

ELIZABETH II



1989 CHAPTER iii

An Act to empower the British Railways Board to construct works and to purchase or use land; to extend the time for the compulsory purchase of certain land; to confer further powers on the Board; and for other purposes. [27th April 1989]

WHEREAS—

(1) By the Transport Act 1962 the British Railways Board (hereinafter referred to as “the Board”) were established: 1962 c. 46.

(2) It is the duty of the Board under the said Act of 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:

(3) It is expedient that the Board should be empowered to construct the works authorised by this Act and to purchase or use the land referred to in this Act:

(4) It is expedient that the period now limited for the compulsory purchase of certain land should be extended as provided by this Act:

(5) It is expedient that the other powers in this Act contained should be conferred on the Board as therein provided, and that the other provisions in this Act contained should be enacted:

(6) Plans and sections showing the lines or situations and levels of the works to be constructed under this Act, and plans of the land authorised to be purchased or used by this Act, and a book of reference to those plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said land 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 proper officers of the councils of the London borough and of the several counties and metropolitan districts within which the said works may be constructed or the said land is situated, which plans, sections and book of reference are respectively referred to in this Act as the deposited plans, the deposited sections and the deposited book of reference:

(7) The purposes of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted, and be it 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:—

PART I

PRELIMINARY

- Short title. 1. This Act may be cited as the British Railways Act 1989.
- Interpretation. 2.—(1) In this Act, unless the context otherwise requires, words and expressions to which meanings are assigned by the enactments incorporated herewith have in relation to the related subject-matter the same respective meanings; and—
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|---------------|---|
| 1845 c. 20. | “the Act of 1845” means the Railways Clauses Consolidation Act 1845; |
| 1863 c. 92. | “the Act of 1863” means the Railways Clauses Act 1863; |
| 1965 c. 56. | “the Act of 1965” means the Compulsory Purchase Act 1965; |
| 1981 c. xxxv. | “the (No. 2) Act of 1981” means the British Railways (No. 2) Act 1981; |
| 1984 c. vii. | “the Act of 1984” means the British Railways Act 1984; |
| 1984 c. xx. | “the (No. 2) Act of 1984” means the British Railways (No. 2) Act 1984; |
| | “the Board” means the British Railways Board; |
| | “enactment” includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment; |
| | “the limits of deviation” means the limits of deviation shown on the deposited plans; |
| | “reference point” means Ordnance Survey National Grid reference point; |
| 1839 c. 45. | “the specified enactments” means the Highway (Railway Crossings) Act 1839, section 9 of the Railway Regulation Act 1842, section 47 of the Act of 1845, sections 5, 6 and 7 of the Act of 1863 and any other provision to the same or similar effect incorporated with, or contained in, any enactment; |
| 1842 c. 55. | |
| 1984 c. 27. | “traffic sign” has the meaning assigned to it by section 64 of the Road Traffic Regulation Act 1984 and section 65 (1) of that Act shall have effect with respect to the erection and display of any traffic sign by the Board as if it were a traffic sign erected and displayed by a highway authority; |

“the tribunal” means the Lands Tribunal; and

“the works” means the works authorised by Part II (Works, etc.) of this Act.

PART I
—cont.

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

(3) Any reference in this Act to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Act.

(4) References in this Act to points identified by letters shall be construed as references to the points so lettered on the deposited plans.

3.—(1) The following enactments, so far as the same are applicable for the purposes of and are not inconsistent with this Act, are incorporated with this Act, and this Act shall be the special Act for the purposes of the said incorporated enactments:—

Incorporation
of general
enactments.

(a) the Act of 1845, except sections 1, 7, 8, 9, 11, 12, 15, 17, 19, 20, 22 and 23 thereof; and

(b) in the Act of 1863, Part I (relating to the construction of a railway), except sections 13 to 19 thereof, and Part II (relating to extension of time).

(2) (a) For the purposes of the enactments incorporated by subsection (1) above the expression “the company” where used in those enactments means the Board.

(b) For the purposes of sections 16 and 30 to 44 of the Act of 1845, as so incorporated, Works Nos. 2A, 3A and 7 shall be deemed to be railways authorised by the special Act.

(c) Sections 18 and 21 of the Act of 1845, as so incorporated, 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 by the provisions of—

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

1950 c. 39.

(ii) section 27 (For protection of electricity, gas and water undertakers) of the (No. 2) Act of 1984, as incorporated with this Act.

4.—(1) Part I of the Act of 1965 (except sections 4 and 27 thereof and paragraph 3 (3) of Schedule 3 thereto), so far as it is applicable for the purposes of and is not inconsistent with this Act, shall apply to the compulsory purchase of land under this Act as it applies to a compulsory purchase to which the Acquisition of Land Act 1981 applies and as if this Act were a compulsory purchase order under the said Act of 1981.

Application
of Part I of
Compulsory
Purchase
Act 1965.
1981 c. 67.

