the Transport Act 1962 the British Railways Board (hereinafter referred to as "the Board") were established:

And whereas it is the duty of the Board under the Transport Act 1962 (inter alia) to provide railway services in Great Britain and, in connection with the provision of railway services, to provide such other services and facilities as appear to the Board to be expedient, and to have due regard, as respects all those railway and other services and facilities, to efficiency, economy and safety of operation:

And whereas it is expedient that the Board should be empowered to construct the works authorised by this Order and to acquire the lands referred to in this Order:

And whereas it is expedient that the other powers in this Order contained should be conferred upon the Board and that the other provisions in this Order contained should be enacted:

And whereas plans and sections showing the lines or situations and levels of the works to be constructed under the powers of this Order, and plans of the lands authorised to be acquired or used by this Order, and a book of reference to such plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands were duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the sheriff-clerk of the county within which the said works will be constructed or the said lands are situated, which plans, sections and book of reference are respectively referred to in this Order as the deposited plans, the deposited sections and the deposited book of reference:

1936 c. 52.

And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936:

Now therefore, in pursuance of the powers contained in the last-mentioned Act, the Secretary of State orders as follows:—

PART I

PRELIMINARY

Short title.

1. This Order may be cited as the British Railways Order 1976.

2. This Order shall be divided into Parts as follows:—

Part I.—Preliminary.

Part II.—Works.

Part III.—Lands.

Part IV.—Miscellaneous and general.

PART I
—cont.

Division of
Order into
Parts.

3.—(1) In this Order, unless there be something in the subject or Interpretation. context repugnant to such construction, the several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated herewith have in relation to the relative subject-matter the same respective meanings and—

“the Act of 1845” means the Railways Clauses Consolidation (Scotland) Act 1845;

1845 c. 33.

“the authorised works” means the works authorised by this Order;

“the Board” means the British Railways Board;

“the city” means the city of Glasgow;

“the city council” means the Glasgow District 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;

“highway authority” means, in the case of trunk roads, the Secretary of State or, with his consent, the authority for the time being acting as his agent with respect of that highway and, in the case of any other highway, the regional council;

“land” includes any interest in land and any servitude, right or privilege in, to or over land;

“the Lands Clauses Acts” means the Lands Clauses Acts as amended by the Land Compensation (Scotland) Act 1963 1963 c. 51. and any other enactment modifying or extending the same;

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

“the regional council” means the Strathclyde Regional Council;

“the tribunal” means the Lands Tribunal for Scotland;

“the underground railways” means such portions of the authorised works as are constructed under the powers of this Order in such manner as does not necessitate the cutting through or removal of the surface soil.

(2) Any reference in this Order to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by, or by virtue of, any subsequent enactment including this Order.

(3) In the following provisions of this Order references to the Secretary of State are to be taken as references to the Secretary of State responsible for transport industries and highways:—

In this section, the definition of “highway authority”;

In section 7 (General provisions as to construction of underground railways), paragraph (5);

Section 8 (Provisions as to use of electrical power);

PART I
—cont.

In section 10 (Temporary stoppage of highways), subsection (3);
 In section 29 (As to highways and road traffic, etc.), paragraph (7);
 In section 34 (For protection of Post Office), sub-paragraph (c)
 of paragraph (2);

In section 35 (Crown rights), subsection (2);

except that in paragraph (8) of the said section 8 the reference is to be taken as reference to the Secretary of State responsible for industry.

(4) All distances and lengths stated in any description of works, powers or lands shall be construed as if the words “ or thereby ” were inserted after each such distance and length, and distances between points on a railway shall be taken to be measured along the railway.

(5) Unless the context otherwise requires, any reference in this Order to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Order.

Incorporation
of general Acts.

4. The following enactments, so far as the same are applicable for the purposes and are not inconsistent with, or varied by, the provisions of this Order, are incorporated with and form part of this Order, and this Order shall be deemed to be the special Act for the purposes of the said incorporated enactments:—

1845 c. 19.

The Lands Clauses Acts, except sections 120 to 124 and section 127 of the Lands Clauses Consolidation (Scotland) Act 1845:

1863 c. 92.

The Act of 1845, except sections 7, 8, 9, 17, 19, 20, 22 and 23 thereof and Part I (relating to construction of a railway) of the Railways Clauses Act 1863, except sections 13, 14, 18 and 19 thereof:

Provided that for the purposes of this Order—

(a) the expression “ the company ” where used in the incorporated provisions of the Act of 1845 and the said Act of 1863 means the Board; and

(b) the provisions of sections 18 and 21 of the Act of 1845 shall not extend to regulate the relations between the Board and any other person in respect of any matter or thing concerning which those relations are regulated in any respect—

1950 c. 39.

(i) by the provisions of Part II of the Public Utilities Street Works Act 1950; or

(ii) by the provisions of section 33 (For protection of certain statutory undertakers) of this Order.

PART II
WORKSPower to
make works.

5. Subject to the provisions of this Order, the Board 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 hereinafter described, with all necessary works and conveniences connected therewith, in the Strathclyde Region—

(Railway
deviation at
Partickhill.)

Work No. 1 A railway (402 metres in length) wholly in the city, forming a deviation in the line of the Stobcross Branch

Railway, commencing by a junction with that railway at a point 8 metres south of the northern abutment of the bridge carrying that railway over Dumbarton Road and terminating by a junction with that railway at a point 4 metres north-west of the south-eastern abutment of the bridge carrying that railway over Castlebank Street;

Work No. 2 A railway (701 metres in length) wholly in the city, (Railway at Kelvinhaugh.) commencing by a junction with the Stobcross Branch Railway at a point 23 metres south-east of the south-eastern abutment of the bridge carrying that railway over Ferry Road and terminating by a junction with the former Lanarkshire and Dumbartonshire Railway below a point 51 metres south-east of the northern portal of the Kelvinhaugh Tunnel where Kelvinhaugh Street passes over that railway;

Work No. 3 A railway (739 metres in length) wholly in the city, (Railway at Stobcross.) commencing by a junction with the Stobcross Branch Railway at a point 92 metres east of the eastern abutment of the bridge carrying that railway over Sandyford Street and terminating by a junction with a branch of the former Glasgow Central Railway at a point 40 metres south-west of the junction of West Greenhill Place with Minerva Street;

Work No. 4 A subway (28 metres in length) wholly in the city, (Subway at Argyle Street.) commencing below Argyle Street at a point 32 metres east of the junction of Hope Street with that street and terminating on the ground floor of a building adjoining Argyle Street at a point 20 metres south-east of the point of commencement;

Work No. 5 A widening of a railway (190 metres in length) (Railway widening at Argyle Street.) wholly in the city, being a widening on both sides of part of the former Glasgow Central Railway below Argyle Street and Trongate, commencing at a point 38 metres east of the junction of Queen Street with Argyle Street and terminating at a point 43 metres west of the junction of Hutcheson Street with Trongate;

Work No. 6 A railway (393 metres in length) wholly in the city, (Railway at Bridgeton.) commencing by a junction with the Bridgeton Cross Extension Railway at a point 7 metres south of the southern side of the bridge carrying Crownpoint Road over that railway and terminating by a junction with the former Glasgow Central Railway at a point 53 metres south-east of the south-eastern portal of the Canning Street Tunnel where London Road passes over that railway;

Work No. 7 A railway (493 metres in length) wholly in the city, (Railway at College.) commencing by a junction with the Glasgow City and District Railway below a point 40 metres north of the southern portal of the High Street Tunnel where High Street passes over that railway and terminating by a junction with the City of Glasgow Union Railway at a point 5 metres north-east of the north-eastern abutment of the bridge carrying that railway over Gallowgate;

PART II
—cont.
(Subway at
George Street.)

Work No. 8 A subway (82 metres in length) wholly in the city, commencing at the south side of George Street at a point 76 metres west of the junction of that street with High Street and terminating below a point on the south-east side of High Street 69 metres south-west of the said junction of George Street with that street;

(Railway
widening at
Blythswood.)

Work No. 9 A widening of a railway (320 metres in length) wholly in the city, being a widening on both sides of part of the Glasgow City and District Railway below Blythswood Square and West Regent Street, commencing at a point 28 metres east of the junction of Douglas Street with Blythswood Square and terminating at a point 39 metres west of the junction of Hope Street with West Regent Street;

(Subway at
Blythswood.)

Work No. 10 A subway (235 metres in length) wholly in the city, commencing in Sauchiehall Street at the junction of West Campbell Street with that street, passing below West Regent Street and terminating in West Campbell Street at its junction with West George Street.

Power to
deviate.

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

General
provisions
as to
construction of
underground
railways.

7. The following provisions shall apply for the construction of the underground railways:—

- (1) The underground railways shall be approached by means of stairs, inclines, subways, electric or other lifts or escalators or moving pavements:
- (2) The tunnels of the underground railways (including the tunnels for stations forming part of those railways) and every permanent shaft shall be lined throughout with iron or other sufficient metal plates or with concrete or other suitable material:

Provided that in rock the tunnels and shafts may be unlined, or unlined and coated with a protective skin of concrete or cement mortar applied by pressure-operated spray:

- (3) The station tunnels of the underground railways shall have an internal height or diameter not exceeding 11 metres; the cross-over, siding and junction tunnels shall have an internal height or diameter not exceeding 14 metres; the tunnels between the stations (except at cross-overs and junctions or where necessary for adjustment at curves or for other constructional purposes) shall have an internal height or diameter not exceeding 6 metres; the tunnels and shafts for stairs, inclines, subways, escalators and moving pavements shall have an internal height or diameter not exceeding 10 metres; and other shafts shall have an internal width or diameter not exceeding 12 metres;

- (4) Any space between the lining of the tunnels (including station, cross-over, siding and junction tunnels) or shafts and the surrounding soil shall be properly filled up with suitable grouting material placed therein under pressure:
- (5) The Board shall from time to time submit for the approval of the Secretary of State, plans, sections and other details of their proposals as regards the underground railways with respect to—
- (a) permanent way tunnels, platforms, stairs, lifts, escalators and other communications;
 - (b) rolling stock;
 - (c) lighting; and
 - (d) ventilation;

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

8. The following provisions shall apply in respect of the use of electrical power for the purpose of Works Nos. 2, 3, 6 and 7:—

Provisions
as to use of
electrical
power.

