



# London Underground Act 1992

## 1992 CHAPTER iii

### PART I

#### PRELIMINARY

#### 1 Short title

This Act may be cited as the London Underground Act 1992.

#### 2 Interpretation

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

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

“the Act of 1863” means the Railways Clauses Act 1863;

“the Act of 1959” means the Highways Act 1959;

“the Act of 1963” means the London Transport Act 1963;

“the Act of 1964” means the London Transport Act 1964;

“the Act of 1965” means the London Transport Act 1965;

“the Act of 1966” means the London Transport Act 1966;

“the Act of 1969” means the London Transport Act 1969;

“the Act of 1975” means the London Transport Act 1975;

“the Act of 1976” means the London Transport Act 1976;

“the Act of 1980” means the Highways Act 1980;

“the Act of 1981” means the London Transport Act 1981;

“the appropriate authority” means the Corporation in respect of matters relating to the works authorised by subsection (2) of section 4 (Power to make works) of this Act and otherwise means the Company;

“the Company” means London Underground Limited;

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

“the Corporation” means London Regional Transport;

“the deposited plans”, “the deposited sections” and “the deposited book of reference” mean the plans, sections and book of reference deposited in connection with the London Underground Bill in November 1989 together with the plans, sections and book of reference deposited in connection with an Additional Provision to that Bill in May 1990 and with the plans, sections and book of reference deposited in connection with the London Underground (No. 2) Bill in November 1990 save that references to lands designated only by their number or to points identified only by letter do not include references to the lands designated by that number or to points identified by that letter on the (No. 2) plans; and “the (No. 2) plans” means the plans deposited in connection with the last named Bill;

“the East London Line” means the railway of the Company between Shoreditch and New Cross and New Cross Gate;

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

“the North London Line” means the railway of the railways board on the lands numbered 3A, 11, 14, 17, 18, 19, 21, 27, 39, 40, 42, 42A, 53, 67, 67A, 68, 69, 71, 77 and 81 in the London borough of Newham on the deposited plans;

“the port authority” means the Port of London Authority;

“the railway” means the works authorised by Part II (Works, etc.) of this Act and described in Part I of Schedule 1 to this Act;

“the railways board” means the British Railways Board;

“the river Thames” means the Thames as defined in the Port of London Act 1968;

“tidal work” means so much of any work carried out or constructed under the powers of this Act as is in, on, over or under the river Thames or involves cutting its banks;

“the underground railways” means such portions of Works Nos. 1A, 1B, 2 and 3A and any necessary works and conveniences connected therewith as are constructed in tunnel; and

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

- (2) Any reference to the London Transport Board or to the London Transport Executive in any of the provisions incorporated with this Act shall be construed as a reference to the appropriate authority.
- (3) All distances, lengths and directions stated in any description of works, powers or lands, shall be construed as if the words “or thereabouts” were inserted after each such distance, length and direction, and distances between points on a railway shall be taken to be measured along the railway.
- (4) Unless the context otherwise requires, any reference in this Act to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Act.
- (5) References in this Act to points identified by letters, with or without numbers, shall be construed as references to the points so marked on the deposited plans.

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

- (1) The following enactments, so far as the same are applicable for the purposes of and are not inconsistent with or varied by the provisions of this Act, are incorporated with and form part of this Act, and this Act shall be deemed to be the special Act for the purposes of the said incorporated enactments:—
  - (a) the Lands Clauses Acts, except sections 127 to 132 of the Lands Clauses Consolidation Act 1845;
  - (b) the Act of 1845, except sections 7, 8, 9, 11, 12, 13, 14, 15, 17, 19, 20, 22, 23, 94 and 95 thereof; and
  - (c) in the Act of 1863, Part I (relating to construction of a railway) except sections 13, 14, 18 and 19 thereof.
- (2) For the purposes of the provisions of the Act of 1845 and the Act of 1863, as incorporated with this Act, the expression “the company” where used in the said incorporated provisions means the appropriate authority.
- (3) Sections 18 and 21 of the Act of 1845, as incorporated with this Act, shall not extend to regulate the relations between the appropriate authority and any other person in respect of any matter or thing concerning which those relations are regulated in any respect by the provisions of—
  - (a) Part II of the Public Utilities Street Works Act 1950 or Part III of the New Roads and Street Works Act 1991; or
  - (b) section 42 (For protection of gas, water and electricity undertakers) of the Act of 1963, as incorporated with this Act.

## **PART II**

### **WORKS, ETC.**

#### **4 Power to make works**

- (1) The Company may, in the lines or situations shown on the deposited plans and according to the levels shown on the deposited sections, make and maintain in Greater London the works described in Schedule 1 to this Act with all necessary works and conveniences connected therewith.
- (2) The Corporation may, after completion of any necessary work by the Company on such land, make and maintain with all necessary works and conveniences connected therewith a bus station on any part of the land shown numbered 5 to 10 and 59 to 64 in the London borough of Newham on the deposited plans.
- (3) The Company may make and maintain—
  - (a) platforms adjacent to the East London Line on the land shown numbered 281 to 284 in the London borough of Southwark on the deposited plans together with accesses therefrom to any station built as part of Work No. 2 on such land;
  - (b) a widening on both sides thereof of—
    - (i) Stainer Street, in the London borough of Southwark;
    - (ii) Brunel Street, in the London borough of Newham;to the extent shown on the (No. 2) plans;
  - (c) a road in the London borough of Newham between points J and K; and

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(d) a footbridge in the London borough of Newham between points Q and T; with all necessary works and conveniences connected therewith.

- (4) On the completion of Work No. 12, the Company may fill in so much of the Channelsea River as lies between points U, V, W, X and Y as will be rendered unnecessary by that work.

## 5 Power to open surface of streets

The appropriate authority may, during and for the purpose of the execution of the works, enter upon, open, break up and interfere with so much of the surface of any of the streets named in column (2) of Schedule 2 to this Act as is within the limits of deviation or within the limits of land to be acquired or used shown on the (No. 2) plans.

## 6 Stopping up of streets and footpath

- (1) The appropriate authority may stop up and discontinue so much of each of the streets and footpath specified in column (2) of Schedule 3 to this Act as is set out in column (3) of that Schedule.
- (2) After such stoppings up all rights of way over or along the streets and footpath authorised to be stopped up shall be extinguished and the appropriate authority may, subject to the provisions of the Act of 1845 with respect to mines lying under or near the railway, appropriate, without making any payment therefor, and use for the purposes of their undertaking the site of the street or footpath so stopped up.
- (3) Any person who suffers loss by the extinguishment of any private right under this section shall be entitled to be paid by the appropriate authority compensation to be determined in case of dispute under and in accordance with the Lands Clauses Acts.

## 7 Temporary stoppage of streets and footpaths

- (1) The appropriate authority may, during and for the purpose of the execution of the works, temporarily stop up and divert, and interfere with, any street 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 street or footpath from passing along and using the same.
- (2) In relation to any stopping up, diversion or interference authorised by subsection (1) above, the appropriate authority shall provide reasonable access for foot passengers bona fide going to or from any such land, house or building.
- (3) Without prejudice to the generality of subsection (1) above, the Company may, for a period not exceeding six years from the date of the passing of this Act—
- (a) narrow and stop up—
    - (i) so much of Mephram Street numbered 28 in the London borough of Lambeth on the deposited plans as lies between points C and D;
    - (ii) so much of Tenison Way numbered 30 in the London borough of Lambeth on the deposited plans as lies between points E and F;
    - (iii) so much of Whichcote Street and Tenison Way numbered 21 and 30 in the London borough of Lambeth on the deposited plans as lies between points G and H;

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- (iv) so much of Buckley Street numbered 24 and 30 in the London borough of Lambeth on the deposited plans as lies between points J and K;
  - (v) so much of London Bridge Street numbered 174 in the London borough of Southwark on the deposited plans as lies between points C and D;
  - (vi) so much of the public footpath in Grace Kimmins Gardens numbered 216E in the London borough of Southwark on the deposited plans as lies between points E and F;
  - (vii) so much of Tidal Basin Road and Dock Road numbered 97 and 98 in the London borough of Newham on the deposited plans as lies between points A1, B1 and C1;
  - (viii) so much of the western side of Victoria Dock Road numbered 4A in the London borough of Newham on the deposited plans as lies between points A, B, C, D and A; and
  - (ix) so much of Manor Road numbered 29A in the London borough of Newham on the deposited plans as lies between points G and H;
- (b) stop up so much of each of the streets named in column (2) of Schedule 4 to this Act as is set out in column (3) of that Schedule.
- (4) (a) Subsection (1) above shall not apply to any part of the Queen’s Walk except so much of the air space over the Queen’s Walk as may be required for the provision of an overhead conveyor.
- (b) For the purposes of paragraph (a) above the expression “the Queen’s Walk” shall have the same meaning as in section 36 (For protection of London Residuary Body) of this Act.