(2) In section 11 (1) of the Act of 1965 (which empowers the acquiring authority to enter on and take possession of land the subject of a notice to treat after giving not less than 14 days' notice), as so applied, for the words “fourteen days” there shall be substituted “three months”.

(3) The Lands Clauses Consolidation Act 1845 shall not apply to the purchase of land under this Act.

1845 c. 18.

PART II
WORKS, ETC.
Works

Power to make works.

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

In the London borough of Wandsworth—

(Spur railway at Battersea).

Work No. 1 A railway (271 metres in length) at Battersea on land adjoining the disused Battersea Power Station, being a spur off the low level railway between Victoria and Brixton and Longhedge Junction, commencing by a junction with that railway at a point 276 metres north-west of the bridge carrying Battersea Park Road over that railway and terminating at a point 2 metres north-west of Battersea Park Road on its north-eastern approach to that bridge:

In the metropolitan borough of Rotherham, county of South Yorkshire—

(Railway at Kilnhurst).

Work No. 2 A railway (845 metres in length) at Kilnhurst, commencing by a junction with the railway between Rotherham Masborough and York at a point 442 metres north-east of the bridge carrying the private road and mineral railway serving Aldwarke Steel Works over the said railway and terminating by a junction with the railway between Rotherham Central and Mexborough at a point 565 metres south-west of the bridge carrying that railway over the Kilnhurst Cut of the Sheffield and South Yorkshire Navigation:

(Cut at Kilnhurst).

Work No. 2A A cut at Kilnhurst, being a diversion of Roundwood Brook, commencing at a point 228 metres south-west of the termination of Work No. 2 and terminating at a point 56 metres west of that termination:

In the borough of Restormel, county of Cornwall—

(Railway at St. Dennis).

Work No. 3 A railway (2,975 metres in length) commencing in the parish of St. Dennis by a junction with the St. Dennis branch railway at a point 25 metres north-east of the bridge carrying that railway over the private road serving Rostowrack Farm and terminating at Goss Moor Tip in the parish of St. Enoder by a junction with that railway at a point 443 metres south-east of the bridge carrying the A.30 trunk road over the Newquay branch railway:

(Access road at St. Dennis).

Work No. 3A An access road in the parish of St. Enoder, commencing at the southern boundary of the accommodation level crossing, whereby the private road connecting lands lying between the Newquay branch railway and Goss Moor Tip with the A.30 trunk road is crossed on the level by that railway, and terminating at a point 283 metres north of the termination of Work No. 3:

In the borough of Ashford, county of Kent—

(Railway at Sevington).

Work No. 4 A railway (950 metres in length) adjoining, and on the south-western side of, the railway between Ashford and Folkestone, commencing by a junction with that railway at a point 10 metres south-east of the bridge carrying Canterbury Road over that railway and terminating in the parish of Sevington by a junction with that railway at a point 960 metres south-east of that bridge:

In the district of West Dorset, county of Dorset—

Work No. 5 A railway (390 metres in length) in the parish of Bradford Abbas, commencing by a junction with the Clifton Maybank branch railway at a point 151 metres east of the bridge carrying that railway over the river Yeo and terminating by a junction with the railway between Yeovil Pen Mill station and Weymouth at a point 251 metres south-east of the bridge carrying the railway between Exeter and Salisbury over that railway:

PART II
—cont.
(Railway at
Yeovil
Junction).

In the district of Montgomeryshire, county of Powys—

Work No. 6 A railway (1,034 metres in length) in the community of Welshpool, being a deviation of the railway between Shrewsbury and Aberystwyth, commencing by a junction with that railway at a point 425 metres south of the bridge carrying Severn Road (B.4381) over that railway and terminating by a junction with that railway at a point 609 metres north-east of that bridge:

(Deviation
railway at
Welshpool).

In the city of Lincoln, county of Lincolnshire—

Work No. 7 A footbridge at High Street, Lincoln, over the railway between Doncaster and Lincoln Central station.

(Footbridge at
Lincoln).

Provisions relating to Work No. 1

6.—(1) If the Board proceed with the construction of Work No. 1, they may on any part of the land numbered on the deposited plans 1 in the London borough of Wandsworth make, maintain and operate a railway station with all necessary works and conveniences connected therewith.

Railway station
at Battersea.

(2) The Board may enter into and carry into effect agreements with the owner or lessee for the time being of any part of the said land numbered on the deposited plans 1 for the construction, maintenance and operation of the said station, but that station shall be part of the Board's railway for the purpose of byelaws made by the Board under section 67 of the Transport Act 1962.

1962 c. 46.

Provisions relating to Work No. 2A

7. As from the completion of Work No. 2A, the Board may fill in so much of Roundwood Brook shown on the deposited plans as lies between points "A", "B" and "C" and as will be rendered unnecessary by Work No. 2A.

Infilling of
Roundwood
Brook.

Provisions relating to Work No. 3

8.—(1) In this section "the level crossing" means a level crossing comprising a single line of railway across and on the level of the road known as Whitegate, being numbered on the deposited plans 5 in the parish of St. Dennis, borough of Restormel.