- (1) The Board shall employ either insulated returns or uninsulated metallic returns of low resistance:
- (2) The Board shall take all reasonable precautions in constructing, placing and maintaining their electric lines and circuits and other works of all descriptions and also in working the said works so as not injuriously to affect by fusion or electrolytic action any gas, water or hydraulic power pipes or other metallic pipes, structures or substances or to interfere with the working of any wire, line or apparatus from time to time used for the purpose of transmitting electrical power or of telegraphic, telephonic or electric signalling communication or the currents in such wire, line or apparatus:
- (3) The electrical power shall be used only in accordance with the regulations hereinafter referred to and in such regulations provision shall be made for preventing fusion or injurious electrolytic action of or on gas, water or hydraulic power pipes or other metallic pipes, structures or substances and for minimising as far as is reasonably practicable injurious interference with the electric wires, lines and apparatus of other persons and the currents therein, whether such lines do or do not use the earth as a return:
- (4) The Board shall be deemed to take all reasonable and proper precautions against interference with the working of any wire, line or apparatus if and so long as they adopt and employ at the option of the Board either such insulated returns or such uninsulated metallic returns of low resistance and such other means of preventing injurious interference with the electric wires, lines and apparatus of other persons and the currents

PART II
—cont.

therein as may be prescribed by the said regulations and in prescribing such means the Secretary of State shall have regard to the expense involved in relation to the protection afforded:

- (5) The provisions of this section shall not operate to give any right of action in respect of injurious interference with 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 Board 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 arbiter to be appointed by him and the costs of such determination shall be in the discretion of the Secretary of State or of the arbiter, as the case may be:
- (7) The regulations hereinbefore mentioned are any regulations made by the Secretary of State for the time being in force with respect to the railways comprised in the authorised works, which regulations the Secretary of State is hereby authorised to make:
- (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 a sheath suitable for protection against corrosion and is approved for use below ground by the Secretary of State for the purpose of any regulations relating to the supply of electricity:
- (9) The foregoing provisions of this section so far as they apply to, or in respect of, any telegraphic line to which paragraph (2) of section 34 (For protection of Post Office) of this Order applies, or to communication by means of, or currents in, any such line, shall have effect subject to the provisions of that section.

Power to open
surface of
highways.

9.—(1) Subject to the provisions of this Order, the Board may, for the purpose of constructing the authorised works, or any of them, enter upon, open, break up and interfere with so much of the surface of the streets referred to in Parts I and II of Schedule 1 to this Order as is within the limits of deviation or the limits of land to be acquired shown on the deposited plans.

(2) Subject to the provisions of this Order, the Board may, for the purpose of providing access to the authorised works, or any of them, make and maintain permanent openings in the carriageways and footways of so much of the streets referred to in Part II of the said schedule as is within the limits of deviation.

(3) Not less than twenty-eight days before entering upon, opening, breaking up or interfering with the surface of any street to which

subsection (1) of this section applies, the Board shall post notices stating their intention to do so in conspicuous positions at each end of the part of the street so affected and send a copy of the notice to the highway authority.

PART II
—cont.

10.—(1) During and for the purpose of the execution of the authorised works the Board may temporarily stop up and divert, and interfere with, any road or footpath, and may for any reasonable time divert the traffic therefrom and prevent all persons other than those bona fide going to or from any land, house or building abutting on the road or footpath from passing along and using the same. Temporary stoppage of highways.

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

(3) The Board shall not exercise the powers of this section in relation to any road or footpath without the consent of the highway authority for that road or footpath, but such consent shall not be unreasonably withheld and any question as to whether such consent has been unreasonably withheld shall be determined by the Secretary of State.

(4) The exercise by the Board of the powers of this section in relation to any road or footpath shall not prejudice or affect the right of the Post Office—

(a) to maintain, inspect, repair, renew or remove any telegraphic line belonging to, or used by, it which may for the time being be under, in, upon, over, along or across that road or footpath; or

(b) for the purpose of such maintenance, inspection, repair, renewal or removal, to enter upon or break open that road or footpath.

(5) In this section “telegraphic line” has the same meaning as in the Telegraph Act 1878.

1878 c. 76.

11.—(1) Notwithstanding anything in section 39 of the Act of 1845 the Board shall not be liable to maintain the surface of any road or public highway under or over which the authorised works are to be constructed or the immediate approaches thereto: Repair of roads and footpaths.

Provided that nothing in this subsection shall relieve the Board from any liability to which they were subject immediately before the commencement of this Order for the maintenance of any such road, highway or approaches.

(2) Subject to the provisions of subsection (1) of this section, any road or footpath or portion thereof which is altered under this Order (except the structure carrying any such road or footpath over any railway of the Board, which structure shall, unless otherwise agreed, be maintained by and at the expense of the Board) shall, when completed, unless otherwise agreed be maintained by and at the expense of the highway authority for that road or footpath.

PART II
—cont.Underpinning
of houses
near works.

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

- (1) At least fourteen 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:
- (2) If any owner, lessee or occupier of any such house or building shall, within ten 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:
- (3) In any case in which any house or building shall have been underpinned or strengthened under the powers of this section the Board 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 that work, enter upon and survey such house or building and, after complying with the foregoing provisions of this section, do such further underpinning or strengthening as they may deem necessary or expedient:
- (4) The Board shall be liable to compensate the owner, lessee and occupier of every such house or building for any loss or damage which may result to them by reason of the exercise of the powers of this section:

Provided that the claim for compensation in respect of such loss or damage is notified in writing within six months from either the date upon which any such owner, lessee or occupier first discovers the loss or damage or the date by which he ought reasonably to have discovered it, whichever is the earlier:

- (5) Nothing in this section nor any dealing with any property in pursuance of this section shall relieve the Board from liability to compensate under any enactment in respect of loss or damage arising from the execution of any works, other than works of underpinning or strengthening authorised by this section:
- (6) Every case of compensation to be ascertained under this section shall be ascertained according to the provisions of the Land Compensation (Scotland) Act 1963.

1963 c. 51.

Use of sewers,
etc., for
removing
water.

13.—(1) The Board may use for the discharge of any water pumped or found by them during the construction of the authorised works any available stream or watercourse, or any sewer or drain of any local authority, and for that purpose may lay down, take up and alter

conduits, pipes and other works and may make any convenient connections with any such stream, watercourse, sewer or drain within the limits of deviation:

PART II
—cont.

Provided that—

(a) the Board shall not discharge any water into any sewer or drain vested in, or under the control of, a local authority except with the consent of that authority which shall not be unreasonably withheld and subject to such terms and conditions (including the taking of steps to remove so far as may be reasonably practicable from water so discharged any gravel, soil or other solid substance or matter in suspension) as that authority may reasonably impose; and

(b) the Board shall not make any opening into any such sewer or drain except in accordance with plans reasonably approved by, and under the superintendence (if given) of, the local authority.

(2) Any difference arising between the Board and a local authority under this section shall be determined by arbitration.

(3) Nothing in this section shall affect the operation of Part II of the Control of Pollution Act 1974.

1974 c. 40.

14.—(1) In this section “ the Executive ” means the Greater Glasgow Passenger Transport Executive.

Agreements
with Passenger
Transport
Executive.

(2) The Board and the Executive may enter into and carry into effect agreements with respect to the construction, maintenance, use and operation of the authorised works, or any part thereof, or any works connected therewith, and as to any other matters incidental or subsidiary thereto, or consequential thereon, including the decreeing of, or the making of contributions towards, the cost of the matters aforesaid by the Board or by the Executive, or by the Board and the Executive jointly.

PART III

LANDS

15.—(1) Subject to the provisions of this Order, the Board may enter upon, take and use such of the lands 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.

Power to
acquire lands.

(2) Without prejudice to the generality of the powers conferred by subsection (1) of this section, the Board may, subject to the provisions of this Order, enter upon, take and use, for the purposes specified in column (3) of Schedule 2 to this Order, all or any of the lands referred to in columns (1) and (2) of the said schedule.

(3) Subject to the provisions of this Order, the Board may enter upon, use and appropriate so much of the subsoil and under-surface of any public highway, road, footpath or place delineated on the deposited plans and described in the deposited book of reference as shall be

PART III
—cont.

necessary for the purposes mentioned in subsection (1) of this section without being required to purchase the same or any servitude therein or thereunder or to make any payment therefor.

Period for compulsory acquisition of lands and servitudes.

16.—(1) The powers of the Board for the compulsory acquisition of the lands and servitudes which they are authorised by this Order to acquire shall cease on 31st December 1981.

(2) The powers of the Board for the compulsory acquisition of such lands and servitudes shall, for the purposes of this section, be deemed to have been exercised if before 31st December 1981 notice to treat has been served in respect of those lands and servitudes.

Correction of errors in deposited plans and book of reference.

17.—(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 Board, after giving not less than ten days' notice to the owner, lessee and occupier of the land in question, may apply to the sheriff of the county in which the said lands are situated for the correction thereof.

(2) If on any such application it appears to the sheriff that the misstatement or wrong description arose from mistake or inadvertence, he shall certify accordingly and shall in his 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 sheriff-clerk of the said county, 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 Board to take the land or a servitude therein (as the case may be) and execute the works in accordance with the certificate.

(4) A person with whom a copy of a certificate or copy is deposited under this section shall keep it with the other documents to which it relates.

Power to acquire only subsoil or servitudes in certain cases.