## **8 Notice of interference with streets**

Before breaking up or otherwise interfering with any street to which the public has access in connection with the construction of any of the works the Company shall (except in case of emergency) give not less than 14 days' notice in writing to—

- (a) the London Fire and Civil Defence Authority; and
- (b) the chief officer of police;

and make such arrangements with the chief officer of police as may be reasonably necessary so as to cause as little interference with the traffic in such street during the construction of such works as may be reasonably practicable.

## **9 Works in river Thames**

- (1) In this section “the affected areas” means so much of the banks, bed and foreshores of the river Thames as are specified in Schedule 5 to this Act and as are within the limits of deviation.
- (2) The Company may, for the purpose of constructing the works, alter or interfere with the affected areas and construct, place, maintain, alter and remove all such works and conveniences within those areas as they may deem expedient or necessary.
- (3) The Company may, with the consent of the port authority (whose consent shall not be unreasonably withheld) and subject to such reasonable conditions (including conditions as to payment) as the port authority may impose, for the purpose of constructing the works, moor or anchor temporarily vessels, barges, lighters or other

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craft in the river Thames or at any pier or jetty in the affected areas and may load and unload into and from such craft, equipment, machinery, soil and any other materials arising out of, or related to, the construction of the works.

## 10 Works at Westminster

The Company may, for the purpose of constructing Works Nos. 2, 6B, 7 and 8, together with all necessary works and conveniences connected therewith, in, on or under so much of the land in the city of Westminster as lies within the limits of land to be used shown on the deposited plans—

- (a) temporarily stop up, divert and interfere with any street referred to in Schedule 2 to this Act; and
- (b) stop up—
  - (i) any pedestrian subway; and
  - (ii) any part of any such street for the purpose of providing access to any of the said works and conveniences connected therewith.

## 11 General mode of construction of underground railways

(1) The following provisions shall apply to the construction of the underground railways:

- (a) The works shall be constructed in two tunnels for separate up and down traffic except—
  - (i) at cross-overs and junctions where they may be constructed in single tunnels of enlarged diameter; and
  - (ii) Works Nos. 1A and 1B may be constructed in single tunnels:
- (b) The underground railways shall be approached by means of stairs, inclines, subways, electric or other lifts or escalators:
- (c)
  - (i) The tunnels comprised in the underground railways (including those for the stations) shall be lined throughout with iron or other sufficient metal plates or with concrete or other suitable material;
  - (ii) Every permanent shaft shall be constructed either by under-pinning or by sinking and shall be lined with cast iron, brick, concrete or other equally suitable and durable material;
  - (iii) The internal diameter of the station tunnels of the underground railway shall not exceed 10 metres, the internal diameter of the cross-over and junction tunnels shall not exceed 12 metres, the internal diameter of the tunnels between the stations shall not (except at cross-overs and junctions or where necessary for adjustment at curves or for other constructional purposes) exceed 5 metres, the internal diameter of the shafts shall not exceed 14 metres when circular and 20 metres by 10 metres when rectangular, and escalator tunnels shall have an internal diameter not exceeding 10 metres;
  - (iv) Where the ground is suitable any space between the lining of the tunnels (including station, cross-over and junction tunnels) and the surrounding soil shall be properly filled up with lime or cement grouting or other suitable materials placed therein under pressure:
- (d) If water is found to be present in the construction of the underground railways in such quantity as to necessitate the employment of compressed air, the Company shall stop all excavating work at the point where the same is so

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found, and the further driving of the tunnels at the working face at that point, until air-compressing machinery shall have been provided to produce such a pressure of air as will prevent the inflow of any sand, water, gravel or soil, and such machinery shall be maintained in full working order, and the work at such working face carried on under compressed air, so long as may be necessary; alternatively instead of the work being carried on under compressed air, the Company may, in any case where it is expedient to staunch or limit any inflow of sand, water, gravel or soil into the tunnels, use chemicals to secure consolidation of the ground or may apply a freezing process for the freezing of the subsoil until the lining of the tunnel is fully erected or secured.

- (2) Nothing in this section shall prejudice or affect the operation of the relevant statutory provisions as defined in Part I of the Health and Safety at Work etc. Act 1974.

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

- (1) The appropriate authority may use for the discharge of any water pumped or found by them during the construction of the works any available stream or watercourse, or any sewer or drain of a relevant authority in or through whose area the works may be constructed or pass, and for that purpose may lay down, take up and alter conduits, pipes and other works and make any convenient connections with any such stream, watercourse, sewer or drain within the limits of deviation but—
- (a) the appropriate authority shall not discharge any water into any sewer or drain vested in or under the control of a relevant authority except with the consent of the relevant authority and subject to such terms and conditions as the relevant authority may reasonably impose; and
  - (b) the appropriate authority shall not make any opening into any such sewer or drain save in accordance with plans approved by, and under the superintendence (if given) of, the relevant authority in whom the sewer or drain is vested and approval of those plans by the relevant authority shall not be unreasonably withheld.
- (2) (a) Section 85 of the Water Resources Act 1991 shall apply to, or to the consequence of, a discharge under the powers of this section into any controlled waters within the meaning given by section 104 of that Act as if this section were not a local statutory provision for the purposes of section 88 (1) (f) of that Act.
- (b) In the exercise of their powers under this section the appropriate authority shall not damage or interfere with the bed of any watercourse forming part of a main river or the banks thereof within the meaning of section 113 of the Water Resources Act 1991.
- (3) The appropriate authority shall take all steps reasonably required to secure that any water discharged by them under the powers of this section shall be as free as may be reasonably practicable from any gravel, soil or other solid substance or oil or matter in suspension.
- (4) Any difference arising between the appropriate authority and a relevant authority under this section shall be settled by arbitration.
- (5) In this section “relevant authority” means Thames Water Utilities Limited, the National Rivers Authority or a London borough council.

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### 13 Power to deviate

In the execution of any of the works, the Company may deviate laterally 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—

- (a) to such extent downwards as may be found necessary or convenient;
- (b) to any extent upwards not exceeding 10 metres in the case of so much of Work No. 3A as lies between the points measured along its centre line at a distance of 1,000 metres and 1,400 metres from its commencement;
- (c) to any extent upwards not exceeding 3 metres in the case of so much of Works Nos. 2 and 3A as lies beneath the lands shown on the deposited plans numbered—
  - (i) 102 and 103 in the city of Westminster;
  - (ii) 1 in the London borough of Lambeth;
  - (iii) 322 and 322A in the London borough of Southwark;
  - (iv) 1 and 66 in the London borough of Tower Hamlets;
  - (v) 1, 10, 11 and 12 in the London borough of Greenwich; and
  - (vi) 85 in the London borough of Newham;
- (d) to any extent upwards not exceeding 5 metres in the case of so much of the remainder of Work No. 3A as is constructed in tunnel and all of the other underground railways; and
- (e) to such extent upwards as may be found necessary or convenient in the case of any other of the works.