Level crossing
of Whitegate,
St. Dennis, by
Work No. 3.

(2) The Board may in the construction of Work No. 3 provide the level crossing but shall not be required to erect or maintain a station or lodge thereat.

(3) (a) The Board may, with the consent in writing of the Secretary of State and subject to such requirements as he may from time to time lay down, provide, maintain and operate at or near the level crossing such barriers, lights, traffic signs and automatic or other devices and appliances as may be approved by the Secretary of State.

(b) So long as the consent referred to in paragraph (a) above continues in force, the specified enactments, except sections 5 and 7 of the Act of 1863 (in so far as they are inconsistent with any such consent), shall not apply to the level crossing.

(4) Nothing in this section shall impose on a highway authority any liability in respect of a traffic sign provided under subsection (3) (a) above.

PART II
—*cont.*
Relief of
certain
obligations
in respect of
Work No. 3.

1857 c. xciv.
1873 c. clxii.

9.—(1) In this section—

“the bridges” means the two bridges in the parish of St. Dennis, one of which carried the former railway over the road known as Hendra Prazey and the other of which carries Domellick Hill (B.3279) over the former railway;

“the former railway” means the discontinued portion of the former St. Dennis branch railway on the course of, and co-terminous with, Work No. 3 which was authorised and constructed under, or otherwise validated by, the original Acts; and

“the original Acts” means the Treffrey’s Estate (Newquay Railway) Act 1857 and the Cornwall Minerals Railway Act 1873.

(2) The Board shall be relieved of the obligations of sections 46 and 68 of the Act of 1845, as incorporated with the original Acts, in respect of the bridges and any other works on, or relating to, the former railway.

(3) (a) Notwithstanding anything in the original Acts or in the Act of 1845, as incorporated with this Act, the Board may, in relation to the roads which cross or are crossed by the bridges and are mentioned in paragraph (b) below, retain the bridges with the dimensions therein specified.

(b) The roads and dimensions referred to in paragraph (a) above are—

(i) Hendra Prazey, with a clear width of 3.45 metres and a clear height above the surface of the road of 2.5 metres; and

(ii) Domellick Hill, with a clear space between parapets of 4.55 metres.

Provisions relating to Work No. 4

Diversion of
footpath at
Sevington.

10. The Board may in the parish of Sevington, borough of Ashford, stop up and discontinue so much of the footpath between Sevington and Canterbury Road as lies between points “B”, “C”, “D” and “E” and crosses on the level the railway between Ashford and Folkestone and substitute therefor a new footpath between points “B”, “F”, “G”, “H” and “E”, to be carried over that railway and over Work No. 4 by means of a footbridge.

Provisions relating to Work No. 6

Railway station
and car park at
Welshpool,
Montgomeryshire.

11. If the Board proceed with the construction of Work No. 6, they may—

(a) on any part of the land numbered on the deposited plans 13, 16 and 17 in the community of Welshpool, district of Montgomeryshire, make, maintain and operate a railway station with all necessary works and conveniences connected therewith; and

(b) on any part of the land numbered on the deposited plans 14 and 15 in the said community, make, maintain and operate a station car park with all necessary works and conveniences connected therewith.

Provisions relating to Work No. 7

New footpath,
etc., at Lincoln.

12.—(1) In this section—

“the existing footbridge” means the footbridge in the city of Lincoln over the railway adjacent to the level crossing known as High Street crossing whereby High Street is crossed by the railway;

“the footpath” means the footpath carried by the existing footbridge between points “A”, “B”, “C” and “D”;

“the private road” means the road between points “I” and “J” affording access from High Street to the rear of the properties numbered 326, 327-328, 330 and 332 High Street; and

“the railway” means the railway between Doncaster and Lincoln Central station.

(2) The Board may stop up and discontinue—

- (a) the footpath and provide a new footpath between points "E", "F", "G" and "H", to be carried over the railway by means of Work No. 7; and
- (b) the private road, but not so as to affect the right of persons to use the same on foot.

(3) Upon the completion and opening for public use of Work No. 7, the Board may take down and remove the existing footbridge.

(4) Any person who suffers loss by the extinguishment of any private right under this section shall be entitled to be paid by the Board compensation, to be determined in case of dispute by the tribunal.

Footpaths, etc.

13.—(1) In this section—

"the bridge" means the bridge carrying the railway between Ely and Bury St. Edmunds over the existing footpath;

"the existing footpath" means so much of the footpath at Snailwell Junction, in the parish of Snailwell in the district of East Cambridgeshire, county of Cambridgeshire, between Snailwell Road, Snailwell, and Newmarket, as lies between points "A" and "B"; and

"the new footpath" means a new footpath between points "A", "C", "D" and "E" being partly in the said parish of Snailwell and partly in the district of Forest Heath, county of Suffolk.

(2) The Board may—

- (a) stop up and discontinue the existing footpath and provide the new footpath within the lines marked "Limit of deviation of footpath" on the deposited plans; and
- (b) form and lay out means of pedestrian access to Snailwell Road at point "E".