18.—(1) Notwithstanding anything in this Order, the Board may, for the purposes of constructing, altering, maintaining, protecting, renewing and using the authorised works, enter upon, take and use so much of the subsoil and under-surface of, or may create and acquire such servitudes, rights or privileges as they may require in, under or over, any of the lands delineated on the deposited plans and described in the deposited book of reference, other than the lands specified in Schedule 3 to this Order, without acquiring, or being required to acquire, any greater interest in, under or over the same respectively, and may give notice to treat in respect of such entry, taking and using and the creation and acquisition of any such servitudes, rights or privileges, describing the nature thereof; and (subject to the foregoing provisions of this section and to the other provisions of this Order) the provisions of the Lands Clauses Acts, as incorporated with this Order, shall extend and apply in relation to the creation and acquisition of such servitudes, rights or privileges as if it were the purchase of lands within the meaning of those provisions.

(2) If, in any case where the Board enter upon, take and use the subsoil and under-surface of, or acquire a servitude, right or privilege in or under, any of the lands aforesaid under subsection (1) of this section, they also require to take, use and pull down or open any cellar, basement, vault, arch or other construction forming part of any such lands, they may enter upon, take and use such cellar, basement, vault, arch or other construction for the purposes of the authorised works; and (subject to the provisions of this Order) the provisions of the Lands Clauses Acts, as incorporated with this Order, shall extend and apply in relation to the purchase thereof as if such cellar, basement, vault, arch or other construction were lands within the meaning of those provisions:

PART III
—cont.

Provided that section 21 (Acquisition of part only of certain properties) of this Order shall apply in respect of the acquisition by the Board under this subsection of any cellar, basement, vault, arch or other construction as if the same were a part of land to which that section applies.

(3) Nothing in this section shall prejudice or affect the provisions of subsection (3) of section 15 (Power to acquire lands) of this Order.

19.—(1) Notwithstanding the provisions of subsection (1) of section 15 (Power to acquire lands) of this Order, the Board shall not acquire compulsorily under the powers of this Order any interest in any part of the lands specified in Schedule 3 to this Order except as provided in subsection (2) of this section.

Only subsoil or servitudes to be acquired under certain lands.

(2) The Board may, within the limits of deviation, enter upon, take and use so much of the subsoil and under-surface of the lands specified in the said schedule as they may require for the purpose of constructing, altering, maintaining, protecting, renewing and using the authorised works and any necessary works and conveniences connected therewith or create and acquire such servitudes, rights and privileges in the subsoil and under-surface of the lands specified in the said schedule as they may require for the said purposes, without in either case being required to acquire any greater interest in, under or over the said lands, and may give notice to treat in respect of such entry, taking and using and the creation and acquisition of such servitudes, rights or privileges, describing the nature thereof; and (subject to the provisions of this Order) the provisions of the Lands Clauses Acts, as incorporated with this Order, shall extend and apply in relation to the creation and acquisition of such servitudes, rights or privileges as if it were the purchase of lands within the meaning of those provisions.

(3) For the purposes of this section the subsoil and under-surface of the lands specified in the said schedule shall not include any such subsoil or under-surface which is within 9.3 metres of the level of the surface of the ground or, in the case of a building on the said lands, the level of the surface of the ground adjoining the building, or, in the case of a river, dock, canal, navigation, watercourse or other water area, the level of the surface of the adjoining ground which is at all times above water level.

PART III
—cont.Grant of
servitudes
by persons
under
disability.

20.—(1) Any person empowered by the Lands Clauses Acts to sell and convey or discharge lands may if he thinks fit, subject to the provisions of those Acts, grant to the Board any servitude, right or privilege required for the purposes of this Order in, under, over or affecting the lands (not being a servitude, right or privilege of water in which some person other than the grantor has an interest).

(2) The provisions of the said Acts with respect to lands and feu duties or ground annuals so far as they are applicable shall extend and apply to any such grant and to any such servitude, right or privilege as aforesaid.

Acquisition
of part only
of certain
properties.

1845 c. 19.

21.—(1) Where a copy of this section is endorsed on, or annexed to, a notice to treat served under the Lands Clauses Acts as incorporated with this Order, the following provisions of this section shall apply to the land subject to the notice instead of section 90 of the Lands Clauses Consolidation (Scotland) Act 1845.

(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 twenty-one days after the day on which the notice is served on him, serves on the Board 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 Board 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 twenty-one 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 determines 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 determines 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 determines 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 Board are authorised to acquire compulsorily under this Order.

PART III
—cont.

(6) If the Board agree to take the land subject to the counter-notice, or if the tribunal determines 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;

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 Board are authorised to acquire compulsorily under this Order.

(7) In any case where, by virtue of a determination by the tribunal under subsection (4), (5) or (6) of this section, 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 Board may, within six weeks after the tribunal makes its determination, withdraw the notice to treat and if they do so shall pay to the said person compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice to be determined, in default of agreement, by the tribunal.

(8) Where a person is under this section required 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 Board shall pay to him compensation for any loss sustained by him due to the severance of that part in addition to the value of his interest therein.

22. In determining a question with respect to compensation claimed in consequence of the compulsory acquisition of land under this Order, the tribunal shall not take into account any interest in land, or 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 on any other land with which the claimant is, or was at the time of the erection, executing or making of the building, works, improvement or alteration, directly or indirectly concerned, if the tribunal is 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.

Disregard of
recent
improvements
and interests.

23.—(1) The Board and their surveyors and officers may at all reasonable times in the day, upon giving on the first occasion not less than seven days', and on subsequent occasions not less than twenty-four hours', previous notice in writing to the occupier, enter upon,

Power to enter,
survey, etc.,
lands.

PART III
—cont.

examine and lay open any of the lands which the Board are by this Order authorised to acquire compulsorily for the purpose of surveying, measuring, taking levels, examining works and valuing the said lands or for any other purpose ancillary to the powers conferred by this Order.

(2) In exercising the powers conferred by subsection (1) of this section the Board and their surveyors and officers shall cause as little detriment or inconvenience to any person as circumstances allow, and the Board shall, subject to the provisions of this Order, make compensation to the owners and occupiers of any lands injuriously affected by the exercise of those powers, any question of disputed compensation being referred to the tribunal.

Further powers of entry.

1845 c. 19.

24. At any time after notice to treat has been served for any land which the Board are by this Order authorised to acquire compulsorily the Board may, after giving to the owner and occupier of the land not less than three months' notice, enter on and take possession of the land or such part thereof as is specified in the notice without previous consent or compliance with sections 83 to 89 of the Lands Clauses Consolidation (Scotland) Act 1845, but subject to the payment of the like compensation for the land of which possession is taken, and interest on the compensation awarded, as would have been payable if those sections had been complied with.

Extinction of private rights of way.

25.—(1) All private rights of way over any land which the Board are by this Order authorised to acquire compulsorily shall be extinguished on the acquisition of the land whether compulsorily or by agreement, or on the entry on the land in pursuance of section 24 (Further powers of entry) of this Order, whichever is sooner.

(2) Any person who suffers loss by the extinction of any right under this section shall be entitled to be paid by the Board compensation to be determined in case of dispute under, and in accordance with, the Lands Clauses Acts.

As to cellars under streets not referenced.

26. Nothing in this Order shall authorise the Board to enter upon, take or use (except by agreement) any cellar, basement or vault in or under any street connected with any building, unless such cellar, basement or vault, or the building with which it is connected, is described in the deposited book of reference.

PART IV

MISCELLANEOUS AND GENERAL

As to certain level crossings.

27.—(1) The Board may stop up and discontinue the level crossings referred to in Part I of Schedule 4 to this Order and thereupon all rights of way over or across the said level crossings shall be extinguished.

1839 c. 45.
1842 c. 55.

(2) As from the commencement of this Order, all rights of way over or across the level crossings referred to in Part II of the said schedule shall be extinguished and the provisions of the Highway (Railway Crossings) Act 1839, section 9 of the Railway Regulation Act 1842,

section 40 of the Act of 1845, and sections 5, 6 and 7 of the Railways Clauses Act 1863, and any other provisions to the same or similar effect incorporated with, or contained in, any enactment relating to the said level crossings, shall cease to apply to those level crossings.

PART IV
—cont.

1863 c. 92.

(3) The level crossings referred to in Part II of the said schedule (including the gates thereof) shall be deemed for all purposes to be works provided by the Board at the commencement of this Order pursuant to section 60 of the Act of 1845 for the accommodation of the owners and occupiers of the lands adjoining the railways at the said level crossings, (that is to say) for the purpose of making good any interruptions caused by such railways to the use of the lands through which the same have been made as if the making of such railways had been authorised by this Order.

(4) Notwithstanding the provisions of section 6 of the Railways Clauses Act 1863 or any similar provisions incorporated with, or contained in, any enactment relating to the level crossings referred to in Part III of the said schedule, the Board shall not be required to maintain a station or lodge at either of those level crossings.

(5) If any part of the road crossed by the railway at any of the level crossings referred to in Part I or II of the said schedule shall have ceased to be a road over which there existed a right of way for the passage of vehicles, the owners and occupiers of the lands abutting on that part of that road shall be deemed to have such rights of passage over or across the said level crossing as shall be necessary to enable them to pass and repass to and from the said lands.

(6) Any person who suffers loss by the extinguishment under this section of such private rights of way (if any) as may exist over the level crossings referred to in Part I or II of the said schedule shall be entitled to be paid by the Board compensation to be determined, in case of dispute, by the tribunal.

28. The Minute of Agreement between the Provost, Magistrates and Councillors of the Burgh of Leven and the British Transport Commission set out in Schedule 5 to this Order is hereby confirmed and made binding upon the parties thereto and effect shall be given thereto accordingly subject to such modifications (if any) as may from time to time be agreed between the parties.

Confirmation
of agreement
with Leven
Town Council.

29. The following provisions shall, unless otherwise agreed in writing between the Board and the appropriate authority, apply and have effect:—

As to highways
and road
traffic, etc.