### 14 Agreements with British Railways Board

(1) In this section—

“the affected properties” means the Waterloo and London Bridge stations of the railways board, any viaduct or part of a viaduct carrying train services operated by the railways board and the North London Line, including the subsoil beneath those stations and viaducts and the North London Line; and

“the specified works” means so much of the works as will be constructed under, on or over any of the affected properties.

- (2) Any work of alteration or adaptation of property of the railways board which may be necessary in order to construct the specified works and thereafter, the use, maintenance, repair and renewal of such property and of the specified works shall be carried out and regulated by the Company or the railways board, or jointly by both of them, in accordance with such terms and conditions as may be agreed in writing between the Company and the railways board.
- (3) (a) Any agreement made under this section may relate to the whole or part of the affected properties and may contain such incidental, consequential or supplementary provisions as may be so agreed, including (but without prejudice to the generality of the foregoing) provisions—
  - (i) with respect to the defraying of, or the making of contributions towards, the cost of such works of alteration or adaptation or the costs of such maintenance, repair and renewal as are referred to in subsection (2) above by the Company or by the railways board or by the Company and railways board jointly; and



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- (ii) for the exercise by the railways board, or by the Company, or by the railways board and the Company jointly, of all or any of the powers and rights of the railways board and the Company (as the case may be) in respect of any part of the specified works under any enactment or contract.
  - (b) The exercise by the Company or the railways board or by the Company and the railways board jointly, of any powers and rights under any enactment or contract pursuant to any such agreement as is authorised by paragraph (a) above shall be subject to all statutory and contractual provisions relating thereto which would apply if such powers and rights were exercised by the Company or the railways board (as the case may be) alone, and accordingly such provisions shall with any necessary modifications, apply to the exercise of such powers and rights by the Company or the railways board, or by the Company and the railways board jointly, as the case may be.
- (4) The Company and the railways board may enter into, and carry into effect, agreements for the transfer to the Company, or the Company and the railways board jointly, of any part of the affected properties.
- (5) In constructing Works Nos. 2, 3A and 4 on any part of the affected properties the Company may, on such terms as may be agreed with the railways board, re-align the existing North London Line and relocate the Canning Town station of the railways board in such position and on such terms as are agreed between the Company and the railways board.
- (6) Any difference between the Company and the railways board under this section (other than a difference as to its meaning or construction) shall be referred to and settled by arbitration.

## **15 Agreements with landowners**

- (1) In this section—
  - “the affected properties” means the land shown numbered 7, 7A, 8, 44 and 45 in the London borough of Tower Hamlets on the deposited plans;
  - “the specified works” means so much of Work No. 3A as will be constructed under or near the affected properties, together with all necessary works and conveniences connected therewith; and
  - “the landowners” means the owners, lessees and occupiers of the affected properties.
- (2) Any work of construction, alteration or adaptation of property of the landowners which may be necessary in order to construct the specified works and thereafter the use, maintenance, repair and renewal of such property and of the specified works shall be carried out and regulated by the Company or the landowners, or jointly by both of them, in accordance with such terms and conditions as may be agreed in writing between the Company and the landowners.
- (3) (a) Any agreement made under this section may relate to the whole or part of the affected properties and may contain such incidental, consequential or supplementary provisions as may be so agreed, including (but without prejudice to the generality of the foregoing) provisions—
  - (i) with respect to the defraying of, or the making of contributions towards, the cost of such works of alteration or adaptation or the

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costs of such maintenance, repair and renewal as are referred to in subsection (2) above by the Company or the landowners or by the Company and the landowners jointly; and

- (ii) for the exercise by the Company, or by the landowners or by the Company and the landowners jointly, of all or any of the powers and rights of the Company or the landowners (as the case may be) in respect of any part of the specified works under any enactment or contract.
- (b) The exercise by the Company or the landowners or by the Company and the landowners jointly, of any powers and rights under any enactment or contract pursuant to any such agreement as is authorised by paragraph (a) above shall be subject to all statutory and contractual provisions relating thereto as would apply if such powers and rights were exercised by the Company or the landowners (as the case may be) alone, and accordingly such provisions shall with any necessary modifications, apply to the exercise of such powers and rights by the Company or the landowners, or by the Company and the landowners jointly, as the case may be.

## **16 Listed building provisions, etc., not to apply to works**

- (1) The provisions of this Act authorising the carrying out of the works (“the works powers”) shall have effect notwithstanding—
  - (a) the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990; and
  - (b) the provisions of the enactments relating to historic buildings and ancient monuments;

and section 42 of the Local Government (Miscellaneous Provisions) Act 1976 (certain local Acts, etc., to be subject to the planning enactments, etc., except as otherwise provided) shall not apply to the extent that it would make the works powers subject to those provisions:

Provided that nothing in paragraph (a) above shall apply in relation to—

- (i) works for the demolition of any relevant building other than one specified in Part I of Schedule 6 to this Act; or
  - (ii) works for the permanent alteration or extension of any relevant building, other than one specified in Part I or Part II of that Schedule, so as to affect its character as a building of special architectural or historic interest.
- (2) Paragraph (a) of subsection (1) above shall only apply in relation to works for the permanent alteration or extension of a building specified in column (1) of Part II of Schedule 6 to this Act which affect its character as a building of special architectural or historic interest if the works are carried out for the purpose specified in relation to that building in column (2) of that Part.
  - (3) In this section “relevant building” means a building which was, on 1st February 1991, a listed building or in a conservation area; and expressions used in this section and in the Planning (Listed Buildings and Conservation Areas) Act 1990 have the same meaning in this section as in that Act.

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## **17 Nos. 1, 1B and 2 Bridge Street**

Notwithstanding the provisions of paragraph (a) of subsection (1) of section 16 (Listed building provisions, etc., not to apply to works) of this Act, that paragraph shall not have effect in relation to the demolition of Nos. 1, 1B and 2 Bridge Street in the city of Westminster until a resolution approving a design for the new Parliamentary building to be constructed on the site thereof has been approved by the House of Commons.

## **18 Marking of tidal works**

- (1) The Company shall—
- (a) at or near every tidal work exhibit such lights and lay down such buoys and take such other steps for preventing danger to navigation as the port authority may from time to time reasonably direct;
  - (b) in the case of injury to or destruction or decay of a tidal work or any part thereof immediately notify the port authority, and the port authority may thereupon give to the Company reasonable directions as to the steps to be taken for preventing danger to navigation.
- (2) If the Company fail to comply with any provision of or direction given under this section, they shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

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

The Company shall in connection with the works from time to time submit for the approval of the Secretary of State plans, sections and other details of their proposals with respect to—

- (a) permanent way, tunnels, bridges and viaducts, platforms, stairs, lifts, escalators and other communications;
- (b) rolling stock;
- (c) lighting;
- (d) signalling;
- (e) ventilation; and
- (f) the power required for traction, with particular reference to the use of overhead contact wires or conductor rail systems;

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

## **20 Incorporation of works provisions**

- (1) The following provisions of the undermentioned Acts are, with necessary modifications, incorporated with this Act:—
- The Act of 1963—
    - section 10 (Provisions as to use of electrical power);
    - section 11 (Compensation for damage by working); and
    - section 15 (Power to make trial holes):
  - The Act of 1965—

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section 10 (Underpinning of houses near works) except the provisos to paragraphs (4) and (6) thereof.

- (2) For the purposes of this Act references in the said sections 10 and 11 of the Act of 1963, as so incorporated, to Work No. 1 authorised by that Act shall be construed as references to the underground railways and the said section 10 shall have effect as if, after the reference to “insulated return” and “insulated returns” in paragraphs (5) and (7) thereof respectively, there were added “or uninsulated metallic returns of low resistance”.