(3) Upon the completion and opening for public use of the new footpath, the Board may fill in the space beneath the bridge.

14.—(1) In this section—

"the bridge" means the bridge in the parish of North Elmsall in the city of Wakefield, county of West Yorkshire, which carries the road and footpath over the railway between Pontefract Baghill and Moorthorpe stations;

"the footpath" means so much of the footpath between Elmsall Lodge Farm and the bridleway between Hemsworth and South Kirkby as is carried by the bridge; and

"the road" means so much of the private road serving fields forming part of Elmsall Lodge Farm as is carried by the bridge and is co-extensive with the footpath.

(2) Subject to the provisions of this Act, the Board may, for the purpose of reconstructing the bridge under their existing powers—

- (a) stop up and discontinue the road;
- (b) enter upon, open, break up and interfere with the surface of the footpath;
- (c) stop up and discontinue so much of the footpath as they may require and as is comprised within the lines marked "Limit of footpath to be stopped up" on the deposited plans; and

PART II
—cont.

New footpath at
Snailwell
Junction,
Newmarket.

Narrowing of
footpath at North
Elmsall,
Wakefield.

PART II
—cont.

(d) provide and maintain so much of the footpath as is comprised within the line marked "Limit of footpath to be retained" on the deposited plans.

(3) Any person who suffers loss by the extinguishment of any private right under subsection (2) (a) above shall be entitled to be paid compensation, to be determined in case of dispute by the tribunal.

General works provisions

Temporary
stoppage of roads,
bridleways and
footpaths.

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

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

(3) The Board shall not exercise the powers of this section without the consent of the highway authority but such consent shall not be unreasonably withheld and any question as to whether such consent has been unreasonably withheld shall be referred to and settled by arbitration.

(4) The Board shall not exercise the powers of this section with respect to any road unless they have given not less than 21 days' notice in writing of their intention so to do to—

1981 c. 14.

(a) the traffic commissioner constituted for the purposes of the Public Passenger Vehicles Act 1981, in whose area the road is situate; and

1985 c. 67.

(b) the operator over that road of a local service as defined in the Transport Act 1985;

except in case of emergency when such notice as is practicable shall be given.

1984 c. 12.

(5) The exercise by the Board of the powers of this section in relation to any road, bridleway or footpath shall not prejudice or affect the rights of the operator of any telecommunications code system (within the meaning of Schedule 4 to the Telecommunications Act 1984) to maintain, inspect, repair, renew or remove telecommunication apparatus (within the meaning of paragraph 1 of Schedule 2 to that Act) or break open that road, bridleway or footpath for any of those purposes.

Use of sewers,
etc., for removing
water.

16.—(1) In this section "relevant authority" means a water authority, an internal drainage board, a county council, the London borough council of Wandsworth, a metropolitan district council or a district council.

(2) The Board may use for the discharge of any water pumped or found by them during the construction of the works any available stream or watercourse, or any sewer or drain of a relevant authority in or through whose area or district, as the case may be, the works may be constructed or pass, and for that purpose may lay down, take up and alter conduits, pipes and other works and may make any convenient connections with any such stream, watercourse, sewer or drain within the limits of deviation but—

(a) the Board shall not discharge any water into any sewer or drain vested in or under the control of a relevant authority except with the consent of the relevant authority and subject to such terms and conditions as the relevant authority may reasonably impose; and

(b) the Board shall not make any opening into any such sewer or drain save in accordance with plans approved by, and under the superintendence (if given) of, the relevant authority in whom the sewer or drain shall be vested, and approval of those plans by the relevant authority shall not be unreasonably withheld.

PART II
—cont.

(3) (a) Section 31 of the Control of Pollution Act 1974 shall apply to, or to the consequence of, a discharge under the powers of this section into any relevant waters for the purposes of the said section 31 as if this section were excluded from the reference to any provision of a local Act mentioned in subsection (2) (b) (ii) of the said section 31 and as if no matter so discharged were trade or sewage effluent or other matter mentioned in subsection (2) (e) of the said section 31.

1974 c. 40.

(b) In the exercise of their powers under this section the Board shall not damage or interfere with the bed of any watercourse forming part of the main river of a water authority or the banks thereof within the meaning of section 116 of the Land Drainage Act 1976 or forming part of a metropolitan watercourse within the meaning assigned to that expression by paragraph 1 of Schedule 5 to that Act.

1976 c. 70.

(4) The Board shall take all such steps as may reasonably be required to secure that any water discharged by them under this section shall be as free as may be reasonably practicable from any gravel, soil or other solid substance or matter in suspension.

(5) Any difference arising between the Board and a relevant authority under this section shall be referred to and settled by arbitration.

Level crossings

17.—(1) Subject to the provisions of this Act, the Board may, at the level crossings described in this section, stop up and discontinue so much of the following roads as lies within the boundaries of their property:—

Stopping up, etc.,
level crossings.