(1) In this section—

“appropriate authority” means the highway authority concerned or the city council as the case may be; and

“road” means any highway and any other road to which the public has access, and includes bridges over which a road passes:

(2) Wherever in this section provision is made with respect to the approval or consent of the highway authority or the city

PART IV
—cont.

council, that approval or consent shall be in writing and subject to such reasonable terms and conditions as the highway authority or the city council may require, but shall not be unreasonably withheld:

- (3) The Board shall not, without the consent of the highway authority, construct any part of the authorised works which will be within 8 metres of the surface of any road, or which will involve interference with any road, except in accordance with plans and sections submitted to, and approved by, the highway authority:

Provided that, if within twenty-eight days after such plans and sections have been submitted the highway authority have not approved or disapproved them, they shall be deemed to have approved the plans and sections as submitted:

- (4) Before commencing to construct any part of the authorised works, or any works or conveniences connected therewith, which will involve interference with a road, or the traffic in any road, the Board shall consult the highway authority as to the time when such part shall be commenced, and as to the extent of the surface of the road which it may be reasonably necessary for the Board to occupy or the nature of the interference which may be caused to the said traffic in the construction of such part, and as to the time during which, and the extent to which, the road shall be interfered with, and as to the conditions under which such part shall be constructed, so as to reduce so far as possible inconvenience to the public and to ensure the safety of the public, and such part shall not be constructed, and the surface of the road shall not be occupied by the Board, and the said interference with traffic shall not be caused, except at such time, to such extent, and in accordance with such conditions as may be agreed between the Board and the highway authority or determined by arbitration, due regard being had to the traffic on the Board's railways:
- (5) At least twenty-eight days before commencing to make any hole from the surface of any part of any road the Board shall serve notice in writing on the highway authority of their intention to commence the same, and such notice shall describe the place at which any such hole is intended to be made, and the steps, if any, to be taken by the Board to safeguard foot passengers using any footway, footpath or other way in which the hole is intended to be made, and, if within twenty-one 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 the hole is commenced, but if no such objection is made the Board may proceed with the making of the hole:
- (6) Except with the consent of the highway authority the Board shall not open, or make any permanent openings or any ventilators, air shafts or other similar openings in, or erect or construct any erection or structure above, the surface

of the carriageway or footway of any road, and in constructing, maintaining and operating the said ventilators, air shafts or other similar openings the Board shall take all steps which are reasonably practicable to avoid causing a nuisance:

PART IV
—cont.

- (7) The Board shall secure that so much of the authorised works as is constructed under, or so as to affect, any road shall be so designed, constructed and maintained as to carry the appropriate loading for that road recommended at the time of construction of such works by the Secretary of State, and the Board shall indemnify the highway authority against, and make good to the highway authority, all expenses which they may reasonably incur or be put to in the maintenance or repair of any road, or any tunnels, sewers, drains or apparatus therein, by reason of any non-compliance by the Board with the provisions of this paragraph:
- (8) It shall be lawful for the proper officer of the appropriate authority at all reasonable times to enter upon and inspect any part of the authorised works which is in or under any road, or which may affect any road or any property or work of the appropriate authority, during the execution thereof, and the Board shall give to such officer all reasonable facilities for such inspection and, if he shall be of opinion that the construction of such works is attended with danger to any road or to any sanitary convenience, refuge, sewer, drain, lamp column, traffic sign, bollard, bin for refuse or road materials or apparatus connected therewith or any property or work belonging to, or under the jurisdiction or control of, the appropriate authority on or under any road, the Board shall adopt such measures and precautions as may be reasonably necessary for the purpose of preventing any damage or injury thereto:
- (9) The Board shall not 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 property or work belonging to, or under the jurisdiction or control of, the appropriate authority on or under any road, or the access thereto, without the consent of the appropriate authority, and any alteration, diversion, replacement or reconstruction of any such sanitary convenience, refuge, sewer, drain, lamp column, traffic sign, bollard, bin for refuse or road materials or apparatus connected therewith or any property or work as aforesaid which may be necessary shall be made by the appropriate authority or the Board as the appropriate authority shall think fit and any costs, charges and expenses reasonably incurred by the appropriate authority in so doing shall be repaid to the appropriate authority by the Board:
- (10) The Board shall not remove any soil or material from any road except such as must be excavated in the execution of the authorised works:

PART IV
—cont.

- (11) (a) The Board shall not, except with the consent of the highway authority, deposit any soil, subsoil or materials, or stand any vehicle or plant, on any road so as to obstruct the use of such road by any person or, except with the like consent, deposit any soil, subsoil or materials on any such road except within a hoarding;
- (b) All reasonable costs, charges and expenses incurred by the highway authority in removing any soil, subsoil or materials deposited on any road in contravention of this paragraph shall be repaid to the highway authority by the Board:
- (12) Where any part of any road shall have been temporarily broken up or disturbed by the Board, the Board shall make good the subsoil, foundations and surface of such part of the road to the reasonable satisfaction of the 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 road:
- Provided that the reinstatement of such part of the road shall in the first instance be of a temporary nature only and the permanent reinstatement thereof shall be carried out by the highway authority as soon as reasonably practicable after the completion of the temporary reinstatement, and the reasonable costs, charges and expenses incurred by the highway authority in so doing shall be repaid to the highway authority by the Board:
- (13) The Board shall make compensation to the appropriate authority for any subsidence of, or damage to, any road or any sanitary convenience, refuge, sewer, drain, lamp column, traffic sign, bollard, bin for refuse or road materials or apparatus connected therewith or any property or work belonging to, or under the jurisdiction or control of, the appropriate authority on or under any road which may be caused by, or in consequence of, any act or default of the Board, their contractors, servants or agents and whether such damage or subsidence shall happen during the construction of the authorised works or at any time thereafter:
- (14) As soon as reasonably practicable after the completion of any part of the authorised works the Board shall furnish the appropriate authority with a plan and section showing the position and level of such part of the works as constructed:
- (15) The highway authority may require that the authorised works, or works and conveniences connected therewith, so far as they involve any serious interference with the movement of traffic in any road shall be carried on so far as reasonably practicable continuously by day and night, due regard being had to the traffic on the Board's railways, and the Board shall take all such steps as may be reasonably necessary to reduce so far as possible the period of such interference:
- (16) Any difference arising between the Board and the appropriate authority under this section shall be determined by arbitration.

30. For the further protection of the regional council and the city council (hereafter in this section referred to together as "the local authorities") the following provisions shall, unless otherwise agreed in writing between the Board and that one of the local authorities concerned, apply and have effect:—

PART IV
—cont.

For further
protection of
local
authorities.

- (1) Wherever in this section provision is made with respect to the approval or consent of any one of the local authorities, that approval or consent shall be in writing and subject to such reasonable terms and conditions as the local authority may require, but shall not be unreasonably withheld:
- (2) Without prejudice to anything in the Town and Country Planning (Scotland) Act 1972, the Board shall submit to each of the local authorities for their approval particulars of—

(a) the routes in the city to be used by vehicles, machinery and plant, passing by road to or from any part of the authorised works under construction, outwith the limits of deviation; and

(b) the proposed manner and method of disposing of any spoil or waste material resulting from the carrying out of any operation in connection with the authorised works; and no such spoil or waste material shall be disposed of on land not held by the Board otherwise than in such manner and method as shall be described in particulars approved by each of the local authorities as aforesaid or, if such approval be withheld, as may be determined by the Secretary of State:

Provided that, if within twenty-eight days after the submission to them of particulars under this paragraph either of the local authorities do not signify to the Board their approval or disapproval thereof, they shall be deemed to have approved thereof:

- (3) The entrances and exits to and from any subway, booking hall or station constructed as part of the authorised works, including any permanent openings in any road, shall be so designed and of such extent as to secure the least practicable inconvenience to public traffic in the adjoining roads, and, before the Board commence to construct such entrances or exits within the city, plans, sections and particulars thereof shall be submitted to the regional council for their reasonable approval:

Provided that, if the regional council do not within twenty-eight days from the submission to them of any such plans, sections and particulars notify their approval or disapproval thereof, they shall be deemed to have approved them as submitted:

- (4) Within three months after the completion of any of the authorised works, or such longer period as the city council may agree, the Board shall remove, or to the reasonable satisfaction of the city council demolish or otherwise dispose of, all temporary buildings and structures erected at, above or immediately below the level of the surface of the ground

PART IV
—cont.

for the purposes of, or in connection with, the construction of that work, and shall remove all surplus materials, plant, machinery and appliances provided in connection therewith, and shall, so far as is reasonably practicable, to the like satisfaction restore and make good the surface of the ground on which any temporary buildings and structures or any surplus materials, plant, machinery and appliances as aforesaid have been placed or which may have been occupied for the purpose of, or in connection with, the construction of that work:

- (5) As soon as reasonably practicable after the completion of any part of the authorised works the Board shall furnish each of the local authorities with a plan and section showing the position and level of that work as constructed:
- (6) (a) The Board shall carefully preserve and remove all objects of geological or antiquarian interest discovered by them in the construction of the authorised works, and, subject to the rights of the Crown and except so far as the same may be proved to be the property of any other person, any such objects discovered within the city shall be deposited with the city council as the property of the city council;
- (b) The Board shall afford to any duly authorised officer of the city council reasonable facilities to inspect any objects so discovered in the construction of the authorised works:
- (7) Except as provided by paragraph (2) above, any difference arising between the Board and either of the local authorities under this section shall be determined by arbitration.

For protection
of sewers of
Strathclyde
Regional
Council.

31. For the protection of the sewers of the regional council the following provisions shall, unless otherwise agreed in writing between the Board and the regional council, apply and have effect:—

- (1) In this section—

“ specified [work] ” means any part of the authorised works which will or may be situated within 15 metres measured in any direction of any sewer of the regional council;

“ sewer ” includes any manholes, ventilating shafts, pumps or other accessories of a sewer:

- (2) Wherever in this section provision is made with respect to the approval or consent of the regional council such approval shall be in writing and shall not be unreasonably withheld:
- (3) The Board shall not commence the execution of any specified work until they shall have given to the regional council not less than twenty-eight days' notice in writing of their intention to commence the same together with plans as described in paragraph (8) of this section (in this section referred to as “ the said plans ”) for their reasonable approval and until the regional council have signified their approval of the said plans:

Provided that, if within twenty-eight days after the submission of the said plans the regional council have not approved or disapproved them, they shall be deemed to have approved the said plans as submitted:

PART IV
—cont.