### PART III

#### LANDS

#### 21 Power to acquire lands

- (1) The appropriate authority 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 works or for any purpose connected with or ancillary to their undertaking.
- (2) The appropriate authority may enter upon, use and appropriate so much of the subsoil and under-surface of any public street, road, footway or place delineated on the deposited plans and described in the deposited book of reference as may be necessary for the purposes mentioned in subsection (1) above without being required to purchase the same or any easement therein or thereunder or to make any payment therefor.
- (3) The Company shall not under the powers of this Act acquire any surface interest in the lands delineated on the deposited plans and thereon numbered 90A, 90B and 90C in the city of Westminster.

#### 22 Power to acquire subsoil or new rights only in certain cases

- (1) In this Part of this Act “new rights” in relation to any land means easements or other rights in, under or over such land, which are not in existence at the passing of this Act.
- (2) Notwithstanding anything in this Act, but subject to paragraph (2) of section 33 (For protection of British Railways Board) of this Act, the Company may, for the purposes of constructing, maintaining, protecting, renewing and using the works, enter upon, take and use so much of the subsoil and under-surface of or may acquire such new rights as they may require in, under or over—
- (a) any railway, river, dock, canal, navigation, watercourse, aqueduct, drain, dyke or sewer; or
  - (b) any of the lands described in column (2) of Schedule 7 to this Act for the purposes mentioned in column (3) of that Schedule;
- without being obliged or compellable 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.
- (3) (a) If, in any case where the Company enter upon, take and use the subsoil and under-surface of, or acquire a new right in or under, any of the lands described in the said Schedule, they also require to take, use and pull down or open any

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cellar, vault, arch or other construction forming part of any such lands they may enter upon, take and use such cellar, vault, arch or other construction for the purposes of the works and (subject to the provisions of this Act) the provisions of the Lands Clauses Acts shall extend and apply in relation to the purchase thereof as if such cellar, vault, arch or other construction were lands within the meaning of those Acts.

- (b) Section 12 (Acquisition of part only of certain properties) of the Act of 1964 as incorporated with this Act, shall apply in respect of the acquisition by the Company under this subsection of any cellar, vault, arch or other construction as if the same were a part of land to which that section applies.
- (4) This section has effect in respect of the lands delineated on the deposited plans except those delineated solely on the (No. 2) plans.

## **23 Subsoil or new rights only to be acquired under certain lands**

(1) In this section—

“the specified lands” means the lands referred to in Schedule 8 to this Act; and

“the level of the surface of the specified lands” means ground surface level or, in the case of a building on the specified lands, means 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 means the level of the surface of the adjoining ground which is at all times above water level.

- (2) (a) Notwithstanding the provisions of subsection (1) of section 21 (Power to acquire lands) of this Act but subject to the provisions of paragraphs (b) and (c) below the Company shall not acquire compulsorily under the powers of this Act any part of the specified lands.
- (b) The Company may, within the limits of lateral deviation prescribed in this Act in respect of the works, enter upon, take and use so much of the subsoil and under-surface of the specified lands as they may require for the purposes of constructing, maintaining, protecting, renewing and using the works and any necessary works and conveniences connected therewith, or compulsorily purchase such new rights in the subsoil and under-surface of the specified lands as they may require for the said purposes without in either case being obliged or compellable to acquire any greater interest in, under or over the specified lands and may give notice to treat in respect of such entry, taking and using.
- (c) Paragraph (a) above does not apply in relation to such of the specified lands as are delineated on the (No. 2) plans.
- (d) For the purposes of this section the subsoil and under-surface of the specified lands shall be deemed not to include any such subsoil or under-surface which is within 9 metres of the level of the surface of the specified lands.

## **24 Application of Lands Clauses Acts to compulsory purchase of new rights**

- (1) The Lands Clauses Acts, as incorporated with this Act, shall have effect with the modifications necessary to make them apply to the compulsory purchase of rights under section 22 (Power to acquire subsoil or new rights only in certain cases) and section 23 (Subsoil or new rights only to be acquired under certain lands) of this Act as they apply to the compulsory purchase of land so that, in appropriate contexts,

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references in those Acts to land are read as referring, or as including references, to the rights or to land in, under or over which the rights are or are to be exercisable, according to the requirements of the particular context.

- (2) Without prejudice to the generality of subsection (1) above in relation to the purchase of new rights in pursuance of section 22 (Power to acquire subsoil or new rights only in certain cases) and section 23 (Subsoil or new rights only to be acquired under certain lands) of this Act—
- (a) the Lands Clauses Consolidation Act 1845 shall, subject to the provisions of subsection (3) below, have effect with the modifications specified in Schedule 1 (except paragraph 4) to the Act of 1976 and as if for the word “over”, wherever it occurs in paragraph 1 of that Schedule, there were substituted the words “in, under or over”;
  - (b) the enactments relating to compensation for the compulsory purchase of land shall apply with the necessary modifications as they apply to such compensation.
- (3) Notwithstanding anything in this section, section 92 of the Lands Clauses Consolidation Act 1845 shall not apply to any compulsory acquisition or purchase by the Company under section 22 (Power to acquire subsoil or new rights only in certain cases) or section 23 (Subsoil or new rights only to be acquired under certain lands) of this Act.

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

- (1) In this section “relevant land” means any land or any subsoil or under-surface of or new rights in, under or over any land acquired by the appropriate authority for the purposes of the works.
- (2) In assessing the compensation payable to any person on the acquisition by the appropriate authority from him of any relevant land, the Lands Tribunal shall—
- (a) have regard to the extent to which the lands or the remaining contiguous lands belonging to the same person may be benefited by the works; and
  - (b) set off against the value of the relevant land any increase in the value of the remaining contiguous lands belonging to the same person which will accrue to him by reason of the construction of the works.
- (3) The Land Compensation Act 1961 shall have effect subject to the provisions of this section.

## **26 Temporary possession of land**

- (1) This section applies to the land referred to in Schedule 9 to this Act (hereinafter in this section referred to as “the said land”).
- (2) The Company may for the purpose of enabling them to construct the works enter upon and take possession temporarily of the said land after giving the owners, lessees and occupiers thereof not less than one month’s notice in writing and may remove any structures thereon and may construct temporary works and structures thereon for such purpose:

Provided that the Company—

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- (a) shall not without the agreement of the owners, lessees and occupiers thereof remain in possession of the said land under the powers of this section after a period of 5 years from the date of entry thereon;
  - (b) shall not be empowered to purchase compulsorily or be required to purchase the said land (except such subsoil or new rights as they require under the provisions of section 22 (Power to acquire subsoil or new rights only in certain cases) of this Act).
- (3) Before relinquishing possession of the said land the Company shall remove all works and structures erected by them on the surface thereof and shall, subject to any agreement to the contrary with the respective owners, lessees or occupiers thereof, reinstate the said land so far as reasonably practicable to its condition immediately before entry thereon by the Company.
- (4) Without prejudice to the provisions of this section, the Company may, for the purpose of constructing Work No. 2, together with all necessary works and conveniences connected therewith, in, on or under the land shown within the limit of land to be used and numbered 31 in the London borough of Lambeth on the deposited plans—
- (a) temporarily stop up, divert and interfere with any public footway; and
  - (b) enter upon and take possession temporarily of the said land numbered 31.

## **27 Period for compulsory purchase of lands and new rights**

The powers of the appropriate authority for the compulsory purchase of lands and new rights under this Act shall cease on 31st December 1995.

## **28 Incorporation of lands provisions**

- (1) The following provisions of the undermentioned Acts are, with necessary modifications, incorporated with this Act:—
- The Act of 1963—
    - section 21 (Powers to enter for survey or valuation); and
    - section 28 (As to cellars under streets not referenced):
  - The Act of 1964—
    - section 12 (Acquisition of part only of certain properties); and
    - section 14 (Extinction of private rights of way):
  - The Act of 1965—
    - section 13 (Correction of errors in deposited plans and book of reference):
  - The Act of 1966—
    - section 13 (As to use of streets for permanent openings); and
    - section 14 (Power to expedite entry):
  - The Act of 1969—
    - section 14 (Disregard of recent improvements and interests).
- (2) The provisions of the said section 21 of the Act of 1963, as so incorporated, shall have effect as if after the word “acquire” there were inserted the words “or use”.