In the city of Bradford, county of West Yorkshire—

In the parish of Steeton with Eastburn—

Keighley Road and Station Road (A.6034), Steeton, which are crossed by the railway between Keighley and Skipton stations at the level crossing known as Steeton crossing (reference point SE 0374:4487):

In the metropolitan borough of Doncaster, county of South Yorkshire—

In the parish of Thorne—

Bloomhill Road which is crossed by the railway between Thorne North and Goole stations at the level crossing known as Bloomhill Road crossing (reference point SE 6885:1521):

In the district of Harborough, county of Leicestershire—

The private portion of Glebe Road, incorporating a bridleway, which is crossed by the railway between Market Harborough and Kettering stations at the level crossing known as Little Bowden Junction crossing (reference point SP 7427:8664).

(2) (a) In this subsection “the bridge” means a new bridge over the railway adjacent to Steeton crossing to carry a diversion of Keighley Road and Station Road (A.6034) being constructed by the Secretary of State in connection with the Kildwick to Beechcliffe section of the improvement of the Airedale Trunk Road.

PART II
—cont.

(b) The stopping up under this section of Steeton crossing shall not take place until the Secretary of State has completed and opened for public or private use, as the case may be, the bridge and a private accommodation road routed under the bridge and connecting land on the north side of the railway and on the east side of Keighley Road with the diversion of Keighley Road on the north side of the bridge.

(c) Steeton crossing may be stopped up under this section notwithstanding anything contained in the (A.629/A.650) North-West of Doncaster-Kendal Trunk Road (Airedale Route) (Kildwick to Beechcliffe Section Side Roads) Order 1986.

(d) Upon the stopping up of Steeton crossing, the specified enactments shall cease to apply to that crossing.

(3) The stopping up under this section of Bloomhill Road and Little Bowden Junction crossings shall not affect the right of persons to use those crossings on foot and the Board shall provide and maintain for the convenience of such persons wicket gates or stiles on both sides of the railway at those crossings.

Level crossings
at Chesterton,
Cambridgeshire.

18.—(1) In this section—

“the council” means Cambridgeshire County Council;

“the existing crossing” means the level crossing at Chesterton in the parishes of Impington and Milton in the district of South Cambridgeshire, county of Cambridgeshire, known as Mere Way crossing (reference point TL 4597:6164) whereby Mere Way (formerly King’s Hedges Road) is crossed by the railway;

“the new level crossing” means a new level crossing in the said parish of Impington whereby a realignment of Mere Way proposed to be carried out by the council will cross the railway at reference point TL 4591:6167 or in the vicinity thereof; and

“the railway” means the railway between Cambridge and Fen Drayton.

(2) The Board and the council may enter into and carry into effect agreements—

(a) for the construction of the new level crossing; and

(b) for defraying, or making contributions towards, the cost of constructing, maintaining and renewing the new level crossing and any other matters relating thereto.

(3) The Board may, subject to such requirements as the Secretary of State may from time to time lay down, provide, maintain and operate at or near the new level crossing such barriers, lights, traffic signs and automatic or other devices and appliances as may be approved by the Secretary of State.

(4) Any expenses incurred by the council for the purposes of this section shall be deemed to be expenses incurred by them in exercise of their powers as a highway authority under the Highways Act 1980.

(5) As from the completion and opening for public use of the new level crossing all rights of way over the existing crossing shall be extinguished and the provisions of the specified enactments relating to the existing crossing shall cease to apply to the existing crossing.

1980 c. 66.

Reduction in
status of Tarn
Gate level
crossing,
Thornton, Wyre.

19.—(1) In this section “Tarn Gate crossing” means the level crossing at Thornton in the borough of Wyre, county of Lancashire, known as Tarn Gate crossing (reference point SD 3445:4137) whereby New Road is crossed by the railway between Poulton-le-Fylde station and Burn Naze.

(2) All rights of way over Tarn Gate crossing, other than a right for all persons to use that crossing as a bridleway or on foot, are hereby extinguished and the Board shall provide and maintain gates on both sides of the railway at that crossing.

(3) The level crossing (including the gates thereof, other than the gates provided under subsection (2) above), shall be deemed to be works provided by the Board at the passing of this Act under section 68 of the Act of 1845 for the accommodation of the owners and occupiers of the land adjoining the railway and, for the purposes of this subsection, such owners and occupiers shall be deemed to include the owners and occupiers of any land the use of which would have been interrupted if Tarn Gate crossing had been closed at the passing of this Act.

20.—(1) Any person who suffers loss by the extinguishment, under the sections of this Act referred to in subsection (2) (a) below, of such private rights of way, if any, as may exist over any of the level crossings referred to in subsection (2) (b) below shall be entitled to be paid by the Board compensation, to be determined in case of dispute by the tribunal.

(2) (a) The sections of this Act referred to in subsection (1) above are sections 17 (Stopping up, etc., level crossings), 18 (Level crossings at Chesterton, Cambridgeshire) and 19 (Reduction in status of Tarn Gate level crossing, Thornton, Wyre).

(b) The level crossings referred to in subsection (1) above, and specified in the said sections 17, 18 and 19 of this Act, are—

Steton crossing;
Bloomhill Road crossing;
Little Bowden Junction crossing;
Mere Way crossing; and
Tarn Gate crossing.