- (4) The Board shall comply with, and conform to, all reasonable orders, directions and regulations of the regional council in the execution of any specified work and shall provide new, altered or substituted works in such manner as the regional council shall reasonably require for the protection of, and for preventing injury or impediment to any existing sewer of the regional council by reason of the specified work and shall indemnify the regional council against all expenses occasioned thereby:
- (5) All such new, altered or substituted works shall, where so required by the regional council, be done by or under the direction, superintendence and control of an officer of the regional council duly appointed for the purpose at the cost of the Board, and all costs, charges and expenses reasonably incurred by the regional council 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 regional council by the Board:
- (6) When any such new, altered or substituted works or any work of defence connected therewith shall be completed by or at the cost of the Board under the provisions of this section, the same shall thereafter be as fully and completely under the direction, jurisdiction and control of the regional council as any sewers or works now or hereafter may be:
- (7) The regional council may require the Board in constructing any specified work to make any reasonable deviation within the limits of deviation from the line or levels shown upon the said plans for the purpose of avoiding injury, or risk of injury, to any sewer of the regional council, and the Board shall in constructing such works deviate accordingly:
- (8) The plans to be submitted to the regional council for the purposes of this section shall be detailed plans, drawings, sections and specifications which shall describe the exact position and manner in which, and the level at which, any specified work is proposed to be constructed and shall accurately describe the position of all sewers of the regional council within the limits of deviation (for which purpose the regional council shall allow the Board access to plans in their possession and to any of their sewers in order to enable the Board to obtain reliable information) and shall comprise detailed drawings of every alteration which the Board may propose to make in any sewer:
- (9) The regional council may require such modifications to be made in the said plans as may be reasonably necessary to

PART IV
—cont.

secure the main drainage system of the city against interference or risk of damage and to provide and secure proper and convenient means of access to any sewer:

- (10) The Board shall be liable to make good, or, if the regional council so decide, to bear any expense reasonably incurred by the regional council in making good, all injury or damage caused by, or resulting from, the construction of any specified work to any sewer, drain or work vested in the regional council:
- (11) If the Board, in the construction of any specified work or any new, altered or substituted work or any work of defence connected therewith provided in accordance with this section, damage or, without the consent of the regional council, alter or in any way interfere with any existing sewer of the regional council, the Board shall—
- (a) pay to the regional council any additional expense which may be reasonably incurred by the regional council in the maintenance, management or renewal of any new, altered or substituted sewer which may be necessary in consequence of the said construction; and
- (b) give to the regional council full, free and uninterrupted access at all times to any such new, altered or substituted sewer and every reasonable facility for the inspection, maintenance, alteration and repair thereof:
- (12) It shall be lawful for an officer of the regional council duly appointed for the purpose at any reasonable time, on giving to the Board such notice as may in the circumstances be reasonable, to enter upon and inspect any specified work or any other work constructed under the powers of this section:
- (13) The approval by the regional council of any plans, or the superintendence by them of any work, under the provisions of this section shall not exonerate the Board from any liability or affect any claim for damages under this section or otherwise:
- (14) Any difference arising between the Board and the regional council under this section shall be determined by arbitration.

For protection
of Greater
Glasgow
Passenger
Transport
Executive.

32. For the protection of the Greater Glasgow Passenger Transport Executive (hereafter in this section referred to as “the Executive”) the following provisions shall, unless otherwise agreed in writing between the Board and the Executive, apply and have effect:—

- (1) In this section—

“railway property” means the underground railway of the Executive and any works connected therewith for the maintenance or operation of which the Executive are responsible, and includes any lands held or used by the Executive for the purposes of such railway or works;

“the works” means so much of the authorised works as may be situated upon, across, under or over or may in any way affect railway property, and includes the construction of such works;

“ construction ” includes reconstruction and for the purposes of paragraphs (8), (11) and (13) of this section includes maintenance and repair of the works;

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

“ plans ” includes sections, drawings and particulars:

(2) The Board shall not under the powers of this Order acquire compulsorily any property of the Executive but they may in accordance with the provisions of section 18 (Power to acquire only subsoil or servitudes in certain cases) of this Order acquire such servitudes, rights and privileges as they may reasonably require for the purposes of the works in any such property delineated on the deposited plans:

(3) The Board shall, before commencing the works, furnish to the Executive proper and sufficient plans thereof for the reasonable approval of the engineer and shall not commence the works until plans thereof have been approved in writing by the engineer or determined by arbitration:

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

(4) If within twenty-eight days after such plans have been furnished to the Executive, the Executive shall give notice to the Board that the Executive desire themselves to construct any part of the works which in the opinion of the engineer will or may affect the stability of railway property and the safe operation of the underground railway of the Executive, then if the Board desire such part of the works to be constructed the Executive shall construct it with all reasonable dispatch on behalf of, and to the reasonable satisfaction of, the Board in accordance with the plans approved or deemed to be approved or determined as aforesaid (hereafter in this section referred to as “ the approved plans ”):

(5) Upon signifying his approval or disapproval of the plans the engineer may specify any protective works whether temporary or permanent which in his opinion should be carried out before the commencement of the works to ensure the safety or stability of railway property and such protective works as may be reasonably necessary for those purposes shall be constructed by the Executive with all reasonable dispatch and the Board shall not commence the construction of the works until the engineer shall have notified the Board that the protective works have been completed:

(6) The Board shall give to the engineer twenty-eight days' notice of their intention to commence the construction of any of the works and also, except in emergency (when they shall give such notice as may be reasonably practicable), of their intention to carry out any works for the repair or maintenance of the works in so far as such works of repair or maintenance affect or interfere with railway property:

PART IV
—cont.

- (7) The works shall, when commenced, be carried out with all reasonable dispatch in accordance with the approved plans and under the supervision (if given) and to the reasonable satisfaction of the engineer, and in such manner as to cause as little damage to railway property as may be and as little interference as may be with the conduct of traffic on the underground railway of the Executive and the use by passengers of railway property, and if any damage to railway property or any such interference shall be caused by the carrying out of the works the Board shall, notwithstanding any such approval as aforesaid, make good such damage and shall on demand pay to the Executive all reasonable expenses to which they may be put and compensation for any loss which they may sustain by reason of any such damage or interference:

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

- (8) The Board shall at all times afford reasonable facilities to the engineer for access to the works during their construction and shall supply him with all such information as he may reasonably require with regard to the works or the method of construction thereof:
- (9) The Executive shall at all times afford reasonable facilities to the Board and their agents for access to any works carried out by the Executive under this section during their construction and shall supply the Board with such information as they may reasonably require with regard to such works or the method of construction thereof:
- (10) If any alterations or additions, either permanent or temporary, to railway property shall be reasonably necessary during the construction of the works or during a period of twelve months after the completion thereof in consequence of the construction of the works, such alterations and additions may be effected by the Executive after notice has been given to the Board and the Board shall pay to the Executive on demand the cost thereof as certified by the engineer including, in respect of permanent alterations and additions, 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 may be set off against any sum payable by the Board to the Executive under this section:

- (11) The Board shall repay to the Executive all costs, charges and expenses reasonably incurred by the Executive—
- (a) in constructing any part of the works on behalf of the Board as provided by paragraph (4) of this section or in

constructing any protective works under the provisions of paragraph (5) of this section including, in respect of any permanent protective works, a capitalised sum representing the cost to the Executive of maintaining and renewing such 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 railway property and for preventing, as far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of the works;

(c) in respect of the supervision by the engineer of the construction of the works:

(12) Any additional expense which the Executive shall reasonably incur after giving twenty-eight days' notice to the Board, in altering, reconstructing or maintaining railway property in pursuance of any powers existing immediately before the commencement of the Greater Glasgow Passenger Transport Order 1975, by reason of the existence of the works shall be repaid by the Board to the Executive:

(13) The Board shall be responsible for and make good to the Executive all costs, charges, damages and expenses not otherwise provided for in this section which may be occasioned to, or reasonably incurred by, the Executive—

(a) by reason of the construction of the works or the failure thereof; or

(b) by reason of any act or omission of the Board or of any persons in their employ or of their contractors or others whilst engaged upon the construction of the works;

and the Board shall effectively indemnify and hold harmless the Executive from and against all claims and demands arising out of, or in connection with, the construction of the works or any such failure, act or omission as aforesaid, and the fact that any act or thing may have been done by the Executive on behalf of the Board, 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 negligence on the part of the Executive or of any person in their employ or of their contractors or agents whilst engaged upon the construction of the works) excuse the Board from any liability under the provisions of this section:

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

(14) Before undertaking any blasting operation in connection with the works which might affect the stability of the underground railway of the Executive or the safety of the traffic

PART IV
—cont.

thereon the Board shall consult the Executive and comply with any reasonable requirements of the Executive with regard thereto without expense to the Executive:

- (15) As soon as reasonably practicable after the completion of any part of the authorised works the Board will furnish the Executive with a plan and section showing the position and level of such part of the works as constructed:
- (16) Any difference arising between the Board and the Executive under this section shall be determined by arbitration.

For protection
of certain
statutory
undertakers.