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## PART IV

### PROTECTIVE PROVISIONS

#### 29 Incorporation of protective provisions

- (1) The following provisions of the undermentioned Acts are, with necessary modifications, incorporated with this Act:—
- The Act of 1963—  
     section 42 (For protection of gas, water and electricity undertakers):
- The Act of 1975—  
     section 21 (As to metropolitan roads and road traffic, etc.):
- The Act of 1976—  
     section 13 (For protection of sewers of Thames Water Authority):
- The Act of 1981—  
     section 17 (For protection of British Telecommunications).
- (2) The provisions of paragraph (1) of the said section 42 of the Act of 1963, as so incorporated, shall have effect as if—
- (a) for the definition of “the undertakers” there were substituted the following:—  
     ““the undertakers” means any person authorised to carry on, in the area within which the appropriate authority are by this Act authorised to purchase land or execute works, an undertaking for the supply of gas or water or for the generation, transmission or supply of electricity;” and
- (b) in the definition of “apparatus”—
- (i) in sub-paragraph (a) thereof for the words “electric lines or works” there were substituted “electric lines or electrical plant” and for the reference to the Electricity (Supply) Acts 1882 to 1936 there were substituted a reference to Part I of the Electricity Act 1989; and
- (ii) in the words in parenthesis after the reference to the Public Utilities Street Works Act 1950 there were inserted “or Part III of the New Roads and Street Works Act 1991”.
- (3) The provisions of the said section 21 of the Act of 1975, as so incorporated, shall have effect as if for references—
- (a) to the Act of 1959 there were substituted references to the Act of 1980; and
- (b) to section 147 of the Act of 1959 there were substituted references to section 172 of the Act of 1980.
- (4) The provisions of the said section 13 of the Act of 1976, as so incorporated, shall have effect as if—
- (a) for reference to the Thames Water Authority there were substituted reference to Thames Water Utilities Limited;
- (b) for the reference in paragraph (8) thereof to section 7 (Incorporation of provisions of Acts of 1963, 1965, 1969 and 1974 relating to works) of the Act of 1976 there were substituted a reference to section 20 (Incorporation of works provisions) of this Act; and
- (c) in the definition of “the specified works” in paragraph (1), for the reference to the works authorised by the Act of 1976 there were substituted a reference to the works.



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- (5) The provisions of the said section 17 of the Act of 1981, as so incorporated, shall have effect as if—
- (a) paragraph (2) of that section were omitted;
  - (b) for reference to Work No. 2 of the Act of 1981 there were substituted reference to the works; and
  - (c) for reference to British Telecommunications there were substituted a reference to a public telecommunications operator as defined in section 9 (3) of the Telecommunications Act 1984.

### **30 Crown rights**

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

### **31 For protection of Port of London Authority and users of river Thames**

For the protection of the port authority and users of the river Thames the following provisions shall, unless otherwise agreed in writing between the Company and the port authority, have effect:—

- (1) In this section, except where the context otherwise requires—
- “construction” includes renewal, and works of maintenance, repair or alteration involving any interference with the river Thames or the navigation thereof; and “construct” shall be construed accordingly;
  - “jetty” means any of the jetties comprising Works Nos. 13 and 14 and the existing jetty on the land numbered 10 in the London borough of Greenwich on the deposited plans;
  - “plans” means outline design and construction drawings and such other specifications and other appropriate documents (including, so far as is reasonably practicable, a programme of the times at which it is intended that significant operations will be carried out) as may be reasonably necessary to give the port authority an understanding of the intentions of the Company in connection with constructional operations which will, or may, have a significant effect on navigation in, or the flow or regime of, the river Thames and such relevant hydraulic information as may be available to the Company and is not in the possession of the port authority; and

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“scouring” includes disturbance or collapse of the foreshore or bed of the river Thames:

- (2) The Company shall not under the powers of this Act acquire compulsorily any part of the bed, banks or foreshore of the river Thames, but they may, subject to paragraph (13) below, in accordance with the provisions of section 22 (Power to acquire subsoil or new rights only in certain cases) of this Act, acquire compulsorily such rights as they require for the purpose of the exercise of their functions under this Act in, on, over or under so much of the river Thames as is within the limits of deviation:
- (3)
  - (a) Not less than 28 days before the start of any part of the construction of a tidal work, the Company shall submit to the port authority plans thereof and such further particulars as may be available to them and as the port authority may reasonably require;
  - (b)
    - (i) In carrying out such construction the Company shall comply with all such reasonable modifications and conditions for the protection of traffic in, or the flow or regime of, the river Thames as the port authority may specify;
    - (ii) Any such modification or condition shall be notified by the port authority to the Company within 28 days of the receipt by the port authority of the plans or particulars to which the modification or condition relates;
  - (c) The port authority may impose upon the Company reasonable conditions with a view to ensuring that—
    - (i) nothing shall be done by or on behalf of the Company which impedes the free, uninterrupted and safe flow of passengers to and from the port authority’s jetty at Westminster Pier;
    - (ii) dust sheets and other working methods are used so as to prevent so far as practicable any dust or dirt from the relevant works affecting such passengers; and
    - (iii) adequate signing of all alterations and routes for passengers and of any hazards or obstructions for the free movement of passengers are provided:
- (4)
  - (a) Every tidal work shall be constructed and maintained by the Company and, in the case of removal of a jetty or of a temporary work, removed by them to the reasonable satisfaction of the port authority;
  - (b) In the construction, maintenance and removal of a tidal work, traffic in the river Thames shall not be interfered with more than may be reasonably necessary:
- (5)
  - (a) Every tidal work, once commenced, shall be proceeded with and completed as soon as reasonably practicable;
  - (b) Upon the completion of any part of a tidal work, the Company shall remove as soon as reasonably practicable every temporary work and all materials for a temporary work carried out or placed in, on, over or under the river Thames in connection with that part of the tidal work and shall cause the site thereof to be made good to the reasonable satisfaction of the port authority:
- (6) The Company shall at all reasonable times allow an authorised representative of the port authority to inspect and survey a tidal work and other works which, in the course of construction or maintenance of a tidal work, they construct on lands immediately adjacent to the river Thames, and they shall provide all reasonable facilities therefor:

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- (7) Except so far as may be necessary or unavoidable in the construction of a tidal work, the Company shall not, without the consent of the port authority (which shall not be unreasonably withheld), deposit in or allow to fall or be washed into the river Thames any gravel, soil or other material; and they shall not discharge or allow to escape either directly or indirectly into the river Thames any offensive or injurious matter in suspension or otherwise:
- (8) (a) Any pile, stump or other obstruction which becomes exposed in consequence of a tidal work shall be removed from the river Thames by the Company or, if it is not reasonably practicable to remove it, shall be cut off at such level below the bed of the river Thames as the port authority may direct;
- (b) If the Company fail to remove from the river Thames or to cut off any such pile, stump or other obstruction within 28 days after receipt of written notice from the port authority requiring the removal or cutting off, the port authority may carry out the removal or cutting off and recover their costs from the Company:
- (9) (a) This paragraph applies in relation to any siltation or scouring of the river Thames which is wholly or partly caused by a tidal work during the period beginning with the start of the carrying out or construction of that work and ending with the expiration of 10 years after the date on which it is completed;
- (b) If—
- (i) any part of the river Thames becomes subject to siltation or scouring; and
  - (ii) such siltation or scouring is siltation or scouring to which this paragraph applies; and
  - (iii) for the safety of navigation or in the interests of persons using the river Thames or for the protection of works in the river Thames, such siltation or scouring should in the reasonable opinion of the port authority be removed or made good;
- the Company shall pay to the port authority (in the manner set out in subparagraph (d) below) any additional expense to which the port authority may reasonably be put in dredging the river Thames to remove the siltation or in making good the scouring, in so far as (in either case) it is attributable to a tidal work;
- (c) The Company shall pay to the port authority the costs reasonably incurred by them which they would not otherwise have incurred in establishing whether siltation or scouring to which this paragraph applies has occurred;
- (d) The Company shall, on application by the port authority, make to them one or more interim payments on account of any sums required to be paid under subparagraph (b) above, being payments of such amounts and made at such times as are reasonable for meeting the current expenditure of the port authority in removing the siltation or making good the scouring:
- (10) (a) Without prejudice to the provisions of section 18 (Marking of tidal works) of this Act, the Company shall cause to be provided at each jetty or afford reasonable facilities thereat for the port authority to provide such navigational lights, signals, radar or other apparatus for the benefit, control and direction of navigation as the port authority may reasonably consider necessary by reason of the construction and presence of the jetty;
- (b) The Company shall repay to the port authority the costs reasonably incurred by them in connection therewith or in connection with any surveillance,