Incorporated works provisions

21. The following works provisions of the (No. 2) Act of 1981 are, with necessary modifications, incorporated with this Act:—

Section 8 (Power to deviate);
Section 9 (Stopping up roads, bridleways and footpaths without providing substitute);
Section 10 (Stopping up roads, bridleways and footpaths in case of diversion or substitution);
Section 11 (Appropriating sites of roads, bridleways and footpaths);
Section 12 (Repair of roads, bridleways and footpaths);
Section 13 (Agreements between Board and highway authorities); and
Section 15 (Underpinning of buildings near works).

PART III

LAND

Purchase of land, etc.

22.—(1) Subject to the provisions of this Act, the Board may purchase compulsorily and use such of the land delineated on the deposited plans and described in the deposited book of reference as they require for the purposes of the works or for any purpose connected with or ancillary to their undertaking.

PART II
—cont.

Compensation.

Incorporation of
works provisions.

Purchase of land.

PART III
—cont.

(2) Without prejudice to the generality of subsection (1) above, the Board may purchase compulsorily and use for the purposes specified in column (3) of Schedule 1 to this Act all or any of the land referred to in columns (1) and (2) of that schedule.

(3) The Board may enter upon, use and appropriate so much of the subsoil and undersurface of any public street, road, footway or place delineated on the deposited plans and described in the deposited book of reference as shall be necessary for the purposes of subsection (1) above without being required to purchase the same or any easement or other right therein or thereunder or to make any payment therefor.

Purchase of rights
over land.

23.—(1) In this section references to the purchase by the Board of new rights are references to the purchase of rights to be created in favour of the Board.

(2) Subject to the provisions of this Act, the Board may for the purpose of constructing, maintaining, altering, renewing and using the works, or for the purpose of obtaining access to the works or for the purpose of doing any other thing necessary in connection with the works, purchase compulsorily such new rights as they require over any of the land delineated on the deposited plans and described in the deposited book of reference instead of purchasing that land under section 22 (Purchase of land) of this Act.

(3) The Act of 1965, as applied by this Act, shall have effect with the modifications necessary to make it apply to the compulsory purchase of new rights under subsection (2) above as it applies to the compulsory purchase of land so that, in appropriate contexts, references in the Act of 1965 to land are read as referring, or as including references, to the new rights or to land over which the new rights are, or are to be, exercisable, according to the requirements of the particular context.

(4) Without prejudice to the generality of subsection (3) above, in relation to the purchase of new rights under subsection (2) above—

(a) Part I of the Act of 1965 shall have effect with the modifications specified in Schedule 3 to the (No. 2) Act of 1981 and as if for the references in that schedule to that Act there were substituted references to this Act; and

(b) the enactments relating to compensation for the compulsory purchase of land shall apply with the necessary modifications as they apply to such compensation.

Purchase of rights
over land at
Kilnhurst and
St. Dennis.

24.—(1) Section 23 (Purchase of rights over land) of this Act shall have effect for enabling the Board to purchase such further new rights as they may require under this section.

(2) The Board may, in addition to such new rights as they may purchase under the said section 23 of this Act, purchase compulsorily such new rights as they require—

(a) over the land at Kilnhurst numbered on the deposited plans 6 in the metropolitan borough of Rotherham for the provision of a means of access from and to Glasshouse Lane for the purpose of constructing Works Nos. 2 and 2A;

(b) over the land at St. Dennis numbered on the deposited plans 4 in the parish of St. Ender for the provision of a means of access from and to the A.30 trunk road for the purpose of constructing Works Nos. 3 and 3A and, by means of Work No. 3A, of affording means of access to any lands adjoining Work No. 3, the use of which may be interrupted by that work; and

- (c) over any of the lands referred to in paragraphs (a) and (b) above for the purpose of the alteration, maintenance and use of Works Nos. 2 and 2A or 3 and 3A, as the case may be, and of the other lands or works of the Board in the vicinity thereof.

PART III
—cont.

25.—(1) In this section—

“the Barnsley land” means the land numbered on the deposited plans 2 to 4 in the metropolitan borough of Barnsley situated within the lines marked “Limit of land required for temporary access” on the deposited plans;

Temporary possession or use of lands at Barnsley, Rayleigh and Sevington.

“the designated lands” means—

(a) that part of the Sevington land required by the Board for use as a working site in connection with Work No. 4; and

(b) the land numbered on the deposited plans 6c in the district of Rochford situated within the line marked “Limit of temporary working site” on the deposited plans;

“the Rayleigh land” means the land numbered on the deposited plans 6b, 7b and 8b in the district of Rochford situated within the lines marked “Limit of land required for temporary access” on the deposited plans;

“the Sevington land” means the land numbered on the deposited plans 1a, 1b and 3 in the borough of Ashford and 1a, 4a, 6a and 7a in the parish of Sevington in that borough situated within the lines marked “Limit of land to be temporarily used” on the deposited plans;

“the specified lands” means the designated lands, the Barnsley land, the Rayleigh land or the Sevington land, as the case may be; and

“the specified works” means Work No. 4 and the embankment strengthening on the lands in the metropolitan borough of Barnsley and in the district of Rochford referred to in subsection (2) of section 22 (Purchase of land) of, and Schedule 1 to, this Act.