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

- (1) In this section—

“ the undertakers ” means any person authorised by any enactment to carry on an undertaking for the supply of gas, water or electricity within any area within which the Board are by this Order authorised to acquire lands or execute works;

“ apparatus ” means—

(a) in the case of electricity undertakers, electric lines or works (as respectively defined in the Electricity (Supply) Acts 1882 to 1936) belonging to, or lawfully laid or erected by, such undertakers; or

(b) in the case of gas or water undertakers, any apparatus belonging to such undertakers or for the maintenance of which they are responsible;

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

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

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

- (2) Notwithstanding anything in this Order or shown on the deposited plans, the Board shall not acquire any apparatus under the powers of this Order otherwise than by agreement:
- (3) If the Board in the exercise of the powers of this Order acquire any interest in any lands in which any apparatus is placed, that apparatus shall not be removed under this section and any right of the undertakers to maintain, repair, renew or inspect that apparatus in those lands shall not be extinguished until adequate alternative apparatus shall have been constructed and be in operation to the reasonable satisfaction of the undertakers:

- (4) If the Board, for the purpose of executing any works in, on or under any lands acquired under this Order, require the removal of any apparatus in those lands and give to the undertakers written notice of such requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed so as to provide adequate alternative apparatus in place of the apparatus to be removed, or if, in consequence of the exercise of any of the powers of this Order, the undertakers shall reasonably require to remove any apparatus, the Board shall afford to the undertakers the necessary facilities and rights for the construction of such alternative apparatus in other lands of the Board and thereafter for the maintenance, repair, renewal and inspection of such apparatus:

Provided that if the alternative apparatus or any part thereof is to be constructed elsewhere than in other lands of the Board, and the Board are unable to afford such facilities and rights as aforesaid in the lands in which the alternative apparatus or such part thereof is to be constructed, the undertakers shall, on receipt of a written notice to that effect from the Board, forthwith use their best endeavours to obtain the necessary facilities and rights in such last-mentioned lands:

- (5) (a) Any alternative apparatus to be constructed in lands of the Board in pursuance of this section shall be constructed in such manner and in such line or situation as may be agreed between the undertakers and the Board or, in default of agreement, determined by arbitration;
- (b) The undertakers shall, after the alternative apparatus to be provided or constructed shall have been agreed or determined by arbitration as aforesaid, and after the grant to the undertakers of any such facilities and rights as are referred to in paragraph (4) of this section, proceed with all reasonable dispatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the Board to be removed under the provisions of this section and, in default, the Board may remove the apparatus:
- (6) Notwithstanding anything in paragraph (5) of this section, if the Board give notice in writing to the undertakers that they desire themselves to execute any part of so much of the work necessary in connection with the construction of the alternative apparatus, or the removal of the apparatus required to be removed, as will be situate in any lands of the Board, such work, instead of being executed by the undertakers, shall be executed by the Board with all reasonable dispatch under the superintendence (if given) and to the reasonable satisfaction of the undertakers:

Provided that nothing in this paragraph shall authorise the Board to execute the actual placing, installation, bedding, packing, removal, connection or disconnection of any apparatus or any filling around the apparatus extending (where the apparatus is laid in a trench) to within 30 centimetres above the apparatus:

PART IV
—cont.

- (7) Where, in accordance with the provisions of this section, the Board afford to the undertakers facilities and rights for the construction, maintenance, repair, renewal and inspection in lands of the Board 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 Board and the undertakers or, in default of agreement, determined by arbitration:

Provided that—

(a) In determining such terms and conditions as aforesaid in respect of alternative apparatus to be constructed across or along any railway of the Board, the arbiter shall—

(i) give effect to all reasonable requirements of the Board for ensuring the safety and efficient operation of the railway and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of the Board or the traffic on the railway; and

(ii) so far as it may be reasonable and practicable to do so in the circumstances of the case, give effect to the terms and conditions applicable to the apparatus (if any) constructed across or along the railway for which the alternative apparatus is to be substituted;

(b) If the facilities and rights to be afforded by the Board in respect of any alternative apparatus, and the terms and conditions subject to which the same are to be granted, are in the opinion of the arbiter more or less favourable on the whole to the undertakers than the facilities and rights enjoyed by them in respect of the apparatus to be removed, and the terms and conditions to which those facilities and rights are subject, the arbiter shall make such provision for the adjustment of payment of compensation by the Board to the undertakers in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the case:

- (8) (a) Not less than twenty-eight days before commencing to execute any works which are near to, or will or may affect, any apparatus the removal of which has not been required by the Board under paragraph (4) of this section, the Board shall submit to the undertakers a plan, section and description of the works to be executed;
- (b) Such works shall be executed only in accordance with the plan, section and description submitted as aforesaid and in accordance with such reasonable requirements as may be made by the undertakers for the alteration or otherwise for the protection of the apparatus or for securing access thereto, and the undertakers shall be entitled by their officer to watch and inspect the execution of such works:

Provided that—

PART IV
—cont.

(i) if the undertakers within fourteen days after the submission to them of any such plan, section and description shall, in consequence of the works proposed by the Board, reasonably require the removal of any apparatus and give written notice to the Board of such requirement, the foregoing provisions of this section shall apply and have effect as if the removal of such apparatus had been required by the Board under paragraph (4) thereof; and

(ii) nothing in this sub-paragraph shall preclude the Board from submitting at any time or from time to time, but in no case less than twenty-eight days before commencing the execution of any such works, a new plan, section and description thereof in place of the plan, section and description previously submitted, and thereupon the provisions of this paragraph shall apply to, and in respect of, such new plan, section and description;

- (c) The Board shall not be required to comply with sub-paragraph (a) of this paragraph in a case of emergency but in such a case they shall give to the undertakers notice as soon as reasonably practicable, and a plan, section and description of the works as soon as reasonably practicable thereafter, and shall comply with sub-paragraph (b) of this paragraph so far as reasonably practicable in the circumstances:
- (9) The Board shall so far as is reasonably practicable so exercise the powers conferred by section 12 (Underpinning of houses near works) of this Order as not to disturb or render less convenient the access to any apparatus:
- (10) Notwithstanding the temporary stopping up or diversion of any road or footpath under the powers of section 10 (Temporary stoppage of highways) of this Order, the undertakers shall be at liberty at all times to execute and do all such works and things in, upon or under any such road or footpath as may be reasonably necessary or desirable to enable them to inspect, repair, maintain, renew, remove or use any apparatus which at the time of the stopping up or diversion was in that road or footpath:
- (11) The provisions of section 26 of the Public Utilities Street Works Act 1950 shall apply to, and in relation to, the laying down, taking up or altering of conduits, pipes or other works under section 13 (Use of sewers, etc., for removing water) of this Order as if executed by the Board as operating undertakers within the meaning of the said section 26 for the purposes other than the purposes of a railway undertaking: 1950 c. 39.
- (12) The Board shall pay to the undertakers the costs, charges and expenses reasonably incurred by the undertakers in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the

PART IV
—cont.

execution of any such works as are referred to in paragraph (4) of this section, less the value of any apparatus removed in pursuance of the provisions of this section (such value being calculated after removal), and shall also make compensation to the undertakers—

(a) for any damage caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal in accordance with the provisions of this section); and

(b) for any other expenses, loss, damages, penalty or costs incurred by the undertakers;

by reason or in consequence of the execution, maintenance, or failure of any such works or otherwise by reason or in consequence of the exercise by the Board of the powers of this Order:

- (13) Nothing in this section shall prejudice or affect the provisions of any enactment or agreement regulating the relations between the Board and the undertakers in respect of any apparatus laid or erected in land belonging to the Board at the date of the commencement of this Order:
- (14) Any difference arising between the Board and the undertakers under this section shall be determined by arbitration.

For protection
of Post Office.

34. For the protection of the Post Office the following provisions shall, unless otherwise agreed in writing between the Board and the Post Office, apply and have effect:—

(1) (a) In this paragraph “the underground property” means the existing deep level underground works of the Post Office in the vicinity of Work No. 10 and the works or property of the Post Office connected with, and in the vicinity of, the said deep level underground works;

(b) Notwithstanding anything in this Order or shown on the deposited plans, the Board shall not without the consent in writing of the Post Office enter upon, take or use, either permanently or temporarily, the underground property:

Provided that nothing in this sub-paragraph shall prevent the Board from acquiring subsoil under or over the underground property for the purposes of constructing, maintaining, protecting, renewing and using or altering Work No. 10, or from acquiring such servitudes and rights in the said subsoil as they may require for the said purposes;

(c) The Board shall carry out Work No. 10 or any works connected therewith so as not to interfere with, or obstruct the user of, the underground property;

(d) In constructing Work No. 10 under or over or within 30 metres of the underground property (in this paragraph called “the prescribed distance”) the Board shall not deviate from the levels therefor shown on the deposited sections without the consent of the engineer of the Post Office, which consent shall not be unreasonably withheld;

- (e) The Board shall, not less than twenty-one days before commencing the construction of Work No. 10 within the prescribed distance, furnish to the Post Office plans, sections and specifications of the work proposed to be carried out by the Board within the prescribed distance, and such plans, sections and specifications shall be agreed between the engineer of the Board and the engineer of the Post Office or, in the event of difference arising, settled by arbitration in accordance with paragraph (6) of this section:

Provided that, if within twenty-one days after such plans, sections and specifications have been furnished to the Post Office the engineer of the Post Office shall not have intimated to the engineer of the Board his disapproval thereof, he shall be deemed to have agreed the plans, sections and specifications as submitted;

- (f) The work shall be carried out in accordance with the plans, sections and specifications so agreed or deemed to be agreed or settled as aforesaid and under the supervision (if given) and to the reasonable satisfaction of the engineer of the Post Office;
- (g) The Board shall give to the Post Office not less than twenty-one days' notice (except in case of emergency) before commencing any structural alterations or renewal of Work No. 10 within the prescribed distance with a sufficient description of such works. In case of emergency the Board shall give to the Post Office the longest notice which they can reasonably give having regard to the urgency of the work to be executed, and such notice shall be accompanied by a sufficient description of the work proposed to be carried out under the supervision (if given) and to the reasonable satisfaction of the engineer of the Post Office;
- (h) The Board shall at all times maintain Work No. 10, so far as the same shall be within the prescribed distance, in substantial repair and good order and condition, and if and whenever the Board fail so to do, the Post Office may make and do all such works and things on and to the underground property as may be reasonably requisite for the protection thereof in that behalf, and the reasonable expenditure incurred by the Post Office in that behalf shall be repaid to the Post Office by the Board;
- (i) If it shall at any time appear to the engineer of the Post Office, either before or during the construction or after completion of Work No. 10 within the prescribed distance, that any further or other works or appliances or measures of precaution are required, either by way of addition to the underground property or in connection with, or in relation to, the method of construction of Work No. 10, so as to prevent subsidence of or injury to the underground property in consequence of the execution of Work No. 10 or any part thereof, the Board shall, on being so required in writing by the engineer of the Post Office, within the prescribed distance make and carry

PART IV
—cont.