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co-ordination and regulation of traffic in the river Thames which becomes reasonably necessary by reason of the construction of a jetty:

- (11) On the completion of each of Works Nos. 2, 3A, 13 and 14 the Company shall supply to the port authority a plan on a scale of not less than 1:2500 and sections and cross-sections on scales of not less than 1:100 showing—
- (a) in the case of each of Works Nos. 2 and 3A the situation and levels thereof where it passes under the river Thames; and
  - (b) in the case of each of Works Nos. 13 and 14 the situation and levels thereof.
- (12) If in the opinion of the port authority it becomes necessary by reason of any river work to alter, remove, resite or reinstate any existing moorings or lay down or remove any new moorings, the Company shall pay the costs so incurred:
- (13) Compensation shall be payable to the port authority in respect of any tidal work and any rights acquired in connection therewith as if the Company had been required to obtain a licence for that work under section 66 (Licensing of works) of the Port of London Act 1968 and to pay consideration therefor determined in accordance with the provisions of section 67 (Consideration for licence) of that Act, and the port authority may recover from the Company the costs incurred by them in connection with the determination of such compensation:
- (14) (a) If a tidal work is abandoned or falls into decay, the port authority may by notice in writing require the Company either to repair and restore the work, or any part thereof, or to remove the work and restore the site thereof to its former condition to such an extent and within such limits as the port authority think proper;
- (b) If a work authorised by this Act and consisting partly of a tidal work and partly of works on or over land above the level of mean high-water springs is abandoned or suffered to fall into decay and that part of the work on or over land above the level of mean high-water springs is in such condition as to interfere or cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the port authority may include that part of the work or any portion thereof in any notice under this paragraph;
- (c) If on the expiration of such reasonable period as may be specified in a notice under sub-paragraph (a) above the work specified therein has not been done, the port authority may do that work and any expenditure reasonably incurred by them in so doing shall be recoverable from the Company:
- (15) Nothing in this Act shall prevent the port authority from dredging the river Thames in the vicinity of the lands shown on the deposited plans numbered—
- (a) 102 and 103 in the city of Westminster and 1 in the London borough of Lambeth to a depth of 6·00 metres below Ordnance Datum Newlyn;
  - (b) 322 and 322A in the London borough of Southwark, 1 and 66 in the London borough of Tower Hamlets and 1 in the London borough of Greenwich to a depth of 10·25 metres below Ordnance Datum Newlyn; and
  - (c) 10, 11 and 12 in the London borough of Greenwich and 85 in the London borough of Newham to a depth of 10·25 metres below Ordnance Datum Newlyn insofar as dredging in respect of these lands is limited to that part of the river Thames which lies 125 metres on either side of the London borough boundary line as shown on the deposited plans for these lands;

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and, notwithstanding anything in the Port of London Acts and Orders 1968 to 1982, the port authority shall not be liable in the absence of negligence for any damage to a tidal work resulting from such dredging operations or the carrying out by them in the execution of their statutory powers and duties of any operations in the river Thames or any works for its improvement or maintenance:

- (16) (a) Except as provided by this Act, nothing in this Act shall prejudice or derogate from the estates, rights, interests, privileges, liberties or franchises of the port authority or alter or diminish any power, authority or jurisdiction vested in the port authority at the passing of this Act;
- (b) Without prejudice to the generality of sub-paragraph (a) above, the Company shall not carry out any cleansing, scouring, cutting, deepening, widening, dredging or taking up or removal of material from the bed or banks of the river Thames in connection with the works except under and in accordance with a licence granted under section 73 (Licensing of dredging, etc.) of the Port of London Act 1968:
- (17) Any difference arising between the Company and the port authority under this section (other than a difference as to its meaning or construction and other than paragraphs (13) and (15) above) shall be referred to and settled by arbitration.

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

For the protection of the National Rivers Authority (in this section referred to as “the authority”) the following provisions shall, unless otherwise agreed in writing between the Company and the authority, have effect:—

- (1) In this section—

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

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

“excluded works” means grouting used when required to minimise water flow into a tunnel or other excavation or to stabilise the ground and any works required in an emergency;

“the fishery” means the river Thames and fish in, or migrating to or from, the river and the spawn, spawning grounds or food of such fish;

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

“specified work” means so much of any work or operation authorised by this Act (other than excluded works) as is in, on, under or over a watercourse or is otherwise likely to—

- (a) affect any drainage work or the volumetric flow rate of water in or flowing to or from any drainage work;
- (b) affect the flow, purity or quality of water in any watercourse;
- (c) cause obstruction to the free passage of fish in any watercourse; or
- (d) affect the conservation, distribution or use of water resources contained in the aquifer in the chalk and Thanet sands; and

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“watercourse” has the meaning given in section 72 of the Land Drainage Act 1991:

- (2) (a) Before beginning to construct any specified work, the Company shall submit to the authority plans of the work and such further particulars available to them as the authority may reasonably require;
- (b) Any such specified work shall not be constructed except in accordance with such plans as may be approved in writing by the authority, or settled by arbitration;
- (c) Any approval of the authority required under this paragraph—
  - (i) shall not be unreasonably withheld;
  - (ii) shall be deemed to have been given if it is neither given nor refused in writing and with a statement of the grounds for refusal within two months of the submission of plans for approval;
  - (iii) may be given subject to such reasonable requirements as the authority may impose for the protection of any drainage work or the fishery or water resources and for the prevention of flooding and water pollution:
- (3) Without prejudice to the generality of paragraph (2) above, the requirements which the authority may impose under that paragraph include conditions requiring the Company at their own expense to construct such protective works, whether temporary or permanent, during the construction of the specified works (including the provision of flood banks, walls or embankments and other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary to safeguard any drainage work against damage or to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased by reason of any specified work:
- (4) Any specified work, and all protective works required by the authority under paragraph (2) above, shall be constructed to the reasonable satisfaction of the authority and the authority shall be entitled by its officer to watch and inspect the construction of such works:
- (5) If by reason of the construction of any specified work the efficiency of any drainage work for flood defence purposes is impaired or that work is damaged, such impairment or damage shall be made good by the Company to the reasonable satisfaction of the authority and, if the Company fail to do so, the authority may make good the same and recover from the Company the expense reasonably incurred by them in so doing:
- (6) The Company shall indemnify the authority in respect of all costs, charges and expenses which the authority may reasonably incur or have to pay or which it may sustain—
  - (a) in the examination or approval of plans under this section;
  - (b) in the inspection of the construction of the specified works or any protective works required by the authority under this section:
- (7) (a) Without prejudice to the other provisions of this section the Company shall indemnify the authority from all claims, demands, proceedings, costs, damages, expenses or loss which may be made or taken against, or recovered from or incurred by, the authority by reason of—
  - (i) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence; or