(2) The Board, in connection with the specified works and after giving to the owners and occupiers of the specified lands not less than 28 days' previous notice in writing, may—

- (a) (i) enter upon and take possession temporarily of the designated lands;
- (ii) construct on the designated lands such temporary works or structures as may be required by them;
- (b) (i) use the Barnsley land for the purpose of obtaining access from and to the land numbered on the deposited plans 1 in the metropolitan borough of Barnsley;
- (ii) use the Rayleigh land for the purpose of obtaining access from and to the land numbered on the deposited plans 6a, 6c, 7a and 8a in the district of Rochford;
- (iii) use any part of the Sevington land for the purpose of obtaining access to and from any working site on such land and from and to any of the land required for Work No. 4;
- (c) remove any structures and vegetation on the specified lands; and
- (d) form and lay out means of temporary access—
- (i) to the Rayleigh land from the A.130 road at point “C”; and
- (ii) to the Sevington land from Canterbury Road at point “A”.

PART III
—cont.

(3) On the exercise of the powers conferred by subsection (2) above, the following provisions shall have effect:—

- (a) The Board shall not be empowered to purchase compulsorily or be required to purchase any part of the specified lands:
- (b) The Board shall not, without the agreement of the owners and occupiers of the specified lands, remain in possession of any part thereof after a period of one year from the completion of the specified works:
- (c) Before giving up possession of the specified lands, the Board shall remove all temporary works or structures and restore the specified lands to the reasonable satisfaction of the owners and occupiers thereof:
- (d) The Board shall compensate the owners and occupiers of the specified lands for any loss or damage which may result to them by reason of the exercise of the powers of subsection (2) above:
- (e) Nothing in this section shall relieve the Board from liability to compensate under section 6 or 43 of the Act of 1845 or section 10 (2) of the Act of 1965, as incorporated with or applied by this Act, or under any other enactment, in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (d) above:
- (f) Any dispute as to a person's entitlement to compensation under paragraph (d) above or as to the amount thereof shall be determined by the tribunal.

Set-off for
enhancement in
value of retained
land.

26.—(1) In this section “relevant land” means any land or any subsoil or undersurface of, or new rights over, any land purchased by the Board for the purposes of the works.

(2) In assessing the compensation payable to any person on the purchase by the Board from him of any relevant land, the tribunal shall—

- (a) have regard to the extent to which the land or the remaining contiguous lands belonging to the same person may be benefited by any of the works; and
- (b) set off against the value of the relevant land any increase in value of the remaining contiguous lands belonging to the same person which will accrue to him by reason of the construction of any of the works.

1961 c. 33.

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

Time for
purchase of land
and rights over
land.

27. The powers of the Board for the compulsory purchase of land and rights over land under this Act shall cease on 31st December 1993.

Extension of time

Extension of
time.

28. The period now limited by the Act of 1984 for the compulsory purchase of the land referred to in Schedule 2 to this Act is hereby extended until 31st December 1993.

Power to owners
and lessees to
give notice of
purchase of land.

29.—(1) In this section—

“the enabling Act” means the Act of 1984;

“land” means any land which is for the time being authorised to be purchased compulsorily by the enabling Act; and

“lessee” means a lessee under a lease having a period of not less than 21 years to run at the date of his notice under subsection (2) below.

(2) If any owner or lessee of any land shall give notice in writing to the Board of his desire for the purchase as soon as may be by the Board of his interest in any part of the land specified in the notice, the Board shall within a period of three months after the receipt of such notice—

- (a) enter into a contract with him for the purchase of his interest in the land or such part thereof as may be specified in his notice, or in such part thereof as may be required by the Board; or
- (b) serve on him a notice to treat for the compulsory purchase of his interest in the land specified in his notice, or in such part thereof as may be required by the Board; or
- (c) serve on him notice in writing of the Board's intention not to proceed with the purchase of his interest in the land specified in his notice.

(3) Where notice is given under subsection (2) above by any owner or lessee, then—

- (a) if the Board—
 - (i) fail to comply with that subsection; or
 - (ii) withdraw in pursuance of any statutory provision a notice to treat served on him in compliance with subsection (2) (b) above; or
 - (iii) serve notice on him in compliance with subsection (2) (c) above;

the powers conferred by the enabling Act for the compulsory purchase of his interest in the land so specified shall cease;

- (b) if his interest in part only of the land so specified is purchased in pursuance of such a notice to treat, the powers conferred by the enabling Act for the compulsory purchase of his interest in the remainder of the land so specified shall cease.