- out at their own expense and according to plans, sections and specifications to be reasonably approved by the said engineer, such further works or take such measures of precaution, including the use of compressed air or the temporary cessation of the construction of Work No. 10 or the carrying on of the construction of Work No. 10 without cessation, as the said engineer shall reasonably require;
- (j) If during and by reason of the construction of Work No. 10 the underground property shall be damaged, the Post Office may forthwith make good such damage and execute such protective works elsewhere than on the property of the Board as the engineer of the Post Office shall reasonably consider necessary for ensuring the safety of the underground property, and the reasonable expenditure incurred by the Post Office in so doing shall be repaid to the Post Office by the Board;
- (k) The Board shall, during the construction of any part of Work No. 10 within the prescribed distance, bear and on demand pay to the Post Office the reasonable expense of the employment by the Post Office of a sufficient number of inspectors and watchmen for inspecting and watching the underground property with reference to, and during, such construction and for preventing so far as may be all interference, obstruction, danger or accident from any of the operations of the Board or from the acts or defaults of their contractors or of any person or persons in their employ or otherwise;
- (l) The approval by or on behalf of the Post Office of any plans, or the superintendence by or on behalf of it of any work, under this paragraph shall not exonerate the Board from liability or affect any claim for damages under this paragraph or otherwise;
- (m) Notwithstanding anything in this Order, the Board shall be responsible for and make good to the Post Office all costs, losses, damages, charges and expenses which may be occasioned to the Post Office by reason or in consequence of the construction, maintenance or failure of Work No. 10, or any subsidence resulting from Work No. 10, or any act or omission of the Board or of any person in their employ, or of their contractors or others, in connection with that work, and the Board shall effectively indemnify and hold harmless the Post Office from all claims and demands upon or against it by reason or in consequence of such construction, maintenance, failure or subsidence or of any such act or omission:
- Provided that the Post Office shall give to the Board reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Board:

- (2) (a) In this paragraph and in paragraphs (3) to (5) of this section—

“electric line” has the same meaning as in the Electric Lighting Act 1882;

“ specified works ” means Works Nos. 2, 3, 6 and 7; and

PART IV.
—cont.

“ telegraphic line ” has the same meaning as in the Telegraph Act 1878;

1878 c. 76.

- (b) The Board shall so construct their electric lines and works of all descriptions and shall so work that part of their undertaking which consists of those parts of the specified works which are for the time being worked by electrical power in all respects as to prevent any interference, whether by induction or otherwise, with the telegraphic lines from time to time laid down or used by the Post Office or with telegraphic communication by means of such lines:

Provided that this sub-paragraph shall not apply to any telegraphic line of the Post Office laid down or placed by it in or along the specified works, or in or along any railway of the Board immediately connected or communicating with any of the specified works;

- (c) If any telegraphic line of the Post Office situate within one mile of any portion of the specified works, is injuriously affected and the Post Office is of opinion that such injurious affection is or may be due to the construction of the specified works, or to the working of the same, an engineer of the Post Office nominated by the Post Office in that behalf or any person appointed by it in writing may, at all times when electrical energy is being generated or used by, or supplied to, the Board, enter any of the specified works, for the purpose of inspecting the Board's plant and the working of the same, and the Board shall, in the presence of such engineer or such appointed person as aforesaid, make any electrical tests required by the Post Office and shall produce for the inspection of the Post Office the records kept by the Board pursuant to any regulations made by the Secretary of State which may for the time being be in force with respect to the said works;
- (d) If a telegraphic line of the Post Office situate within one mile of any portion of the specified works is injuriously affected and the Post Office is unable to ascertain whether such injurious affection is caused by the Board or by any other persons generating or using electrical currents for traction purposes, the Post Office may give notice to the Board requiring them to make, at such times as it may specify, such experiments (by working their generating stations, running their carriages or cars, or otherwise working any part of their undertaking, or, in case of continuous working, by stopping the electricity generated for the purposes of their undertaking at such times as would not unduly interfere with traffic) as the Post Office may deem necessary to enable it to discover which of the undertakings causes the disturbance, and such experiments shall be carried out by the Board as and when required by the Post Office;

PART IV
—cont.

1878 c. 76.

- (e) For the purposes of this paragraph a telegraphic line of the Post Office shall be deemed to be injuriously affected by an act or work if telegraphic communication by means of such line is, whether through induction or otherwise, in any manner affected by such act or work or by any use made of such work:
- (3) (a) Notwithstanding anything in this Order or shown on the deposited plans, the Board shall not under the powers of Part III of this Order acquire any telegraphic line belonging to, or used by, the Post Office otherwise than by agreement;
- (b) The provisions of this paragraph shall not prejudice or affect the application of paragraphs (1) to (8) of section 7 of the Telegraph Act 1878 if the Board require an alteration, either temporarily or permanently, in any such telegraphic line:
- (4) The Board shall so far as is reasonably practicable so exercise the powers conferred by section 12 (Underpinning of houses near works) of this Order as not to obstruct or render less convenient the access to any telegraphic line belonging to, or used by, the Post Office:
- (5) If by reason or in consequence of the construction, maintenance or failure of any of the authorised works, or any subsidence resulting from any of those works, any damage to any telegraphic line belonging to, or used by, the Post Office (other than a line the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or any property of the Post Office, other than the property referred to in paragraph (1) of this section, or any interruption in telecommunication by means of any such line or property shall be caused, the Board shall bear and pay the cost reasonably incurred by the Post Office in making good such damage, or restoring telecommunication and shall—
- (a) make reasonable compensation to the Post Office for loss sustained by it; and
- (b) indemnify the Post Office against claims, demands, proceedings, costs, damages and expenses which may be made or taken against, or recovered from, or incurred by, the Post Office;
- by reason or in consequence of any such damage or interruption:
- Provided that—
- (i) nothing in this paragraph shall impose any liability on the Board with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of the Post Office, its officers, servants, contractors or other agents;
- (ii) the Post Office shall give to the Board reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Board:

(6) Any difference arising between the Board and the Post Office under this section shall be determined by arbitration.

PART IV
—cont.

35.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege or exemption of the Crown and, without prejudice to the generality of the foregoing, nothing in this Order authorises the Board to take, use, or interfere with, any land or rights—

Crown
rights.

(a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners; or

(b) belonging to a government department, or held in trust for Her Majesty for the purposes of a government department;

without the consent in writing of those commissioners on behalf of Her Majesty or (as the case may be) that government department.

(2) Nothing in this section shall prejudice or affect the exercise by the Board 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 section 29 (As to highways and road traffic, etc.) of this Order applies.

36.—(1) Section 274 of the Town and Country Planning (Scotland) Act 1972 (which for the avoidance of doubt declares that the provisions of that Act and any restrictions or powers thereby imposed or conferred in relation to land apply to land notwithstanding that provision is made by any local Act passed before or during the session of Parliament held during the regnal years 10 & 11 Geo. 6 for authorisation or regulation of development of the land) shall apply to this Order as if it had been passed during that session; and accordingly the said Act of 1972 and orders, regulations, rules, schemes and directions made or given thereunder shall apply to development authorised by this Order.

Saving for
Town and
Country
Planning
(Scotland) Act
1972.
1972 c. 52.

(2) In their application to development authorised by any provision of this Order, article 3 of, and class X in Schedule 1 to, the Town and Country Planning (General Development) (Scotland) Order 1975 (which permit development authorised by any local or private Act or by any order approved by both Houses of Parliament, being an Act or order designating specifically both the nature of the development thereby authorised and the land on which it may be carried out) shall have effect as if the authority to develop given by such provision were limited to development begun within ten years after the coming into force of that provision.

(3) In this section the reference to article 3 of, and class X in Schedule 1 to, the Town and Country Planning (General Development) (Scotland) Order 1975 includes a reference to corresponding provisions of any general order superseding that order made under section 21 of the said Act of 1972 or any corresponding provision of an Act repealing that section.

PART IV
—cont.
Arbitration.

37. Where under this Order any difference (other than a difference to which the provisions of the Lands Clauses Acts apply) is to be determined by arbitration, then, unless otherwise provided, the difference shall be referred to, and settled by, a single arbiter to be agreed between the parties or, in default of agreement, to be appointed on the application of any party (after notice in writing to the other) by the Sheriff Principal of Glasgow and Strathkelvin.

Costs of
Order.

38. All costs, charges and expenses of, and incident to, the preparing for, obtaining and confirming of this Order or otherwise in relation thereto shall be paid by the Board, and may in whole or in part be defrayed out of revenue.

SCHEDULES

SCHEDULE 1

Section 9.

PART I

In the Strathclyde Region, City of Glasgow District—

Argyle Street
Bridgeton Cross
Dock Street
Gilbert Street
High Street
Kelvinhaugh Street
London Road
Minerva Street
Nicholas Street
Olympia Street
Orr Street
Pointhouse Road
Sandyford Street
Stobcross Street
Stockwell Street
Teviot Street.

PART II

In the Strathclyde Region, City of Glasgow District—

Blythswood Square
Blythswood Street
Dunlop Street
Glassford Street
Miller Street
Moodie's Court
Sauchiehall Street
Trongate
Virginia Street
Wellington Street
West Campbell Street
West George Street
West Regent Lane
West Regent Street.

Section 15 (2).