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- (ii) any damage to the fishery; or
  - (iii) any raising of the water table in land adjoining the works authorised by this Act or any sewers, drains and watercourses; or
  - (iv) any flooding or increased flooding of any such lands; or
  - (v) inadequate water quality in any watercourse or other surface waters or in groundwater;
- which may be caused by, or result from, the construction of any of the works or any act or omission of the Company, their contractors, agents, workmen or servants whilst engaged upon the works;
- (b) The authority shall give to the Company reasonable notice of any such claim or demand and no settlement or compromise thereof shall be made without the agreement of the Company which agreement shall not be unreasonably withheld:
- (8) The fact that any work or thing has been executed or done in accordance with a plan approved or deemed to be approved by the authority, or to its satisfaction, or in accordance with any directions or award of an arbitrator, shall not relieve the Company from any liability under the provisions of this section:
- (9) For the purposes of section 5 of the Metropolis Management (Thames River Prevention of Floods) Amendment Act 1879 and section 109 of the Water Resources Act 1991 (as to structures in, over or under watercourses) as applying to the construction of any specified work, any consent or approval given or deemed to be given by the authority under this section with respect to such construction shall be deemed also to constitute a consent or approval under those sections:
- (10) Except as otherwise provided by this Act, nothing in this Act shall prejudice or affect in their application to the authority the powers, rights, jurisdictions and obligations conferred, arising or imposed under the Land Drainage Act 1991, the Salmon and Freshwater Fisheries Act 1975, the Water Resources Act 1991 or any other enactment, byelaw or regulation relating to the authority:
- (11) (a) Any difference arising between the Company and the authority under paragraph (2) above shall be settled by the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly on a reference to them by the Company or authority after notice by one to the other;
  - (b) Subject to sub-paragraph (a) above, any difference arising between the Company and the authority under this section (other than a difference as to its meaning or construction) shall be referred to and settled by arbitration.

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

For the protection of the railways board the following provisions shall, unless otherwise agreed in writing between the Company and the railways board for the purposes of this section, have effect:—

- (1) In this section—
- “construction” includes reconstruction and where the context so admits, includes maintenance and repair of the specified works;
  - “the engineer” means an engineer to be appointed by the railways board;
  - “plans” includes sections, drawings, particulars and schedules of construction;

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“railway property” means any railway of the railways board, and any works, apparatus and equipment connected therewith for the maintenance or operation of which the railways board are responsible when the relevant specified works are begun and includes any lands held or used by the railways board for the purposes of such railway or works; and

“the specified works” means so much of the works as may be situated within 15 metres of railway property (measured in any direction) or may in any way affect railway property:

- (2) The Company shall not under the powers of this Act without the consent of the railways board acquire or enter upon, take or use, whether temporarily or permanently, or acquire any new rights in or subsoil of, any of the lands of the railways board defined as the affected properties in section 14 (Agreements with British Railways Board) of this Act:

Provided that this paragraph shall not prevent the Company acquiring the interest of any person other than the railways board required for the purposes of the works:

- (3) The exercise by the Company against the railways board of the powers of—
- (a) section 15 (Power to make trial holes) of the Act of 1963, as incorporated by section 20 (Incorporation of works provisions) of this Act; and
  - (b) section 21 (Power to enter for survey or valuation) of the Act of 1963, as incorporated by section 28 (Incorporation of lands provisions) of this Act;

shall be confined to lands which the Company are empowered to acquire compulsorily under section 21 (Power to acquire lands) of this Act:

- (4) The Company shall, before commencing the construction of the specified works, furnish to the railways board such proper and sufficient plans thereof as may reasonably be required for the reasonable approval of the engineer and shall not commence the specified works until plans thereof have been approved in writing by the engineer or settled by arbitration:

Provided that, if within 56 days after such plans have been furnished to the railways board the engineer has not notified his disapproval thereof and the grounds of his disapproval, he shall be deemed to have approved the plans as submitted:

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

- (6) Upon signifying his approval or disapproval of the plans the engineer may specify any protective works, whether temporary or permanent, which in his opinion should be carried out before the commencement of the construction of the specified works to ensure the stability of railway property, the continuation of safe and effective operation of the railways of the railways board, including any relocation of works, apparatus and equipment necessitated by the specified works and the comfort and safety of passengers using either the Waterloo or the London Bridge station of the railways board or stations on the North London Line, and such protective works as may be reasonably necessary for those purposes shall be constructed by the railways board



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with all reasonable dispatch or, if the railways board so desire, such protective works shall be carried out by the Company at their own expense, and the Company shall not commence the construction of the specified works until the engineer has notified the Company that the protective works have been satisfactorily completed:

- (7) The Company shall give to the engineer not less than 56 days' notice of their intention to commence the construction of any of the specified works and also, except in emergency (when they shall give such notice as may be reasonably practicable), of their intention to carry out any works for the repair or maintenance of the specified works in so far as such works of repair or maintenance affect or interfere with railway property:
- (8) The construction of the specified works and of any protective works carried out by the Company by virtue of the provisions of paragraph (6) above shall, when commenced, be carried out with all reasonable dispatch in accordance with the plans approved or deemed to be approved or settled as aforesaid and under the supervision (if given), and to the reasonable satisfaction, of the engineer, and in such manner as to cause as little damage as may be to railway property and as little interference as may be with the conduct of traffic on the railways of the railways board and the use by passengers of railway property and, if any damage to railway property or any such interference is caused by the carrying out of the specified works, the Company shall, notwithstanding any such approval as aforesaid, make good such damage and shall pay to the railways board all reasonable expenses to which they may be put and compensation for any loss which they may sustain by reason of any such damage or interference:

Provided that nothing in this paragraph shall impose any liability on the Company with respect to any damage, cost, expense or loss which is attributable to the act, neglect or default of the railways board or their servants or agents:

- (9) Without prejudice to the generality of paragraphs (6) and (8) above the railways board may, in approving the plans of or in supervising the carrying out of the specified works or of any protective works carried out by the Company by virtue of the provisions of paragraph (6) above, impose reasonable conditions with a view to ensuring that—
- (a) nothing shall be done by or on behalf of the Company which impedes the free, uninterrupted and safe flow of passengers to and from the Waterloo or London Bridge station of the railways board and stations on the North London Line;
  - (b) dust sheets and other works and working methods are used so as to prevent so far as practicable any dust or dirt from the relevant works affecting such passengers; and
  - (c) adequate signing of all alterations of routes for passengers and of any hazards or obstructions to the free movement of passengers is provided:
- (10) The Company shall at all times afford reasonable facilities to the engineer for access to the specified works during their construction and shall supply him with all such information as he may reasonably require with regard to the specified works or the method of construction thereof:
- (11) During the construction of any works by the railways board under this section the railways board shall at all times afford reasonable facilities to the Company and their agents for access to those works, and shall supply the Company with such information as they may reasonably require with regard to such works or the method of construction thereof:
- (12) If any alterations or additions either permanent or temporary, to railway property are reasonably necessary during the construction of the specified works, or during

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a period of 12 months after the completion thereof, by reason of the construction of the specified works, such alterations and additions may be carried out by the railways board and if the railways board give to the Company reasonable notice of their intention to carry out such alterations or additions, the Company shall pay to the railways board the reasonable cost thereof including, in respect of permanent alterations and additions, a capitalised sum representing any increase in the costs which may be expected to be reasonably incurred by the railways board in maintaining, working and, when necessary, renewing any such alterations or additions:

Provided that, if the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions, a capitalised sum representing such saving shall be set off against any sum payable by the Company to the railways board under this section:

- (13) The Company shall repay to the railways board all costs, charges and expenses reasonably incurred by the railways board—
- (a) in constructing any part of the specified works on behalf of the Company as provided by paragraph (5) above or in constructing any protective works under the provisions of paragraph (6) above, including, in respect of any permanent protective works, a capitalised sum representing the costs which may be expected to be reasonably incurred by the railways board in maintaining and renewing such works;
  - (b) in respect of the employment of any inspectors, signalmen, watchmen and other persons whom it is reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of the specified works;
  - (c) in respect of any special traffic working resulting from any speed restrictions which may, in the opinion of the engineer, require to be imposed by reason of the construction or failure of the specified works, or from the substitution or diversion of services which may be reasonably necessary for the same reason;
  - (d) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason of the construction or failure of the specified works;
  - (e) in respect of the supervision by the engineer of the construction of the specified works:
- (14) The Company shall be responsible for, and make good to the railways board, all costs, charges, damages and expenses not otherwise provided for in this section which may be occasioned to, or reasonably incurred by, the railways board—
- (a) by reason of the construction of the specified works or the failure thereof; or
  - (b) by reason of any act or omission of the Company or of any person in their employ, or of their contractors or others whilst engaged upon the construction of the specified works;

and the Company shall indemnify the railways board from and against all claims and demands arising out of or in connection with the construction of the specified works or any such failure, act or omission as aforesaid, and the fact that any act or thing may have been done in accordance with the plans approved by the engineer or in accordance with any requirement of the engineer or under his supervision, shall not (if it was not attributable to the act, neglect or default of the railways board, or of any person in their employ, or of their contractors or agents) excuse the Company from any liability under the provisions of this section:

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

- (15) Any difference arising between the Company and the railways board under this section (other than a difference as to the meaning or construction of this section) shall be referred to and settled by arbitration.

### **34 For protection of Royal Commission on the Historical Monuments of England**

For the protection of the Royal Commission on the Historical Monuments of England (hereinafter referred to as “the Commission”) the following provisions shall, unless otherwise agreed in writing between the Company and the Commission, have effect:—

- (1) In this section “listed building” has the same meaning as in section 1 (5) of the Planning (Listed Buildings and Conservation Areas) Act 1990:
- (2) The Company shall give to the Commission not less than 56 days' notice in writing of their intention to commence the alteration or demolition of any listed building under the powers of this Act:
- (3) For a period of not less than 56 days following the giving of notice to the Commission, and before commencing the alteration or demolition of the listed building to which the notice relates, the Company shall, at all reasonable times, afford access to the building to members and officers of the Commission for the purpose of recording it.

### **35 Ecclesiastical property**

- (1) Where, under any of the provisions of this Act, a notice is required to be served on an owner of land and the land is ecclesiastical property, a like notice shall be served on the Church Commissioners.
- (2) Where any ecclesiastical property is to be acquired compulsorily under the powers of this Act and the benefice in question is vacant, then the fee simple of such property shall for the purposes of the acquisition be treated as being vested in the Church Commissioners.
- (3) Any moneys agreed or awarded upon any acquisition under the powers of this Act of ecclesiastical property shall not be paid as directed by the Lands Clauses Acts but shall be paid to the Church Commissioners and shall be applied by them as follows:—
  - (a) in defraying a fair proportion of the costs, charges and expenses incurred by them, the bishop of the diocese in which the property is situated, the Diocesan Board of Finance or an incumbent of an ecclesiastical benefice in opposing the Bill for this Act;
  - (b) in defraying any expenses incurred by any of the persons referred to in paragraph (a) above in relation to any such acquisition by the appropriate authority and not reimbursed by the appropriate authority;
  - (c) as to any remaining balance and as to both capital and income, for purposes for which the proceeds of a sale by agreement of the land would be applicable under any enactment or measure authorising such a sale or the disposal of the proceeds of such a sale.
- (4) In this section “ecclesiastical property” means land belonging to an ecclesiastical benefice or being or forming part of a church or churchyard subject to the jurisdiction

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of a bishop of any diocese or the site of such a church or being or forming part of a burial ground subject to such jurisdiction or being diocesan glebe land within the meaning of the Endowments and Glebe Measure 1976.

### **36 For protection of London Residuary Body**

For the protection of the London Residuary Body the following provisions shall have effect:—

(1) In this section—

“Jubilee Gardens” means so much of the lands adjoining the river Thames and known as Jubilee Gardens as is shown as part of the land numbered 6 in the London borough of Lambeth on the deposited plans and shown edged green on the signed plan;

“the London Residuary Body” means the London Residuary Body established under the provisions of section 57 of the Local Government Act 1985 and includes its successors in title;

“the Queen’s Walk” means so much of the embankment walkway of the river Thames as is shown as part of the land numbered 6 in the London borough of Lambeth on the deposited plans and shown edged blue on the signed plan;

“the riverside building” means the building situated on the land shown edged yellow on the signed plan; and

“the signed plan” means the plan of which five copies were signed by Sir Michael Neubert, the chairman of the committee of the House of Commons to whom the Bill for this Act was referred and deposited respectively—

- (a) in the office of the Clerk of the Parliaments, House of Lords;
- (b) in the Private Bill Office of the House of Commons;
- (c) at the registered office of the Company;
- (d) at the registered office of the Corporation; and
- (e) with the proper officer of the council of the London borough of Lambeth:

(2) If at any time the property in, or in any part of, Jubilee Gardens, the Queen’s Walk or the riverside building has been transferred from the London Residuary Body to any other person, the expression “successors in title” shall, in relation thereto, mean the owner for the time being:

(3) Notwithstanding the provisions of section 26 (Temporary possession of land) of this Act the Company shall not enter upon or take possession of that part of Jubilee Gardens hatched black on the signed plan:

(4) In exercising the powers conferred upon them by this Act the Company shall keep to a minimum the extent and period of their possession and use of the remaining part of Jubilee Gardens and shall not in any event, without the consent of the London Residuary Body (such consent not to be unreasonably withheld), remain in possession of Jubilee Gardens for longer than 54 months:

(5) Before entering upon and taking possession temporarily of Jubilee Gardens the Company shall at their own expense remove all structures thereon (including all architectural, aesthetic and recreational features) to such alternative location as the London Residuary Body may reasonably require and shall before relinquishing possession of Jubilee Gardens at their own expense ensure that the same items are

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returned to Jubilee Gardens and reinstated to the London Residuary Body's reasonable satisfaction:

- (6) The Company's reinstatement of Jubilee Gardens shall be carried out to a similar standard to that existing prior to their possession of it subject to the London Residuary Body's specification and their reasonable direction and approval:
- (7) Notwithstanding the provisions of section 26 (Temporary possession of land) of this Act, the Company shall not enter upon or take possession of any part of the Queen's Walk except so much of the airspace over the Queen's Walk as may be required for the provision of an overhead conveyor:
- (8) Any difference arising between the Company and the London Residuary Body under this section (other than a difference as to the meaning or construction of this section) shall be referred to and settled by arbitration.

## PART V

### MISCELLANEOUS

#### 37 Planning permission

- (1) In this section "Part 11 development" means development permitted by article 3 of, and 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 the provisions of 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 of 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 authorised by this Act or the substitution of new works therefor.

#### 38 Closure of railway

On the opening of the railway for passenger services, section 54 of the Transport Act 1962 (which requires advance notice of discontinuance of certain services to be published) and section 56 of that Act (which relates to the establishment and functions of transport consultative committees) shall not apply in respect of the discontinuance of all railway passenger services in the city of Westminster between the commencement of Works Nos. 1A and 1B and the Charing Cross station of the Company.

#### 39 Arbitration

Where under this Act any difference (other than a difference to which the provisions of the Lands Clauses Acts, as applied by this Act, apply) is to be referred to or settled by arbitration, then unless otherwise provided, such difference shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to

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be appointed, on the application of either party (after notice in writing to the other), by the President of the Institution of Civil Engineers.

#### **40 Costs of Act**

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 Corporation and the Company and may in whole or in part be defrayed out of revenue.