Incorporated lands provisions

30. The following lands provisions of the under-mentioned Acts are, with necessary modifications, incorporated with this Act:—

The (No. 2) Act of 1981—

- Section 21 (Extinction or suspension of private rights of way);
- Section 24 (Correction of errors in deposited plans and book of reference); and
- Section 25 (Cellars under streets not referenced):

The (No. 2) Act of 1984—

- Section 21 (Purchase of part of certain properties); and
- Section 22 (Disregard of recent improvements and interests).

Incorporation of
lands provisions.

PART IV

PROTECTIVE PROVISIONS

31.—(1) The following provisions of the under-mentioned Acts are, with necessary modifications, incorporated with this Act:—

The (No. 2) Act of 1981—

- Section 32 (Notice of interference with roads); and
- Section 33 (Crown rights):

The (No. 2) Act of 1984—

- Section 27 (For protection of electricity, gas and water undertakers).

Incorporation of
protective
provisions.

PART III
—cont.

PART IV
—cont.

(2) For the purposes of section 27 of the (No. 2) Act of 1984, as incorporated by subsection (1) above—

- (a) for the reference in paragraph (2) thereof to section 14 (Temporary stoppage of roads, bridleways and footpaths) of the (No. 2) Act of 1981, as incorporated by section 18 (Incorporation of works provisions) of the (No. 2) Act of 1984, there shall be substituted a reference to section 15 (Temporary stoppage of roads, bridleways and footpaths) of this Act; and
- (b) for the references in paragraph (4) thereof to section 16 (Use of sewers, etc., for removing water) of the (No. 2) Act of 1981, as incorporated by the said section 18, there shall be substituted references to section 16 (Use of sewers, etc., for removing water) of this Act.

PART V

MISCELLANEOUS

Bridges over river
Witham, Lincoln.

32.—(1) In this section “the bridges” means the following bridges of the Board over the river Witham in the city of Lincoln, county of Lincolnshire, and numbered by them 46, 47 and 47A:—

- (a) the swing bridge numbered 46, carrying the railway between Doncaster and Lincoln Central station;
- (b) the lifting bridge numbered 47, formerly carrying sidings and now disused; and
- (c) the lifting bridge numbered 47A, carrying a private road and public footpath connecting land on the south side of Brayford Pool with the road known as Brayford Wharf East;

together with all apparatus and works connected with those bridges.

(2) Notwithstanding anything in section 147 (For Protection of the Drainage by the River Witham in the County of Lincoln) of the Great Northern Railway Act 1846; or in any other enactment, the Board—

1846 c. lxxi.

- (a) shall not be required to maintain the bridges as swing or lifting bridges, as the case may be; and
- (b) on the reconstruction under their existing powers of the bridges numbered 46 and 47A, may take down and remove the bridge numbered 47.

PART VI

GENERAL

Planning
permission.
S.I. 1988/1813.

33.—(1) In this section “Part 11 development” means development permitted by article 3 of, and Class A in Part 11 of Schedule 2 to, the Town and Country Planning General Development Order 1988 (which permits development authorised by private Act designating specifically both the nature of the development thereby authorised and the land on which it may be carried out).

(2) Subject to subsection (3) below, in its application to development authorised by this Act, the planning permission granted for Part 11 development shall have effect as if the authority to develop given by this Act were limited to development begun within 10 years after the passing of this Act.

(3) Subsection (2) above shall not apply to the carrying out of any development consisting of the alteration, maintenance or repair of works or the substitution of new works therefor.

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

PART VI
—cont.
Arbitration.

35. All costs, charges and expenses of and incidental to the preparing for, obtaining and passing of this Act, or otherwise in relation thereto, shall be paid by the Board and may in whole or in part be defrayed out of revenue.

Costs of Act.

SCHEDULES

Section 22 (2).

SCHEDULE 1

LAND REFERRED TO IN SECTION 22 (2) OF THIS ACT

Area (1)	No. on deposited plans (2)	Purpose for which land may be used (3)
In the county of South Yorkshire— Metropolitan borough of Barnsley—	1.	To strengthen the embankment carrying the railway between Darton and Barnsley stations.
In the county of Essex— District of Rochford—	6a, 7a, 8a.	To strengthen the embankment at Rayleigh carrying the railway between Wickford and Rayleigh stations.
In the county of Lincolnshire— City of Lincoln—	3, 4, 5, 6, 7.	To provide vehicular access from Tentercroft Street to— (a) adjoining lands or works of the Board; and (b) the rear of the properties numbered 326, 327-328, 330 and 332 High Street upon the stopping up under section 12 (New footpath, etc., at Lincoln) of this Act of the private road therein defined.

Section 28.

SCHEDULE 2

LAND FOR WHICH PERIOD OF COMPULSORY PURCHASE IS EXTENDED

The lands authorised to be purchased by section 18 (Purchase of land) or section 19 (Purchase of rights over land) of the Act of 1984—

- (a) for the purposes of Works Nos. 1 and 3 authorised by that Act, except the land numbered on the plans deposited in respect of the Bill for that Act 10 and 11 in the parish of Ringway, city of Manchester; and
- (b) numbered on those plans 12a in that parish.

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