SCHEDULE 2

LANDS REFERRED TO IN SUBSECTION (2) OF SECTION 15 (POWER TO ACQUIRE LANDS) OF THIS ORDER

Area (1)	No. on deposited plans (2)	Purpose for which the lands may be acquired or used (3)
In the Strathclyde Region— City of Glasgow District	42	For the relocation of recreational facilities at Kelvinhaugh.
In the Strathclyde Region— City of Glasgow District	43, 47 to 49, 53 and 55 to 58	For the provision of access to works and the carrying out of alterations to sewers at Kelvinhaugh.
In the Strathclyde Region— City of Glasgow District	69, 70 and 71	For the provision of access to works at Stobcross.
In the Strathclyde Region— City of Glasgow District	84 to 110	For the construction of a station at Saltmarket.

Section 19.

SCHEDULE 3

LANDS REFERRED TO IN SECTION 19 (ONLY SUBSOIL OR SERVITUDES TO BE ACQUIRED UNDER CERTAIN LANDS) OF THIS ORDER

In the Strathclyde Region, City of Glasgow District—

The lands numbered 199 to 203, 206, 207, 209 to 212, 219 to 232 and 235 to 247 on the deposited plans.

SCHEDULE 4

Section 27.

LEVEL CROSSINGS

Area	Description of level crossings
PART I	
In the county of Angus— In the parish of Eassie	The level crossing known as Forfar Road Level Crossing whereby the road from Perth to Forfar (A.94) is crossed on the level by the railway between Eassie and Forfar.
In the county of Ayr— In the parish of Muirkirk	The level crossing known as Kames (Muirkirk) Level Crossing whereby the road known as the Parish Road is crossed on the level by the railway between Cronberry and Muirkirk.
In the county of Stirling— In the parish of St. Ninians	The level crossing known as Powiswood Level Crossing whereby the road connecting the Airth to Grangemouth Road with the Glasgow to Stirling Road is crossed on the level by the railway between Alloa Junction and Plean.
In the county of Dunbarton— In the parish of Cumbernauld	The level crossing known as Lenziemill Level Crossing whereby the road connecting the A.73 to the A.80 is crossed on the level by the railway between Cumbernauld and Madgescroft.
In the county of Midlothian— In the parish of Kirknewton	The level crossing known as Greenloan Level Crossing whereby the road connecting the Langton Road with the Belstane to Ormiston Road is crossed on the level by the railway between Camps Junction and Midcalder Junction.
In the county of Lanark— In the parish of Lanark	The level crossing known as Drove Road Level Crossing whereby the road which connects the Lanark to Carstairs Road to the Lanark to Hyndford Road is crossed on the level by the railway between Lanark Junction and Lanark Station.

SCH. 4
—cont.

Area	Description of level crossings
<p>In the county of East Lothian— In the parish of Prestonpans ..</p>	<p>The level crossing known as Dolphinstone Level Crossing whereby the road which connects the A.198 road to the A.1 road is crossed on the level by the railway between Monktonhall Junction and Prestonpans.</p>
<p>In the county of Fife— In the parish of Markinch ..</p>	<p>The level crossing known as Tullybreck Level Crossing whereby the road from Byresloan Farm to Tullybreck Farm is crossed on the level by the railway between Thornton North and Cameron Bridge.</p>
<p>In the county of Dumfries— In the parish of Kirkpatrick Fleming</p>	<p>The level crossing known as Kirkpatrick Level Crossing whereby the road known as Brownrigg Road is crossed on the level by the railway between Quintinshill and Kirtlebridge.</p>
<p>In the county of Lanark— In the parish of Lanark ..</p>	<p>The level crossing known as Craighenhill Level Crossing whereby the road which connects the Lanark to Carluke Road to the village of Kilcadzow is crossed on the level by the railway between Carstairs Station and Motherwell Signalling Centre.</p>
<p>In the county of Lanark— In the parish of Lamington and Wandel</p>	<p>The level crossing known as Woodend Level Crossing whereby the road which connects the A.702 with Woodend Farm is crossed on the level by the railway between Abington and Lamington.</p>
<p>In the county of Dumfries— In the parish of Applegarth ..</p>	<p>The level crossing known as Dinwoodie Level Crossing whereby the road which connects the Forestry Commission Road to the Moffat to Dinwoodie Road is crossed on the level by the railway between Dinwoodie and Lockerbie.</p>

Area	Description of level crossings
In the county of East Lothian— In the parish of Tranent ..	The level crossing known as Seton Level Crossing whereby the road which connects the A.198 and the A.1 is crossed on the level by the railway between St. Germans and Prestonpans.
In the county of East Lothian— In the parish of Dunbar ..	The level crossing known as Stenton Level Crossing whereby the Parish Road from the Post Road to Stenton is crossed on the level by the railway between Dunbar and East Linton.
In the county of Stirling— In the parish of Logie	The level crossing known as Cornton No. 2 Level Crossing whereby the road known as Easter Cornton Road is crossed on the level by the railway between Stirling and Dunblane.
PART II	
In the county of Fife— In the parish of Collessie ..	The level crossing known as Sweetholme Level Crossing whereby the road which connects the Bow of Fife Road and the Pitlessie Road is crossed on the level by the railway between Ladybank and Springfield.
In the county of Perth— In the parish of Logierait ..	The level crossing known as Balmacneil Level Crossing whereby the road which connects the Ballinluig to Kindallachan (A.9) Road to West Haugh of Tulliemet Farm is crossed on the level by the railway between Ballinluig and Dunkeld.
In the county of Stirling— In the parish of Logie	The level crossing known as Abbeycraig Level Crossing whereby the road known as Ladysneuk Road which connects the A.91 with Broom Farm is crossed on the level by the railway between Manor Powis and Stirling North.

SCH. 4
—cont.

SCH. 4
—cont.

Area	Description of level crossing
<p>In the county of Inverness— In the parish of Inverness ..</p>	<p>The level crossing known as Bruichnain Level Crossing whereby the road which connects the A.9 to Bruichnain Farm is crossed on the level by the railway between Clachnaharry and Lentrán.</p>
PART III	
<p>In the county of Ayr— In the parish of New Cumnock</p>	<p>The level crossing known as Connel Park Level Crossing whereby the New Cumnock to Dalmellington Road (B.741), at Connel Park Village, is crossed on the level by the New Cumnock Colliery Branch Railway.</p>
<p>In the county of Inverness— In the parish of Glenelg ..</p>	<p>The level crossing known as Morar Level Crossing whereby the road from Arisaig to Mallaig is crossed on the level by the railway between Mallaig and Arisaig.</p>

SCHEDULE 5

Section 28.

SCHEDULED AGREEMENT

MINUTE OF AGREEMENT between the PROVOST MAGISTRATES AND COUNCILLORS OF THE BURGH OF LEVEN (hereinafter called "the Town Council") of the first part and the BRITISH TRANSPORT COMMISSION established and incorporated by and in virtue of the Transport Act Nineteen hundred and forty seven (hereinafter called "the Commission") of the second part

WHEREAS in terms of Section Twenty six of the North British Railway Order Confirmation Act Nineteen hundred and eight the North British Railway Company (predecessors of the Commission) were *inter alia* bound to maintain on the northern foreshore at the mouth of the River Leven the sea wall between certain points shown on a plan signed by Benjamin Hall Blyth, Civil Engineer, Edinburgh, on behalf of the North British Railway Company, and by John Balfour of Carberry, Leven, Provost of the Burgh, on behalf of the Burgh, and to construct new stone steps down to the bed of the River Leven, as a facility for boating purposes, at another point on the sea wall to be fixed by the Burgh.

AND WHEREAS the said stone steps were constructed by the said railway company at a point lettered "C" on the plan annexed and subscribed as relative hereto and the said sea wall was maintained by the said railway company and their successors and is now maintained by the Commission.

AND WHEREAS it has now been found that the existence of the said stone steps is conducive to flooding at certain times and it is desirable that they should be infilled and a short length of parapet wall constructed on the eastern end of the said sea wall.

AND WHEREAS the Town Council have approached the Commission to permit them to carry out said works and the Commission is willing that they should do so.

NOW THEREFORE the parties hereto have agreed and do hereby agree and bind and oblige themselves as follows, *videlicet*:—

First. The Town Council shall at their own expense infill the said stone steps and shall construct a short length of parapet wall on the east end of the said sea wall so as to infill completely the length of the sea wall between the points lettered "A" and "B" on the said plan annexed and subscribed as relative hereto. Thereafter the Town Council shall free and relieve the Commission of the duty to maintain the said sea wall between the said points lettered "A" and "B", extending to Seventy-five yards from the eastern extremity, and the said stone steps lettered "C" all on said plan annexed and subscribed as relative hereto and which portion of the said sea wall shall thereafter be maintained by the Town Council.

SCH. 5
—cont.

Second. This Agreement shall, subject to such alterations as Parliament may think fit hereon, be scheduled to the first Bill or Provisional Order hereafter promoted by the Commission:

IN WITNESS whereof these presents typewritten on this and the two preceding pages are together with the plan annexed hereto executed in triplicate by the parties hereto as follows:—

They are sealed with the common seal of the Burgh of Leven and subscribed for and on behalf of the said Burgh by WILLIAM LAING, Provost, ROBERT BALLANTYNE, Magistrate, and JOHN TAYLOR LESLIE, Town Clerk, all of said Burgh at Leven on the Twenty second day of December Nineteen hundred and sixty one; and they are sealed with the common seal of the British Transport Commission and subscribed for them and on their behalf by DONALD HAMISH CAMERON OF LOCHIEL one of their Members and by GERALD ALFRED VICTOR HAYES who subscribes "G. Hayes" their Chief Secretary all at London on the Tenth day of January Nineteen hundred and sixty two.

WILLIAM LAING

ROBERT BALLANTYNE

(C.S.)

JOHN J. LESLIE

D. H. CAMERON OF LOCHIEL

G. HAYES

(C.S.)

PRINTED IN ENGLAND BY OYEZ PRESS LIMITED
FOR HAROLD GLOVER

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament