



# Croydon Tramlink Act 1994

## 1994 CHAPTER xi

An Act to empower London Regional Transport and Croydon London Borough Council to provide for the development and operation of a system of light rail transit in the London boroughs of Merton, Sutton, Croydon and Bromley; to authorise the construction of works and the acquisition of lands for that purpose; to confer further powers upon London Regional Transport and Croydon London Borough Council; and for other purposes. [21st July 1994]

### WHEREAS—

- (1) By the London Regional Transport Act 1984 the London Transport Executive which were established by the Transport (London) Act 1969 were reconstituted on 29th June 1984 under the name of London Regional Transport (in this Act referred to as “the Corporation”):
- (2) It is the general duty of the Corporation under the said Act of 1984, in accordance with principles from time to time approved by the Secretary of State and in conjunction with the British Railways Board, to provide or secure the provision of public passenger transport services for Greater London, and in carrying out that duty the Corporation shall have due regard to (a) the transport needs for the time being of Greater London and (b) efficiency, economy and safety of operation:
- (3) The London borough of Croydon (in this Act referred to as “the Council”) is a London borough established by the London Government Act 1963 under the management and local government of the mayor and citizens of the borough and numerous statutory powers and duties have been conferred and imposed on the Council, including the functions of a local planning authority and a highway and traffic authority for the borough:
- (4) Studies carried out jointly by the Corporation and the Council have established the feasibility of meeting public passenger transport requirements in the Croydon area by the provision of a system of light rail transit based on a route from Wimbledon through central Croydon to Elmers End, Beckenham and New Addington and constructed in the London boroughs of Merton, Sutton, Croydon and Bromley:
- (5) It is accordingly expedient that the Corporation should be empowered to construct the works authorised by this Act, and to acquire or use lands referred to in this Act, for the development and operation of the system of light rail transit in the London boroughs of

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Merton, Sutton, Croydon and Bromley and that the other powers in this Act should be conferred upon the Corporation for the operation and development of the system:

- (6) It is expedient that the other powers of this Act should be conferred upon the Corporation and that the other provisions of this Act should be enacted:
- (7) The purposes of this Act could not have been effected without the authority of Parliament when the Bill for this Act was deposited:
- (8) In relation to the promotion of the Bill for this Act by the Council the requirements of section 239 of the Local Government Act 1972 have been observed:
- (9) Plans and sections showing the lines or situations and levels of the works to be constructed under the powers of this Act and plans of the lands authorised to be acquired or used by this Act, and a book of reference to such plans containing the names of the owners and lessees or reputed owners or lessees and of the occupiers of the said lands, were duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the proper officers of the London borough councils affected by the works, 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”:

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

#### 1 Short title

This Act may be cited as the Croydon Tramlink Act 1994.

#### 2 Interpretation

- (1) In this Act, unless the context otherwise requires, the several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated herewith have the same respective meanings, and—

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

“the Act of 1870” means the Tramways Act 1870;

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

“the Act of 1991” means the New Roads and Street Works Act 1991;

“the authorised railways” means the railways authorised by this Act, including, where the context so admits, any railway adapted for use, and worked as part of Tramlink under section 16 (Agreements with British Railways Board) of this Act;

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

“carriageway” has the same meaning as in the Highways Act 1980;

“the Corporation” means London Regional Transport;

“the Council” means the Council of the London borough of Croydon;

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

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

“highway authority” has the same meaning as in the Highways Act 1980;

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

“the limits of land to be acquired or used” means the limits marked “Limit of land to be acquired or used” on the deposited plans;

“the railways board” means the British Railways Board, and, in relation to any land or other property, includes any person who holds or uses that property for railway purposes and who derives title to that property from or under the British Railways Board or under any person deriving title from the British Railways Board;

“sewerage undertaker” has the same meaning as in the Water Industry Act 1991;

“statutory undertaker” means a licence holder under Part I of the Electricity Act 1989, a public gas supplier within the meaning of Part I of the Gas Act 1986, the National Rivers Authority and a water undertaker within the meaning of the Water Industry Act 1991 or any of such bodies;

“street” has the meaning given by section 329 of the Highways Act 1980 and includes a bridleway, cycle track or footpath as defined in the said section 329 and any way laid out or used as a cycleway;

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

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

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

“the tribunal” means the Lands Tribunal.

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

(3) (a)

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

(b) This subsection does not apply to distances or lengths stated in the following provisions of this Act:—

section 13 (Power to deviate);

section 15 (Gauge of railways and restrictions on working).

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- (4) Any reference in this Act to rights over land includes reference to the right to do, or to place and maintain, anything in, on or under the land, or in the air space above its surface.
- (5) Any reference in this Act to access to any place includes egress from that place.

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

- (1) The following enactments, so far as they are applicable for the purposes and are not inconsistent with or varied by the provisions of this Act, are incorporated with and form part of this Act, and this Act shall be deemed to be the special Act for the purposes of those enactments:—
- the Act of 1845 (except sections 7 to 9, 11 to 15, 17, 19, 20, 22, 23, 46 to 62, 94, 95, 112 to 124 and 138); and
- section 4 of the Railways Clauses Act 1863.
- (2) In the enactments incorporated by subsection (1) above—
- (a) the expression “the company” means the Corporation; and
- (b) sections 18 and 21 of the Act of 1845 shall not extend to regulate the relations between the Corporation and any other person in respect of any matter or thing concerning which those relations are regulated in any respect by Part III of the Act of 1991; and
- (c) in section 4 of the said Act of 1863, the words “and subject to the limitations contained in sections eleven, twelve and fifteen of those Acts respectively,” and the proviso shall be omitted.
- (3) The following enactments shall not apply to Tramlink:—
- the Highway (Railway Crossings) Act 1839;
- in the Railway Regulation Act 1842, sections 9 and 10;
- in the Regulation of Railways Act 1868, section 22;
- in the Regulation of Railways Act 1889, sections 1, 3, 4 and 6;
- in the Road and Rail Traffic Act 1933, sections 41 and 42.

### **4 Application of Tramways Act 1870**

- (1) Subject as provided in subsection (2) below, the following provisions of Parts II and III of the Act of 1870, so far as they are applicable for the purposes and are not inconsistent with or varied by the provisions of this Act, apply to any tramway, and for that purpose are incorporated with and form part of this Act:—
- sections 25, 26, 29 and 30, 34, 41, 49, 50, 53, 54 and 57.
- (2) (a)
- In the provisions of the Act of 1870 applied by subsection (1) above, the expression “the special Act” means this Act and “the promoters” means the Corporation.
- (b) The provisions of the Act of 1870 applied by subsection (1) above shall have effect subject to the following modifications:—
- (i) in section 25, for the words “the road”, there shall be substituted the words “the part of the road in which it is laid” and the words from “and shall not be opened” to the end of that section shall be omitted;

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- (ii) in section 26, for the words from “the following regulations” to the end of the section, there shall be substituted the words “the provisions of the special Act”;
  - (iii) in section 30, for the words from “also subject to” to the end of the section, there shall be substituted the words “the special Act”;
  - (iv) in section 34, the words from “No carriage used” to the end of the section shall be omitted;
  - (v) in sections 49, 50, 53 and 54, for the penalty specified in each of those sections, there shall be substituted a fine not exceeding level 3 on the standard scale and in the said section 54 the words from “or under licence” to “by this Act provided” shall be omitted.
- (3) This section shall have effect notwithstanding the repeal by the Transport and Works Act 1992 of the provisions of the Act of 1870 referred to in subsection (1) above.

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

- (1) Part I of the Act of 1965 (except section 4 and paragraph 3 (3) of Schedule 3), in so far as it is applicable for the purposes and is not inconsistent with the provisions of this Act, shall apply to the compulsory acquisition of land under this Act as it applies to a compulsory purchase to which the Acquisition of Land Act 1981 applies and as if this Act were a compulsory purchase order under the said Act of 1981.
- (2) Section 11 (1) of the Act of 1965 (which empowers the acquiring authority to enter upon and take possession of land the subject of a notice to treat after giving not less than 14 days' notice) as so applied shall have effect as if for the word “fourteen” there were substituted, in respect of the lands over which rights only are required, the word “twenty-eight” and, in the case of any other lands, the word “ninety-one”.
- (3) The Lands Clauses Consolidation Act 1845 shall not apply to the acquisition of land under this Act.

## **PART II**

### **WORKS**

## **6 Power to make works**

- (1) Subject to the provisions of this Act, the Corporation may, in the lines or situations shown on the deposited plans and according to the levels shown on the deposited sections, make and maintain the works in the London boroughs of Merton, Sutton, Croydon and Bromley specified in Part I of Schedule 1 to this Act, with all necessary works and conveniences connected therewith.
- (2) Notwithstanding anything in this Act or shown on the deposited plans or the deposited sections but without prejudice to the provisions of section 13 (Power to deviate) of this Act, the Corporation may, with the consent of the owners, lessees and occupiers of the lands affected, construct the whole or part of Works Nos. 10 and 11 and so much of Work No. 7 as lies within the London borough of Bromley in lines or situations and in accordance with levels, dimensions and descriptions other than the lines or situations, levels, dimensions and descriptions shown on the deposited plans and the deposited sections or specified in Part I of Schedule 1 to this Act.

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## 7 Further works and powers

- (1) Subject to the provisions of this Act (and, in so far as the same are shown on the deposited plans and the deposited sections, in the lines or situations and according to the levels so shown), the Corporation may exercise the powers and make and maintain the further works, described in Part II of Schedule 1 to this Act, in the London boroughs of Merton, Sutton, Croydon and Bromley with all necessary works and conveniences connected therewith.
- (2) Without prejudice to the specific powers conferred by subsection (1) above, for the purposes of constructing or maintaining the authorised railways in or adjoining any street, the Corporation may, with the consent of the highway authority—
  - (a) increase the width of the carriageway of the street by reducing the width of any footway, cycle track or verge or other land within the boundary of the street;
  - (b) alter or interfere with the level of any kerb, footway, cycle track, verge or other land within the boundary of the street; or
  - (c) at any stopping place on a tramway reduce the width of the carriageway of the street by forming a reserved area in the street or by setting forward the kerbline of the street and providing access for vehicles to adjoining premises and a footway on the side of that kerbline nearest to those premises.
- (3) No footway shall, under subsection (2) above, be reduced to a less width than 1·80 metres (5 feet 11 inches).
- (4) Where the carriageway, or part of the carriageway, of any street in which a tramway is laid is of sufficient width to provide not less than 3 metres of width for vehicular traffic in each permitted direction clear of the tramway path (as determined in accordance with the clearance required by the Secretary of State), the Corporation may, with the consent of the highway authority, carry out such works as may be required to deter, but not prevent, the passage of vehicular traffic along the tramway, by raising the level of the part of the carriageway occupied by the tramway path above the level of the adjoining carriageway or by placing a kerb or other obstruction along the edge of that adjoining carriageway.
- (5) Notwithstanding section 25 of the Act of 1870 as applied by this Act, in the case of any part of the length of a tramway which is situated clear of the carriageway or footway of any street, the Corporation may, with the consent of the highway authority, lay and maintain the tramway in such manner that the uppermost surface of the rails is not on a level with the surface of the ground in which it is laid.
- (6) Subject to the provisions of this Act, the Corporation may—
  - (a) in relation to Work No. 3, lay down single, double or interlacing lines in lieu of triple lines, either when constructing that work or at any time thereafter;
  - (b) lay down double lines in lieu of single lines or single lines in lieu of double lines or interlacing lines in lieu of double or single lines on any of the tramways, either when constructing them or at any time thereafter, and construct or take up and reconstruct any such tramway or associated work in such position in the street or land in which it is authorised to be constructed as they think fit; and
  - (c) make, maintain, alter and remove such crossings, passing places, sidings, junctions and other works, in addition to those specified in and authorised by this Act, as they find necessary or convenient for the efficient working of Tramlink, for the purposes of the control of traffic or for providing access to any premises.

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- (7) The powers of subsection (6) above shall not be exercised in any street which is a highway without the consent of the highway authority.

## **8 Works in street**

- (1) Subject to the provisions of this Act, the Corporation may, for the purposes of Work No. 4C, make and maintain permanent openings in so much of any street as is within the limits of deviation for that work.
- (2) The Corporation shall not be required to purchase any part of the surface of, or any easement in, any street in which they are authorised by this section to make and maintain any permanent opening, or to make any payment in respect of any such permanent opening, or for breaking up or interfering with the surface of any such street.

## **9 Requirements applicable to tramways**

- (1) The tramways shall be so laid and maintained that the distance between the sides of the widest carriages to be used on the tramways when passing one another thereon shall not be less than 380 millimetres (15 inches).

(2) (a)

On completion of any tramway the Corporation shall provide traffic signs to give warning to other traffic of the presence of the tramway.

- (b) Subject to any directions and any other requirements given or imposed by the Secretary of State with respect to such a traffic sign, the places at which the traffic signs are displayed shall be such as may be approved by the highway authority.

(3) (a)

Where a tramway has been constructed in a street in such manner that—

- (i) the uppermost surface of the rails is level with the surface of the street; or  
(ii) the level of the width of the carriageway occupied by the tramway path is altered as provided in section 7 (4) (Further works and powers) of this Act;

works for the purpose, or having the effect, of altering the level of the part of the street in which the tramway is situated shall not be carried out without the consent of the Corporation.

- (b) Consent under paragraph (a) above may be given subject to such reasonable terms and conditions as the Corporation may require, but shall not be unreasonably withheld, and any difference arising under this paragraph shall be determined by the Secretary of State.

## **10 Level crossings**

- (1) The Corporation may, in the construction of the authorised railways, carry the same with a single or double line across and on the level of the streets specified in Schedule 2 to this Act.
- (2) The Corporation may, subject to such requirements as the Secretary of State may from time to time lay down, provide, maintain and operate at or near any such level crossing

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such barriers, lights, traffic signs and automatic or other devices and appliances as may be approved by the Secretary of State.

- (3) In the exercise of the powers of this section, the Corporation may alter or interfere with the level of any street upon which any railway or associated work is to be laid.

## **11 Subsidiary works**

- (1) Subject to the provisions of this Act the Corporation may, for the purposes of Tramlink and associated traffic control—

(a) within the limits of deviation make, lay down, place, erect, repair, alter, renew, maintain, operate and use rails, rail fixings, plates, sleepers, channels, conduits, tubes, stations, platforms, islands, gates, junctions, points, turntables, turnouts, crossings, temporary or permanent cross-overs, passing places, pillars, posts, poles, brackets, wires, subways, manholes, shafts, engines, dynamos, substations, transformers, switchgear, cabling, signalling, monitoring and communications equipment, together with subsidiary and incidental machinery, apparatus, works and appliances; and

(b) in, or under any street in which it may be necessary or convenient, or in other land over which the Corporation have or obtain sufficient rights, lay, place, form, erect, maintain, renew and repair drains, ditches and culverts, electric wires, conductors, cables, brackets, posts, tubes, substations, boxes and other electrical apparatus for connecting the authorised railways and associated works with any electricity generating station or substations or for the purposes of signalling, monitoring and communication in connection with Tramlink.

- (2) The provisions of sections 158 and 159 of, and paragraph 3 of Schedule 13 to, the Water Industry Act 1991 (street works) shall apply to apparatus and works referred to in subsection (1) above as they apply to relevant pipes and service pipes but as if—

(a) for any reference to a water undertaker there were substituted a reference to the Corporation; and

(b) paragraph 3 (6) of Schedule 13 were omitted.

- (3) The Corporation may, for the purposes of Tramlink, alter, renew and maintain the parapet of any bridge under which the authorised railways are to be situated, or construct any other works for the safety of persons passing over any such bridge.

- (4) In constructing stations and stopping places for the purposes of Tramlink the Corporation shall make provision, in so far as it is in the circumstances both practicable and reasonable and without prejudice to any requirement having effect under or by virtue of the Chronically Sick and Disabled Persons Act 1970, for the needs of members of the public using Tramlink who are disabled or elderly.

- (5) Nothing in this section shall prejudice the generality of sections 6 (Power to make works) and 7 (Further works and powers) of this Act.

## **12 Provision of accommodation for apparatus**

Where the Corporation lay down conduits for the accommodation of cables or other apparatus for the purposes of Tramlink or associated traffic control under section 11 (Subsidiary works) of this Act, they may, in pursuance of those powers, provide in, or in connection with, such conduits accommodation for the apparatus of any other person, and manholes and other facilities for access to such accommodation, and may



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permit the use of such conduits on such terms and conditions as may be agreed between the Corporation and such other person.

### **13 Power to deviate**

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

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

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

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

- (1) The authorised railways to be constructed shall be constructed on a gauge of 1,435 millimetres (4 feet 8½ inches) and the motive power to be used shall be electrical energy or such other motive power as the Secretary of State may approve.
- (2) No part of Tramlink shall be used for, or in connection with, the conveyance of passengers without the written permission of the Secretary of State and the Corporation shall comply with the conditions (if any) which the Secretary of State may from time to time prescribe for the safety of persons using Tramlink.
- (3) If, without reasonable excuse, the Corporation contravene the provisions of subsection (2) above they shall for each offence be liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (4) Without prejudice to the generality of subsection (2) above, traction cables of the overhead line equipment of any tramway, and of so much of any authorised railway as is comprised in any level crossing, shall be erected at a height agreed by the Secretary of State and, if at any place a height of less than 5.63 metres (18 feet 6 inches) above the surface of the ground is so agreed for a cable, the Corporation shall, in accordance with section 9 (2) (Requirements applicable to tramways) of this Act, erect such traffic signs as may be directed by the Secretary of State to give warning of the cable.

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## 16 Agreements with British Railways Board

(1) In this section—

“the affected properties” means any land described in the deposited book of reference which is owned by the railways board or in which the railways board have an interest; and

“the specified works” means so much of Works Nos. 1, 1A, 1B, 1C, 1D, 2, 2A, 3, 3A, 7, 8 and 9 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 Corporation or the railways board, or by the Corporation and the railways board jointly, in accordance with such terms and conditions as may be agreed in writing between the Corporation 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 Corporation or by the railways board or by the Corporation and railways board jointly; and

(ii) for the exercise by the railways board, or by the Corporation, or by the railways board and the Corporation jointly, of all or any of the powers and rights of the railways board and the Corporation (as the case may be) in respect of any part of the specified works under any enactment or contract.

(b) The exercise by the Corporation or the railways board or by the Corporation 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 as would apply if such powers and rights were exercised by the Corporation 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 Corporation or the railways board, or by the Corporation and the railways board jointly, as the case may be.

(4) In constructing the specified works the Corporation may, on such terms as shall be agreed with the railways board, re-align so much of the railways board’s railway as lies within the limits of deviation of those works in such position and on such terms as shall be agreed between the Corporation and the railways board.

(5) The Corporation and the railways board may enter into, and carry into effect, agreements for the transfer to the Corporation of—

(a) any part of the affected properties,

(b) any lands, works or other property held in connection with any part of the affected properties, and

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- (c) any rights and obligations (whether or not statutory) of the railways board relating to any part of the affected properties.
- (6) Where agreement is made for the transfer to the Corporation of any railway or former railway comprised within the affected properties under subsection (5) above, the Corporation may adapt for use, maintain, use and work that railway as part of Tramlink in accordance with the provisions of the Act of 1845 and the Railways Clauses Act 1863 incorporated with this Act and the provisions of the Railway Regulation Acts 1840 to 1889 applicable to Tramlink.

## **17 Discontinuance of existing railway services**

The provisions of section 54 of the Transport Act 1962 and section 37 of, and Schedule 5 to, the Railways Act 1993 (proposals to discontinue railway passenger services) shall not apply in respect of the discontinuance of any existing railway passenger services from any station or on any line or, as the case may be, the discontinuance of any railway passenger or goods services provided by the railways board, where such discontinuance is for the purposes of, or in connection with, the construction of the authorised works or the transfer of any parts of any existing railway to form part of Tramlink.

## **18 Temporary stoppage of streets**

- (1) During and for the purpose of the execution of the authorised works, the Corporation may temporarily stop up and interfere with the whole or any part of any street to the extent of the limits of deviation, or the limits of land to be acquired or used, 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 said part of the street, from passing along and using the same.
- (2) The Corporation shall provide reasonable access for foot passengers bona fide going to or from any such land, house or building.

## **19 Stopping up streets without providing substitute**

- (1) This section applies in the case of any stopping up of a street or portion thereof authorised by the Act without the provision of a substitute.
- (2) After any stopping up to which this section applies, all rights of way over or along the street, or portion thereof, authorised to be stopped up shall be extinguished and the Corporation may, without making any payment therefor, but subject to the provisions of the Act of 1845 incorporated with this Act with respect to mines lying under or near the railways, appropriate and use for the purposes of their undertaking the site of the street, or portion thereof, so stopped up.
- (3) Any person who suffers loss by the extinguishment of any private right under this section shall be entitled to be paid by the Corporation compensation to be determined in case of dispute in accordance with Part I of the Land Compensation Act 1961.
- (4) Without prejudice to the generality of subsection (1) above, this section applies, in particular, to the stopping up of a street or portion thereof mentioned in paragraphs (viii), (ix), (xi), (xii), (xiv), (xvi), (xx), (xxii) and (xxix) of Part II of Schedule 1 to this Act.

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

- (1) Except as provided in section 18 (Temporary stoppage of streets) of this Act, where this Act authorises the making of a new street, either by way of diversion of, or in substitution for, an existing street and the stopping up of the existing street or portion thereof, the stopping up shall not, in either case, take place until the highway authority are satisfied that the new street has been completed in accordance with their reasonable requirements and is open for public use or, in the case of any difference between the Corporation and the highway authority as to whether the said requirements have been complied with or as to their reasonableness, until the matter in dispute has been determined by arbitration and the new street has been completed accordingly.
- (2) Before referring the matter to arbitration under this section the Corporation shall give to the highway authority 7 days' notice in writing of their intention to do so.
- (3) As from the completion of the new street to the satisfaction of the highway authority or, in the case of dispute, according to the decision of the arbitrator, all rights of way over or along the existing street, or portion thereof, authorised to be diverted or stopped up shall be extinguished, and the Corporation may, without making any payment therefor, but subject to the provisions of the Act of 1845 incorporated with this Act with respect to mines lying under or near the railways, appropriate and use for the purposes of their undertaking the site of the street, or portion thereof, diverted or stopped up so far as the same is bounded on both sides by lands in the possession of the Corporation.
- (4) Any person who suffers loss by the extinguishment of any private right under this section shall be entitled to be paid by the Corporation compensation to be determined in case of dispute in accordance with Part I of the Land Compensation Act 1961.

## **21 Notice of interference with streets**

Before breaking up or interfering with any street to which the public has access in connection with the construction of any of the authorised works the Corporation shall (except in case of emergency) give 14 days' notice in writing to the chief officer of the fire and police authorities for the area in which such street is situated 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.

## **22 Provisions as to repair of streets, etc**

- (1) Subject to subsections (2) and (3) below, any street, or portion thereof, made, diverted or altered under this Act shall, when completed, unless otherwise agreed, be maintained by and at the expense of the Corporation for a period of 12 months from its completion and at the expiration of that period shall be maintained by and at the expense of the highway authority.
- (2) Subsection (3) below applies where the Corporation has under section 7 (4) (Further works and powers) of this Act raised the level of part of the carriageway of a street in which a tramway is laid; and in that subsection, so much of the carriageway whose level has been so raised is referred to as “the raised tramway path”.
- (3) Unless otherwise agreed with the highway authority, the raised tramway path shall be maintained by and at the expense of the Corporation for as long as the raised tramway path is required to be used primarily for the purposes of Tramlink.

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## **23 Underpinning of houses near works**

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

- (1) At least 14 days' notice shall (except in the case of emergency) be given to the owner, lessee and occupier of the house or building intended to be so underpinned or otherwise strengthened.
- (2) Each such notice shall be served in manner prescribed by section 6 of the Acquisition of Land Act 1981 as if required to be served under that Act.
- (3) If any owner, lessee or occupier of any such house or building, within 10 days after the giving of such notice, gives a counter-notice in writing that he disputes the necessity of such underpinning or strengthening, the question of the necessity shall be settled by arbitration.
- (4) In any case in which any house or building has been underpinned or strengthened under the powers of this section the Corporation may, from time to time after the completion of such underpinning or strengthening, and during the execution of the authorised work in connection with which such underpinning or strengthening was done, or within five years after the opening for traffic of the authorised works, enter upon and survey such house or building and, after complying with the foregoing provisions of this section, do such further underpinning or strengthening as they may deem necessary or expedient.
- (5) The Corporation shall be liable to compensate the owner, lessee and occupier of every such house or building for any loss or damage which may result to them by reason of the exercise of the powers of this section.
- (6) Nothing in this section nor any dealing with any property in pursuance of this section shall relieve the Corporation from the liability to compensate under section 10 (2) of the Act of 1965 as applied by this Act, or under any other enactment, in respect of loss or damage arising from the execution of any works, other than works of underpinning or strengthening authorised by this section.
- (7) Every case of compensation under this section shall be determined in case of dispute in accordance with Part I of the Land Compensation Act 1961.

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

- (1) The Corporation may use for the discharge of any water pumped or found during the construction of the authorised works any available stream or watercourse, or any sewer or drain of any sewerage undertaker or London borough council in or through whose area or district 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.

### **(2) (a)**

The Corporation shall not—

- (i) discharge any water into any sewer or drain vested in or under the control of a sewerage undertaker or London borough council except with the consent

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of that body and subject to such terms and conditions as that body may reasonably impose; or

- (ii) make any opening into any such sewer or drain except in accordance with plans approved by, and under the superintendence (if given), of the sewerage undertaker or London borough council in which the sewer or drain is then vested.
- (b) Consent to a discharge, or approval of plans submitted, under this subsection shall not be unreasonably withheld.

(3) (a)

Section 85 of the Water Resources Act 1991 shall apply to, or to the consequence of, a discharge under this section into any controlled waters within the meaning given by section 104 (1) of that Act as if this section were excluded from the reference to any local statutory provision in section 88 (1) (f) of that Act.

- (b) In the exercise of their powers under this section the Corporation shall not damage or interfere with the bed of any watercourse forming part of a main river of the National Rivers Authority or the banks thereof within the meaning of section 72 of the Land Drainage Act 1991 or forming part of a metropolitan watercourse within the meaning assigned to that expression by paragraph 1 of Schedule 5 to the Land Drainage Act 1976.
- (4) The Corporation shall take all such steps as may be reasonably required to secure that any water discharged under this section shall be as free as may be reasonably practicable from any gravel, soil or other solid substance or matter in suspension.
- (5) Any difference arising between the Corporation, National Rivers Authority, sewerage undertaker or London borough council, as the case may be, under this section shall be determined by arbitration.

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

The Corporation may affix brackets, cables, wires and other apparatus required in connection with Tramlink to any building or structure; and for that purpose the provisions of subsections (2), (4) to (6), (8) and (9) of section 45 of the Public Health Act 1961 (affixing apparatus to buildings for street lighting) shall apply as if—

- (a) the attachments therein mentioned included any such apparatus;
- (b) for any reference to the street lighting authority there were substituted a reference to the Corporation; and
- (c) in the proviso to subsection (2), after the words “unreasonably withheld” there were inserted the words “or is not granted within a reasonable time”.

**26 Attachment of equipment to tramway buildings and structures**

- (1) Subject to subsection (2) below, the Council may, with the consent of the Corporation, affix to any building or structure ancillary to any tramway comprised in Tramlink—
- (a) street lighting equipment;
  - (b) decorative lighting equipment;
  - (c) traffic signs within the meaning of section 64 of the Road Traffic Regulation Act 1984;
  - (d) traffic guidance control equipment;
  - (e) traffic monitoring equipment; or

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- (f) any other apparatus or equipment of a like nature.
- (2) The power in subsection (1) above shall not be exercised in such a way as to impair the safe and efficient operation of Tramlink.
- (3) The consent of the Corporation under this section may only be withheld if the Corporation consider that the proposed exercise of the power would impair the safe and efficient operation of Tramlink.

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

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

- (1) The Corporation shall employ either insulated returns or uninsulated metallic returns of low resistance.
- (2) The Corporation shall take all reasonable precautions in designing, constructing, placing and maintaining their electric lines and circuits and other works of all descriptions and also in working Tramlink so as to minimise the discharge of electrical currents into the ground and not—
  - (a) injuriously to affect by fusion or electrolytic action any electric lines or any gas or water pipes, or other metallic pipes, structures or substances; or
  - (b) injuriously to interfere with, or with the working of—
    - (i) any wire, line or apparatus from time to time used for the purpose of transmitting electrical energy or of any telecommunication system; or
    - (ii) the currents in any such wire, line or apparatus.
- (3) (a)

The Secretary of State may make regulations under this section for regulating the use of electrical energy for the operation of Tramlink, and the design, voltage, testing and working of the overhead equipment and return circuits of the Tramlink system, including regulations—

- (i) for preventing injurious affection (by the discharge of electrical currents into the ground, fusion or electrolytic action) of electric lines or gas or water pipes or other metallic pipes, structures or substances; and
  - (ii) for minimising, so far as is reasonably practicable, interference with, and with the working of, electric wires, lines and apparatus, whether such apparatus does or does not use the earth as a return.
- (b) Before making regulations under this section the Secretary of State shall consult the Corporation and the statutory undertakers.
- (4) The Corporation shall be deemed to take all reasonable and proper precautions against interference with, or with the working of, any wire, line or apparatus if and so long as they use, at the option of the Corporation, either such insulated returns, or such uninsulated metallic returns of low resistance and such other means of preventing injurious interference with, and with the working of, the electric wires, lines and apparatus, as may be prescribed by the regulations; and in prescribing such means the Secretary of State shall have regard to the expense involved in relation to the protection afforded.
- (5) The provisions of this section shall not give any right of action in respect of injurious interference with, or with the working of, any electric wire, line or apparatus, or the

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currents therein, unless, in the construction, erection, maintaining and working of such wire, line and apparatus, all reasonable and proper precautions, including the use of an insulated return, have been taken to minimise injurious interference therewith, and with the currents therein, by or from other electric currents.

- (6) If any difference arises between the Corporation and any other person with respect to anything in the foregoing provisions of this section, the difference shall, unless the parties otherwise agree, be determined by the Secretary of State, or, at his option, by an arbitrator to be appointed by him, and the costs of such determination shall be in the discretion of the Secretary of State or the arbitrator as the case may be.
- (7) The power to make regulations conferred on the Secretary of State by this section shall be exercisable by statutory instrument.
- (8) In this section—
- (a) reference to an insulated return includes reference to a return by means of a combined neutral and earth cable which is covered by an insulated sheath suitable for protection against corrosion and is approved for use below ground by the Secretary of State for the purpose of any regulations relating to the supply of electricity; and
  - (b) telecommunication system has the same meaning as in the Telecommunications Act 1984.

### PART III

#### ACQUISITION OF LAND

#### 28 Power to acquire lands

- (1) Subject to the provisions of this Act, the Corporation may enter upon, take and use—
- (a) so much of the land shown on the deposited plans within the limits of deviation for the authorised works as they may require for the purposes of the authorised works or for any purpose connected with, or ancillary to, their undertaking; and
  - (b) so much of any land specified in columns (1) and (2) of Part I of Schedule 3 to this Act shown on the deposited plans within the limits of land to be acquired or used as they may require for the purpose specified in relation to that land in column (3) of that Part of that Schedule.
- (2) Without prejudice to section 51 (As to land of Council) of this Act, the Corporation shall not under the powers of this Act without the consent of the Council acquire compulsorily any interest of the Council in the lands in the London borough of Croydon referred to in the book of reference.
- (3) The Corporation 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 or subsoil of—
- (i) the lands of the railways board delineated on the deposited plans and therein numbered 1, 2, 3, 4, 5, 6, 8, 10, 11, 55, 57 and 60 in the London borough of Merton;
  - (ii) the lands of the railways board delineated on the deposited plans and therein numbered 6, 9, 10, 10A, 25 and 30 in the London borough of Croydon; or



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(iii) the lands of the railways board delineated on the deposited plans and therein numbered 6, 7, 8, 10, 11, 12, 14, 15, 16, 17, 18 and 21 in the London borough of Bromley.

(4) Without prejudice to subsection (3) above the Corporation may acquire the interest of any person other than the railways board in any of the lands specified in subsection (3) above for the purposes of the authorised works.

## **29 Extinction of private rights of way**

(1) All private rights of way over any land that may be acquired compulsorily under this Act shall be extinguished on the acquisition of the land, whether compulsorily or by agreement, or on entry on the land in pursuance of section 11 (1) of the Act of 1965 as applied by this Act, whichever is the sooner.

(2) All private rights of way over any land of which the Corporation may take temporary possession under this Act shall be suspended and unenforceable against the Corporation for so long as the Corporation shall remain in lawful possession thereof.

(3) Any person who suffers loss by the extinguishment or suspension of any right under this section shall be entitled to compensation to be determined in case of dispute in accordance with Part I of the Land Compensation Act 1961.

## **30 Power to acquire new rights**

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

(2) The Corporation may, for the purposes of constructing, maintaining, protecting, renewing and using any of the authorised works, purchase compulsorily such new rights as they may require over any of the lands that may be acquired compulsorily under this Act instead of acquiring those lands.

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

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

(a) Part I of the Act of 1965 shall have effect with the modifications specified in Schedule 4 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.

## **31 Acquisition of part only of certain properties**

(1) Where a copy of this section is endorsed on, or annexed to, a notice to treat served under the Act of 1965 as applied by this Act, the following provisions of this section shall apply to the land subject to the notice instead of section 8 (1) of that Act.

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- (2) Where the land subject to the notice is part only of a house, building or factory, or part only of land consisting of a house together with any park or garden belonging thereto, then, if the person on whom the notice is served, within 21 days after the day on which the notice is served on him, serves on the Corporation a counter-notice objecting to the sale of the part and stating that he is willing and able to sell the whole (hereafter in this section referred to as “the land subject to the counter-notice”), the question whether he shall be required to sell the part shall, unless the Corporation agree to take the land subject to the counter-notice, be referred to the tribunal.
- (3) If the said person does not serve such a counter-notice as aforesaid within 21 days after the day on which the notice to treat is served on him, or if on such a reference to the tribunal the tribunal determine that the part subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, in the case of part of land consisting of a house together with a park or garden belonging thereto, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the said person shall be required to sell the part.
- (4) If, on such a reference to the tribunal, the tribunal determine that part only of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the notice to treat shall be deemed to be a notice to treat for that part.
- (5) If, on such a reference to the tribunal, the tribunal determine that the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice but that the material detriment is confined to a part of the land subject to the counter-notice, the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the Corporation are authorised to acquire compulsorily under this Act.
- (6) If the Corporation agree to take the land subject to the counter-notice, or if the tribunal determine that—
  - (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and
  - (b) the material detriment is not confined to a part of the land subject to the counter-notice;the notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice, whether or not the whole of that land is land which the Corporation are authorised to acquire compulsorily under this Act.
- (7) In any case where, by virtue of a determination by the tribunal under subsection (4), (5) or (6) above, a notice to treat is deemed to be a notice to treat for part of the land specified in the notice or for more land than is specified in the notice, the Corporation may, within six weeks after the tribunal make their determination, withdraw the notice to treat, and if they do so shall pay to the person on whom the notice was served compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice, to be determined in default of agreement by the tribunal.

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- (8) For the purposes of subsection (7) above, the determination shall not be taken to have been made so long as—
- (a) the time for requiring the tribunal to state a case with respect to the determination has not expired;
  - (b) any proceedings on points raised by a case stated have not been concluded; or
  - (c) any proceedings on appeal from any decision on points raised by a case stated have not been concluded.
- (9) Where a person is required under this section to sell part only of a house, building or factory, or of land consisting of a house together with any park or garden belonging thereto, the Corporation shall pay him compensation for any loss sustained by him due to the severance of that part in addition to the value of his interest therein.

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

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

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

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

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

- (1) In this section “relevant land” means any land or any new rights over any land purchased by the Corporation for the purposes of the authorised works.
- (2) In assessing the compensation payable to any person on the purchase by the Corporation 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 authorised 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 authorised works.
- (3) The Land Compensation Act 1961 shall have effect subject to the provisions of this section.

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

- (1) In this section “the relevant land” means so much of any of the lands specified in Part II of Schedule 3 to this Act as is not within the limits of deviation for any of the authorised works.
- (2) Subject to the provisions of this section, the Corporation may take temporary possession of and use the relevant land for the provision of working sites and access for construction purposes.
- (3) Not less than 28 days before entering upon and taking temporary possession of the relevant land the Corporation shall give notice to the owners and occupiers of the land.
- (4) (a)

The Corporation shall not, without the agreement of the owners and occupiers, remain in possession of any part of the relevant land under the powers of this section after a period of 18 months from the completion of the authorised works.

- (b) Before giving up possession of the relevant land, the Corporation shall remove all temporary works and restore the relevant land to the reasonable satisfaction of the owners and occupiers thereof; but the Corporation shall not be required to replace a building removed by them under this section.

- (5) (a)

The Corporation shall not be empowered to purchase compulsorily, or be required to purchase, any part of the relevant land.

- (b) The Corporation shall compensate the owners and occupiers of the relevant land for any loss or damage which may result to them by reason of the exercise of the powers of this section in relation to the relevant land.
- (c) Nothing in this section shall relieve the Corporation from liability to compensate under section 6 or 43 of the Act of 1845 or section 10 (2) of the Act of 1965 as incorporated or applied by this Act, or under any other enactment, in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (b) above.

- (6) Every case of compensation under this section shall be determined in case of dispute in accordance with Part I of the Land Compensation Act 1961.

### **35 Provision for mortgagors in certain cases**

- (1) This section applies where—
  - (a) the whole or part of the interest of a resident owner occupier (“the relevant owner”) in land is acquired in consequence of the construction of Tramlink;
  - (b) at the date of the passing of this Act the interest is subject to one or more mortgages;
  - (c) at the valuation date, the principal, interest and costs secured on the land by that mortgage or those mortgages (“the mortgage debt”) exceeds 90 per cent. of the open market value of the whole of the relevant owner’s interest in the land; and
  - (d) the whole of the mortgage debt is required by the mortgagee or mortgagees to be repaid on the disposal by the relevant owner of the interest in the land to be acquired as mentioned in paragraph (a) above.

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- (2) Where this section applies the acquiring authority may, if so required by the relevant owner, either—
- (a) lend to him on the terms mentioned in subsection (3) below a sum equal to the amount by which the mortgage debt exceeds 90 per cent. of the open market value of the whole of his interest in the land at the valuation date; or
  - (b) if another person lends that sum to the relevant owner on the terms mentioned in subsection (3) or on other terms acceptable to the relevant owner, guarantee any default on the part of the relevant owner in the payment of that loan and of all interest payable under it.
- (3) Any loan made under subsection (2) (a) above shall, unless otherwise agreed between the parties, be made on the same terms (except as to security) as those on which the mortgage (or, if there was more than one, the last mortgage) referred to in subsection (1) (b) above was made.
- (4) Any loan made under subsection (2) (a) above shall, if the acquiring authority so require, be secured—
- (a) by way of a second mortgage, on any land purchased by the relevant owner within two years from the valuation date; and
  - (b) where only part of the relevant owner’s interest in the land has been acquired, by way of a first mortgage on the land retained by the relevant owner (in addition to the mortgage referred to in paragraph (a) above).
- (5) Where the acquiring authority enter into a guarantee under subsection (2) (b) above, the relevant owner and his personal representatives shall indemnify the acquiring authority against all actions, proceedings, liability, claims, damages, costs and expenses in relation to or arising out of the guarantee.
- (6) For the purposes of this section an interest in land shall be taken to be acquired in consequence of the construction of Tramlink if—
- (a) it is acquired by the Corporation for the purposes of the Act; or
  - (b) it is acquired by the Corporation or the Council in pursuance of any undertaking given to a Parliamentary Committee during the passage through Parliament of the Bill for this Act or any undertaking or agreement given to a person in consideration of his refraining from opposition to that Bill.
- (7) In this section—
- “acquiring authority” means the Corporation or, as the case may be, the Council;
  - “the mortgage debt” means the principal, interest and costs referred to in subsection (1) (c) above;
  - “the relevant owner” means the owner occupier referred to in subsection (1) above;
  - “resident owner occupier” has the same meaning as in Chapter II of Part VI of the Town and Country Planning Act 1990; and
  - “valuation date” means the date on which the relevant owner’s interest falls to be valued for the purposes of the acquisition (whether under the enactments relating to compulsory purchase or under the agreement or undertaking concerned).

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

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

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

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

### **38 Extinguishment of powers of compulsory purchase of lands or rights**

- (1) The compulsory purchase powers shall cease to have effect if—
  - (a) a period of not less than 3 years beginning with the day on which this Act is passed has expired;
  - (b) none of those powers has been exercised; and
  - (c) after the expiry of the said period of 3 years, a resolution in pursuance of this section is passed by each of the following:—
    - (i) the Council;
    - (ii) the Council of the London borough of Merton; and
    - (iii) the Council of the London borough of Bromley.
- (2) For the purposes of this section—
  - (a) “compulsory purchase powers” means the powers of the Corporation for the compulsory acquisition of lands or rights under this Part of this Act; and
  - (b) the compulsory purchase powers shall be deemed to have been exercised if notice to treat has been served under those powers in respect of any land or rights.

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## PART IV

### MISCELLANEOUS AND GENERAL

#### 39 Crown rights

- (1) Nothing in this Act affects prejudicially any estate, right, power, privilege or exemption of the Crown and, without prejudice to the generality of the foregoing, nothing in this Act authorises the Corporation 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.
- (3) Nothing in this section shall prejudice or affect the exercise of statutory powers to carry out works in or affecting any highway vested in or maintained by the Secretary of State.

#### 40 Environmental protection

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

- (1) In this section—
  - “construction” includes placing, alteration and renewal;
  - “plans” includes sections, drawings, specifications, particulars and descriptions (including descriptions of methods of construction);
  - “the specified works” means so much of Works Nos. 3, 3A, 3B, 4, 5 and 6 as may be constructed in the London borough of Croydon.
- (2) The Corporation shall, before commencing the construction of the specified works, supply to the Council proper and sufficient plans thereof for their approval and shall not commence the specified works until plans thereof have been approved in writing by the Council, or settled by arbitration in accordance with subsection (5) below:

Provided that if within 56 days after such plans have been supplied to the Council they shall not have notified their disapproval thereof and the grounds of their disapproval, they shall be deemed to have approved the plans as supplied:
- (3) The construction of the specified works shall, when commenced, be carried out in accordance with the plans as approved by the Council or deemed to have been so approved or settled by arbitration in accordance with subsection (5) below.
- (4) The Council may not withhold their approval under this section except in respect of any detail of the plans which—

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- (a) in their reasonable opinion will cause unacceptable detriment to the environment or to the amenity of the borough; and
  - (b) is susceptible of a reasonable alternative which will not in their reasonable opinion cause such detriment.
- (5) Any difference arising between the Corporation and the Council under this section shall be referred to and settled by arbitration but the Corporation and the Council shall use their best endeavours to ensure that proceedings before an arbitrator commence in every case within 7 days of the Corporation or the Council registering such a difference.

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

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

#### **42 Traffic control**

- (1) The Corporation shall not exercise the powers conferred by section 11 (Subsidiary works) of this Act in relation to any signalling, monitoring or communication equipment the purpose of which is to control traffic on any tramway comprised in Tramlink except with the consent of the Secretary of State.
- (2) Subject to any general or specific directions given by the Secretary of State, the Corporation shall not exercise the powers conferred by that section in relation to any signalling, monitoring or communication equipment the purpose of which is to control general traffic on the street in which the tramway is laid as well as traffic on the tramway itself except with the consent of the highway authority.
- (3) Subject to any general or specific directions given by the Secretary of State, the highway authority shall, unless otherwise agreed with the Corporation, operate any such signalling, monitoring or communications equipment as is referred to in subsection (1) above if the purpose of operating that equipment is to control general traffic on the street in which the tramway is laid as well as traffic on the tramway itself.

#### **43 Removal of obstructions**

- (1) If any obstruction to traffic on Tramlink is caused by—
  - (a) a vehicle on any tramway or at any level crossing waiting, loading, unloading or breaking down; or
  - (b) a load falling on any tramway or at any level crossing from a vehicle;the person in charge of the vehicle shall forthwith remove the vehicle or the load so as to prevent the continuance of the obstruction and, if he fails to do so, the Corporation



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may remove the vehicle or load, taking all necessary steps for that purpose, and may recover from any person responsible the expenses reasonably incurred in doing so.

- (2) In subsection (1) above “person responsible” means—
- (a) in the case of a vehicle waiting, loading, unloading or breaking down—
    - (i) the owner of the vehicle at the time at which it became an obstruction to traffic on Tramlink unless he shows that he was not concerned in, or aware of, the vehicle being put or left in that place at that time; and
    - (ii) the person by whom the vehicle was put or left in the place in which it became an obstruction to traffic on Tramlink; and
  - (b) in the case of a load falling from a vehicle—
    - (i) the owner of the vehicle at the time of that event unless he shows that he was not concerned in, or aware of, the vehicle being put or left, or as the case may be, being in the place at which the load fell from it; and
    - (ii) the person in charge of the vehicle at the time when the load fell from it.
- (3) For the purposes of this section the owner of a vehicle shall be taken to be the person by whom the vehicle is kept; and in determining, for those purposes who was the owner of a vehicle at any time, it shall be presumed (unless the contrary appears) that the owner was the person in whose name the vehicle was at that time registered under the Vehicles (Excise) Act 1971.

#### **44 For better prevention of trespass on railways**

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

#### **45 Penalty fares**

- (1) The Secretary of State may, at the request of the Corporation, by order provide that any enactment (whether passed before or after this Act) relating to the imposition by the Corporation of penalty fares on passengers travelling on a bus service or a train service shall have effect, as from such date as may be specified in the order, with respect to passengers travelling on Tramlink with such modifications as may be specified in the order.
- (2) Any order under subsection (1) above, and any order revoking such an order, may contain such supplementary, incidental and consequential provisions (including transitional provisions) as may appear to the Secretary of State to be necessary or expedient.

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- (3) The power to make an order conferred on the Secretary of State by subsection (1) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) The Secretary of State may recover from the Corporation payment of administrative costs reasonably incurred by him in connection with an application for an order under subsection (1) above and, where the order is made, in connection with the making of the order subject to a maximum payment of £5,000 in respect of the application for and making of any such order.

#### **46 Byelaws relating to Tramlink**

- (1) The Corporation may make byelaws regulating the use of and working of, and travel on, Tramlink, the maintenance of order on Tramlink and on the Corporation's premises or other facilities provided in connection with Tramlink and the conduct of all persons including officers and servants of the Corporation while on those premises.
- (2) Without prejudice to the generality of subsection (1) above, byelaws under this section may contain provisions—
  - (a) with respect to tickets issued for travel on Tramlink, the payment of fares and charges and the evasion of payment of fares and charges;
  - (b) with respect to interference with, or obstruction of, the working of Tramlink or other facilities provided in connection with Tramlink;
  - (c) with respect to the use of tobacco or other substances and the prevention of nuisances;
  - (d) for regulating the passage of bicycles and other vehicles on ways and other places intended for the use of persons on foot within railway premises of the Corporation, not being premises within the boundary of any street;
  - (e) for the safe custody and delivery or disposal of property found in premises of the Corporation forming part of, or provided in connection with, Tramlink, or elsewhere on Tramlink and for fixing the charges which may be made in respect thereof; and
  - (f) for prohibiting or restricting the placing or leaving of any vehicle without its driver on any authorised railway, or in premises of the Corporation forming part of Tramlink.
- (3) Byelaws made under this section may provide that any person contravening them shall be liable on summary conviction to a fine not exceeding for each offence level 3 on the standard scale.
- (4) Without prejudice to the taking of proceedings under subsection (3) above, if the contravention of any byelaw having effect under this section is attended with danger or annoyance to the public, or hindrance to the Corporation in the conduct of Tramlink, it shall be lawful for the Corporation summarily to take action to obviate or remove the danger, annoyance or hindrance.
- (5) The power of making byelaws under this section shall include power to vary or repeal any byelaw previously made under this section.
- (6) Subsections (5) to (11) of section 67 of the Transport Act 1962 (confirmation of byelaws) shall apply to any byelaws made by the Corporation under this section as they apply to any byelaws made under that section.

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#### **47 Carriages on Tramlink deemed public service vehicles**

(1) On such day as may be appointed under subsection (2) below, regulations made, or having effect as if made, under section 25 or 60 (1) (k) of the Public Passenger Vehicles Act 1981 (regulation of conduct of passengers and lost property) shall have effect as if the carriages used on Tramlink were public service vehicles used in the provision of a local service within the meaning of the Transport Act 1985.

(2) (a)

The Corporation may by resolution appoint a day for the purpose of any regulation mentioned in subsection (1) above, the day so appointed being fixed in accordance with paragraph (b) below.

(b) The Corporation shall publish in a newspaper circulating in the area in which Tramlink is situated, notice—

- (i) of the passing of any such resolution and of the day fixed thereby; and
- (ii) of the general effect of the enactments for the purposes of which the day has been fixed;

and the day so fixed shall not be earlier than the expiration of 28 days from the date of the publication of the notice.

(c) A photostatic or other reproduction certified by the secretary of the Corporation to be a true reproduction of a page, or part of a page, of any newspaper bearing the date of its publication and containing the notice mentioned in paragraph (b) above shall be evidence of the publication of the notice and of the date of publication.

#### **48 Proposed discontinuance of services on Tramlink**

The provisions of Schedule 5 to the Railways Act 1993 (procedure for closure of certain railway passenger services) shall apply in relation to any passenger services operating on Tramlink as if those services were for the time being designated in an order under section 49 (3) of that Act as railway passenger services in relation to which that Schedule is to have effect.

#### **49 Application of Railways Act 1993**

For the avoidance of doubt it is hereby declared that Tramlink shall be deemed to be a tramway for the purposes of Part I of the Railways Act 1993.

#### **50 Transfer of functions**

(1) The Secretary of State may by order provide that all or any of the functions of the Corporation arising under this Act shall be transferred to and vested in any other person.

(2) A transfer order may be made so as to transfer and vest such functions in a person for such period as may be specified in that order or for so long as the order remains in force.

(3) Without prejudice to the power of the Secretary of State to revoke or amend a transfer order, a transfer order may specify circumstances in which that order shall cease to have effect before the expiry of any period specified in any such order.

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- (4) A transfer order may include such supplementary, incidental, transitional and consequential provisions as the Secretary of State may consider to be necessary or expedient.
- (5) Upon expiry of any period specified in a transfer order in accordance with subsection (2) above or upon a transfer order being revoked or otherwise ceasing to have effect, the functions of the Corporation which were transferred by that order shall, by virtue of this subsection but subject to the effect of any further transfer order, be transferred to and vested in the Corporation but such vesting in the Corporation shall not make the Corporation subject to any of the liabilities of the person in whom those functions had previously been vested (other than liabilities which arise pursuant to any undertaking given to a Parliamentary Committee during the passage through Parliament of the Bill for this Act or any undertaking or agreement given to a person in consideration of his refraining from opposition to that Bill).
- (6) Notwithstanding the provisions of section 50 (2) of the Fair Trading Act 1973 the Director General of Fair Trading may make a monopoly reference, within the meaning of that Act, in respect of services consisting of the carriage of passengers or goods by rail on the authorised railways at any time during which the functions of the Corporation under this Act in respect of the provision of any of those services have been transferred to and are vested in any other person by virtue of a transfer order.
- (7) Subject to subsection (8) below, while the functions of the Corporation under this Act in respect of the provision of passenger services are vested in a transferee by virtue of a transfer order, it shall be the duty of the Committee to consider and, where it appears to them to be desirable, make recommendations with respect to any matter affecting such services which is—
- (a) the subject of representations (other than representations appearing to the Committee to be frivolous) made to the Committee by or on behalf of users of those services; or
  - (b) referred to the Committee by the Secretary of State or by the transferee; or
  - (c) in the opinion of the Committee a matter to which consideration ought to be given;
- and copies of the minutes, conclusions and recommendations of the Committee shall be sent to the Secretary of State, the transferee and to such person as may be directed by the Secretary of State.
- (8) (a)
- Subsection (7) above shall apply only after the opening for passenger services of the railway comprised within the authorised works and nothing in that subsection shall entitle the Committee to consider the charges made for any services, or to consider any question relating to the discontinuance or reduction of railway services or, subject to paragraph (b) below, any matter which is the subject of a monopoly reference by the Director General of Fair Trading pursuant to subsection (6) above.
- (b) Nothing in subsection (8) (a) above shall affect consideration under section 81 of the Fair Trading Act 1973 of any representations made by the Committee pursuant to that section or preclude the Committee from being heard orally under that section.
- (9) The power to make a transfer order shall be exercisable by statutory instrument.
- (10) The Secretary of State may recover from the Corporation payment of administrative costs reasonably incurred by him in connection with an application for an order under

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this section and, where the order is made, in connection with the making of the order subject to a maximum payment of £5,000 in respect of the application for and making of any such order.

(11) In this section—

“the Committee” means the London Regional Passengers' Committee;

“functions” includes powers, duties and obligations;

“transferee” means the person to whom the functions of the Corporation under this Act in respect of the provision of passenger services have been transferred by virtue of a transfer order; and

“transfer order” means an order made under this section.

## **51 As to land of Council**

(1) Notwithstanding the provisions of section 123 (2) of the Local Government Act 1972, where land held by the Council is shown on the deposited plans within the limits of deviation for the authorised works or within the limits of land to be acquired or used, the Council may dispose of that land to the Corporation for a consideration less than the best that can reasonably be obtained.

(2) Where by virtue of subsection (1) above the Council dispose of land which is held—

(a) for the purposes of section 164 of the Public Health Act 1875 (pleasure grounds); or

(b) in accordance with section 10 of the Open Spaces Act 1906 (duty of local authority to maintain open spaces and burial grounds),

the land shall by virtue of the disposal be freed from any trust arising solely by virtue of its being land held in trust for enjoyment by the public in accordance with the said section 164 or, as the case may be, the said section 10.

(3) Subsection (4) below shall apply if—

(a) the construction of the authorised works shall not have begun within the period specified in section 55 (2) (Planning permission) of this Act, or

(b) the provisions of this Act which confer power to construct, maintain and operate so much of Tramlink as is situated, or is to be situated, on the designated land are repealed, and

at the end of that period or (as the case may be) on the day on which the provisions are repealed any land which adjoins the designated land is held by the Council or any other person on terms (however expressed and whether imposed by or under statute or any other instrument) requiring the land to be preserved or regulated as a park, recreation ground or public open space for the enjoyment of the public.

(4) Where this subsection applies, the Secretary of State may, on an application made in accordance with subsection (5) below by any interested person, make an order vesting the designated land or any part of that land in such person as he may determine on the same terms as the adjoining land is held or on such other terms as he shall consider appropriate, being terms which secure that the designated land (or that part of it) is preserved or regulated as a park, recreational ground or public open space for the enjoyment of the public.

(5) An application under subsection (4) above shall be made in writing and—

(a) in a case falling within paragraph (a) of subsection (3) above, within 12 months of the end of the period referred to in that paragraph, or

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- (b) in a case falling within paragraph (b) of that subsection, within 12 months of the repeal of the provisions referred to in that paragraph.
- (6) The Secretary of State shall not make an order under subsection (4) above in relation to any land unless he is satisfied that the land is no longer required for the purposes of Tramlink; and before making such an order he shall give to the owner, lessee or occupier of the land the opportunity of making representations.
- (7) In this section—

“the designated land” means so much of the land in the London borough of Croydon shown numbered 5A, 76, 78, 79, 81, 98, 99, 102, 104, 106, 108, 112, 118 and 126 on the deposited plans, and so much of the land in the London borough of Bromley shown numbered 1 on those plans, as may be acquired for the purposes of Tramlink pursuant to the powers conferred by this Act; and

“the adjoining land” means the land adjoining the designated land and referred to in subsection (3) above.

## **52 Power of Council to make agreements**

The Council may enter into and carry into effect agreements with respect to the construction, maintenance, use and operation of Tramlink or any part or parts thereof and as to any other matters incidental or subsidiary thereto or consequential thereon.

## **53 As to application of certain railway enactments**

- (1) Any enactment by which any railway or former railway of the railways board comprised within the affected properties was authorised shall have effect subject to the provisions of this Act.
- (2) Nothing in subsection (1) above shall prejudice any express statutory provision for—
- (a) the protection of the owner, lessee or occupier of any specifically designated property; or
  - (b) the protection or benefit of any public trustees or commissioners, corporation or other person, specifically named in such provision.
- (3) In this section “affected properties” has the same meaning as in section 16 (Agreements with British Railways Board) of this Act.

## **54 Saving for Reservoirs Act 1975**

Nothing in this Act shall affect the application of the Reservoirs Act 1975.

## **55 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

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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.
- (4) Without prejudice to the planning permission granted for Part 11 development, it is hereby declared for the avoidance of doubt that, for the purposes of Part 17 of Schedule 2 to the said Order of 1988 (which permits certain development by statutory undertakers)—
  - (a) the tramways comprised in Tramlink and the works and conveniences connected with those tramways shall be taken to be a tramway undertaking within Class H of that Part of that Schedule; and
  - (b) the authorised railways other than tramways comprised in Tramlink and the works and conveniences connected with those railways shall be taken to be a light railway undertaking within Class A of that Part of that Schedule.

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

For the protection of the railways board the following provisions shall, unless otherwise agreed in writing between the Corporation 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;
  - “railway property” means any railway of the railways board, and any works, apparatus and equipment of the railways board connected therewith and includes any land held or used by the railways board for the purposes of such railway or works; and
  - “the specified works” means so much of the authorised works as may be situated upon, across, under, over or within 15 metres of railway property or may in any way affect railway property.
- (2) The exercise by the Corporation against the railways board of the powers of section 11 (3) of the Act of 1965 shall be confined to lands which the Corporation are empowered to acquire compulsorily under section 28 (Power to acquire lands) of this Act.
- (3) In its application to the service on the railways board of notice of entry in respect of the following lands:—
  - the lands of the railways board delineated on the deposited plans and therein numbered 56, 57, 58, 60, 62, 66, 84, 85, 86, 87, 88, 89, 90 and 91 in the London borough of Croydon,
  - section 11 (1) of the Act of 1965 (as incorporated by section 5 (1) (Application of Part I of Compulsory Purchase Act 1965) of this Act) shall have effect as if for the word “fourteen” there were substituted the words “one hundred and eighty”.
- (4) No part of the track formation of the authorised railways shall be constructed so as to pass beneath the track formation of any operational railway of the railways board:

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Provided that this subsection shall not preclude the construction of track formation beneath a bridge carrying an operational railway of the railways board.

- (5) Except with the consent of the railways board—
- (a) the Corporation shall not in the exercise of the powers of this Act interrupt or prejudicially affect pedestrian or vehicular access to any operational station of the railways board or any other railway property; and
  - (b) the provisions of section 29 (Extinction of private rights of way) of this Act shall not apply to any right of access of the railways board to any railway property:

Provided that such consent shall not be unreasonably withheld but may be given subject to reasonable conditions.

- (6) The Corporation shall not under the powers of this Act enter upon any railway property for the purpose of exercising its powers under section 41 (Power to lop trees overhanging railway) of this Act without the consent of the railways board which shall not be unreasonably withheld but which may be given subject to reasonable conditions.

- (7) (a)

The Corporation shall, before commencing the construction of the specified works, furnish to the railways board such proper and sufficient plans thereof (including, in the case of the works described in paragraphs (xiii), (xiv), (xx) and (xxi) of Part II of Schedule 1 to this Act, particulars as to the working methods and the regulation of traffic in the vicinity of the works) as may reasonably be required by the engineer and shall not commence the specified works until plans thereof have been approved in writing by the engineer or settled by arbitration as provided in paragraph (b) below;

- (b) The engineer's approval under paragraph (a) above shall not be unreasonably withheld and any question of whether it has been unreasonably withheld shall be settled by arbitration, and in any event 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.

- (8) If within 56 days after such plans have been furnished to the railways board, the railways board give notice to the Corporation that the railways board themselves desire 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 Corporation 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 Corporation in accordance with the plans approved or deemed to be approved or settled as aforesaid.

- (9) 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 their passengers who may be affected by the specified works, and such protective works as may be reasonably necessary for those purposes shall be constructed by the railways board with all reasonable dispatch or, if the railways board so desire, such



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protective works shall be carried out by the Corporation at their own expense, and the Corporation shall not commence the construction of the specified works until the engineer has notified the Corporation that the protective works have been satisfactorily completed.

- (10) The Corporation 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 insofar as such works of repair or maintenance affect or interfere with railway property.
- (11) The construction of the specified works and of any protective works carried out by the Corporation by virtue of the provisions of subsection (9) 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 Corporation shall, notwithstanding any such approval as aforesaid, make good such damage and shall pay to the railways board all reasonable expenses which the railways board may reasonably incur and compensation for any loss which they may sustain by reason of any such damage or interference:

Provided that nothing in this subsection shall impose any liability on the Corporation 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.

- (12) Without prejudice to the generality of subsections (9) and (11) 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 Corporation by virtue of the provisions of subsection (9) above, impose reasonable conditions with a view to ensuring that—
- (a) nothing shall be done by or on behalf of the Corporation which impedes the free, uninterrupted and safe flow of passengers to and from the Wimbledon, Mitcham Junction, West Croydon, East Croydon, Elmers End, Birkbeck and Beckenham Junction stations of the railways board;
  - (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.
- (13) The Corporation 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.
- (14) 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 Corporation and their agents for access to those works, and shall supply the Corporation with such

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information as they may reasonably require with regard to such works or the method of construction thereof.

- (15) If any alterations or additions, either permanent or temporary, to railway property are reasonably necessary during the construction of the specified works, or during 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 Corporation reasonable notice of their intention to carry out such alterations or additions, the Corporation 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 Corporation to the railways board under this section.

- (16) The Corporation shall repay to the railways board all reasonable costs, charges and expenses reasonably incurred by the railways board—
- (a) in constructing any part of the specified works on behalf of the Corporation as provided by subsection (8) above or in constructing any protective works under the provisions of subsection (9) 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.
- (17) The Corporation shall be responsible for, and make good to the railways board, all reasonable 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 (as opposed to their existence) or the failure thereof; or
  - (b) by reason of any act or omission of the Corporation or of any person in their employ, or of their contractors or others whilst engaged upon the construction of the specified works;

and the Corporation 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

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thing may have been done 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 Corporation from any liability under the provisions of this section:

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

- (18) Any difference arising between the Corporation 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.

## **57 Protection of certain bodies and persons**

Schedule 5 to this Act shall have effect for protecting the interests of the bodies and persons specified in that Schedule.

## **58 Arbitration**

Where under this Act any difference (other than a difference to which the provisions of the Act of 1965 as applied by this Act apply) is to be determined by arbitration, then, unless otherwise provided, the difference shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed, on the application of either party (after notice in writing to the other), by the President of the Institution of Civil Engineers.

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## SCHEDULES

### SCHEDULE 1

Section 6.

#### THE AUTHORISED WORKS

Note: In the following descriptions:—

“the South Western Railway” means the former London and South Western Railway (London to Southampton);

“the Wimbledon Railway” means the Wimbledon to West Croydon Railway;

“the Sutton Railway” means the Streatham Junction to Sutton Railway;

“the West Croydon Railway” means the West Croydon to Epsom Railway;

“the Brighton Railway” means the former London Brighton and South Coast Railway (London to Brighton);

“the former Selsdon Railway” means that part of the former Woodside and South Croydon Railway between Woodside Junction and Selsdon;

“the Mid Kent Railway” means that part of the former South Eastern Railway (Mid Kent Line) between Lewisham and Hayes;

“the Addiscombe Railway” means that part of the former South Eastern Railway (Mid Kent Line) between Elmers End and Addiscombe;

“the Norwood Spur” means the Victoria to Beckenham Junction (via Crystal Palace) Railway.

### PART I

#### DESCRIPTION OF WORKS SPECIFICALLY AUTHORISED

In the London boroughs of Merton, Sutton and Croydon—

Work No. 1 A railway (9,307 metres in length) commencing at a point 100 metres west of the junction of Hartfield Crescent with Hartfield Road, passing south-eastwards along the course of the Wimbledon Railway, passing over the River Wandle by means of the existing bridges, passing beneath the existing bridge carrying Carshalton Road over the Sutton and Wimbledon Railways, then passing to the south of Mitcham Junction Station, passing over the Sutton Railway including a new bridge over that railway, then rejoining the course of the Wimbledon Railway, passing over the West Croydon Railway including a bridge over that railway, passing north-eastwards along the north-western side of Waddon New Road, then along that road from a point 30 metres north-east of the junction of that road with Lower Church Street to the junction of Waddon New Road and Cairo New Road, then passing south-eastwards along the course of that road and terminating at a point 115 metres north-west of the junction of that road with Reeves Corner.

In the London borough of Merton—

Work No. 1A A footbridge (63 metres in length) commencing at a point 125 metres south of the junction of Wimbledon Bridge with St George’s Road, passing south-eastwards and southwards over the South Western Railway, and terminating at a point 95 metres west of the junction of Hartfield Crescent with Hartfield Road;

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Work No. 1B A footpath (82 metres in length) commencing at a point 360 metres east of the bridge carrying Carshalton Road over the Sutton and Wimbledon Railways, passing south-westwards, then southwards by means of a subway beneath Work No. 1, then eastwards, and terminating at a point 46 metres south of its commencement.

In the London borough of Croydon—

Work No. 1C A footbridge (63 metres in length) commencing at a point 50 metres north-west of the junction of Ridge's Yard with Waddon New Road passing south-eastwards beneath the bridge carrying Work No. 1, then southwards, then eastwards over the West Croydon Railway, then northwards and terminating at a point 20 metres north of that junction;

Work No. 1D A new street (89 metres in length) forming a diversion of part of the carriageway of Waddon New Road and Cairo New Road, commencing at a point 30 metres north-east of the junction of Waddon New Road with Lower Church Street, passing eastwards beneath the existing bridge carrying Roman Way then southwards and terminating at a point 110 metres north-west of the junction of Cairo New Road with Reeves Corner.

In the London borough of Sutton—

Work No. 2 A railway (545 metres in length) commencing by a junction with Work No. 1 at a point 535 metres north-west of the footbridge carrying Therapia Lane over the Wimbledon Railway, passing eastwards and south-eastwards and terminating by a junction with Work No. 1 at a point 2 metres east of that footbridge forming, with sidings, a depot for Tramlink;

Work No. 2A A railway (497 metres in length) commencing by a junction with Work No. 1 at a point 535 metres north-west of the footbridge carrying Therapia Lane over the Wimbledon Railway, passing south-eastwards and terminating by a junction with Work No. 1 at a point 40 metres west of that footbridge forming, with sidings, a depot for Tramlink with access provided by means of a new service road from Endeavour Way.

In the London borough of Croydon—

Work No. 3 A railway (1,941 metres in length) commencing by a junction with Work No. 1 at its termination, forming double lines of tramway (92 metres in length) passing southwards along Cairo New Road, a single line of tramway (720 metres in length) passing south-eastwards along that road, south-eastwards along Reeves Corner, south-eastwards and eastwards along Church Street, eastwards along Crown Hill, and eastwards along George Street and passing over the Croydon Underpass by means of the existing bridge, double lines of tramway (188 metres in length) passing eastwards along George Street, triple lines of tramway (92 metres in length) passing eastwards along that street and passing over the Brighton Railway by means of the existing bridge, a single line of tramway (165 metres in length) passing eastwards along Addiscombe Road, double lines of tramway (684 metres in length) passing eastwards along that road and terminating at a point 60 metres east of the junction of that road with Chepstow Road;

Work No. 3A A railway (216 metres in length) commencing by a junction with Work No. 3 at the junction of George Street with Addiscombe Road, forming a single line of tramway, passing south-eastwards, eastwards, northwards and eastwards along Addiscombe Road and terminating by a junction with Work No. 3 at the junction of that road with Colson Road;

Work No. 3B A railway (39 metres in length) commencing by a junction with Work No. 3 at a point 15 metres east of the junction of Cherry Orchard Road with Addiscombe Road, forming a single line of tramway, passing south-eastwards and southwards along that road and terminating by a junction with Work No. 3A at a point 40 metres south-west of the junction of that road with Colson Road;

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Work No. 3C A widening of Addiscombe Road on its southern side between its junction with Leyburn Gardens and a point 75 metres east of that junction;

Work No. 4 A railway (1,465 metres in length) commencing by a junction with Work No. 3 at a point 35 metres west of the junction of Tamworth Road with Reeves Corner, forming a single line of tramway, passing eastwards along Cairo New Road, north-eastwards along Tamworth Road and Station Road, southwards along Wellesley Road and eastwards along George Street and terminating by a junction with Work No. 3 at a point 45 metres east of the junction of Wellesley Road with George Street;

Work No. 4A A widening of Tamworth Road on its north-western side between a point 85 metres south of its junction with Drayton Road and that junction;

Work No. 4B A widening of Station Road on its north-western side between a point 90 metres south-west of its junction with Wellesley Road and that junction;

Work No. 4C A subway (23 metres in length) commencing at a point 5 metres north of the junction of Lansdowne Road with Wellesley Road and passing north-east and north-west and terminating at a point 25 metres north of that junction;

Work No. 5 A railway (47 metres in length) commencing by a junction with Work No. 3 at a point 20 metres south-east of the junction of Tamworth Road with Reeves Corner, forming a single line of tramway, passing northwards along Reeves Corner and Tamworth Road and terminating by a junction with Work No. 4 at a point 3.30 metres north-east of the junction of Tamworth Road with Reeves Corner;

Work No. 6 A railway (46 metres in length) commencing by a junction with Work No. 3 at a point 15 metres west of the junction of Wellesley Road with George Street, forming a single line of tramway, passing eastwards along George Street and passing over the Croydon Underpass by means of the existing bridge, passing northwards along Wellesley Road and terminating by a junction with Work No. 3 at a point 30 metres north of the junction of Wellesley Road with George Street.

In the London boroughs of Croydon and Bromley—

Work No. 7 A railway (6,970 metres in length) commencing by a junction with Work No. 3 at its termination, passing eastwards on the southern side of Addiscombe Road, northwards along the course of the former Selsdon Railway, north-eastwards along the course of the Addiscombe Railway, north-westwards and north-eastwards through South Norwood Country Park, north-westwards on the south-western side of Beckenham Crematorium, north-eastwards and eastwards along the course of the Norwood Spur passing over the Mid Kent Railway by means of the existing bridge and terminating at a point 90 metres north-west of the junction of Southend Road with Rectory Road.

In the London borough of Croydon—

Work No. 7A A new street (62 metres in length) forming a diversion of part of the carriageway of Woodbury Close, crossing Work No. 7 on the level, commencing at a point 10 metres west of the junction of Woodbury Close with Addiscombe Road, passing southwards on the western side of Woodbury Close and terminating at a point 65 metres south of that junction.

In the London boroughs of Croydon and Bromley—

Work No. 8 A railway (896 metres in length) commencing by a junction with Work No. 7 at a point 260 metres north-east of the junction of Albert Road with Estcourt Road, passing north-eastwards along the course of the Addiscombe Railway, and terminating at a point 110 metres west of the junction of Station Estate with Elmers End Road.

In the London borough of Croydon—

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Work No. 9 A railway (2,300 metres in length) commencing by a junction with Work No. 7 at a point 85 metres south-west of the junction of Sandilands with Addiscombe Road passing southwards along the course of the former Selsdon Railway, partly in existing tunnels (Radcliffe Tunnel, Park Hill Tunnel and Coombe Road Tunnel) and passing over the Fairfield Path (FP 595) including a new bridge over that footpath then eastwards along the north side of Coombe Road and terminating at a point 35 metres north-east of the junction of Oaks Road with Coombe Road;

Work No. 10 A railway (1,552 metres in length) commencing by a junction with Work No. 9 at its termination, passing eastwards, south-eastwards and eastwards on the northern side of Coombe Lane and Sunken Road, then south-eastwards, partly in tunnel, passing beneath the junction of Coombe Lane with Gravel Hill and Shirley Hills Road, south-eastwards on the southern side of Gravel Hill and terminating at a point 120 metres west of the junction of Abbots Green with Gravel Hill;

Work No. 11 A railway (2,100 metres in length) commencing by a junction with Work No. 10 at its termination, passing eastwards on the southern side then the northern side of Gravel Hill, north-eastwards on the western side then the central reserve of Kent Gate Way, south-eastwards on the south-western side of Lodge Lane and terminating at a point 20 metres west of the junction of Field Way with Lodge Lane including the provision of a bus interchange;

Work No. 12 A railway (1,553 metres in length) commencing by a junction with Work No. 11 at its termination, passing south-eastwards on the south-western side of Lodge Lane, along the central reserve of Parkway and on the south-western side of Central Parade and terminating at a point 240 metres south-east of the junction of Parkway with Central Parade.

## PART II

### DESCRIPTION OF FURTHER WORKS AND POWERS

In the London borough of Merton—

- (i) Stop up and discontinue so much of the footpath at Mitcham Golf Course as lies between the points marked A, B, C and D on the deposited plans.

In the London borough of Croydon—

- (ii) Stop up and discontinue the footbridge adjoining Vicarage Road between the points marked A, B, C and D on the deposited plans, substituting therefor a new level crossing between the points so marked A and E;
- (iii) Stop up and discontinue the footbridge adjoining Waddon New Road between the points marked F, G and H, and G and J on the deposited plans;
- (iv) Stop up and discontinue so much of Waddon New Road and Cairo New Road as lies within the limits of deviation of Work No. 1D;
- (v) Set back so much of the kerb line on the south-western side of Cairo New Road as lies between the points marked A1 and A2 on the deposited plans;
- (vi) Set back so much of the kerb line on the northern side of Church Street as lies—
  - (a) between the points marked H1 and H2 on the deposited plans;
  - (b) between the points so marked J1 and J2;
- (vii) Set back so much of the kerb line on the northern side of Crown Hill as lies between the points marked K1 and K2 on the deposited plans;
- (viii) Stop up and discontinue Surrey Street at the point marked K on the deposited plans;

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- (ix) Stop up and discontinue so much of Crown Hill as lies between the points marked L and M on the deposited plans;
- (x) Set back so much of the kerb line on the northern side of George Street as lies between the points marked M1 and M2 on the deposited plans;
- (xi) Narrow and stop up—
  - (a) so much of the northern side of George Street as lies between the points marked N1 and N2 on the deposited plans;
  - (b) so much of the southern side of George Street as lies between the points marked P1 and P2 on the deposited plans;
- (xii) Stop up and discontinue so much of College Road as lies between the points marked N and P on the deposited plans;
- (xiii) Set back so much of the kerb line—
  - (a) on the southern side of George Street as lies between the points marked Q1 and Q2 on the deposited plans;
  - (b) on the northern side of George Street as lies between the points marked S1 and S2 on the deposited plans;
- (xiv) Narrow and stop up so much of George Street as lies between the points marked R1, R2, R3, R4, R5 and R6 on the deposited plans;
- (xv) Set back so much of the footway and kerb line on the southern side of Addiscombe Road as lies between the points marked U1 and U2 on the deposited plans;
- (xvi) Stop up and discontinue so much of Lebanon Road as lies between the points marked Q and R on the deposited plans;
- (xvii) Set back so much of the kerb line on the southern side of Addiscombe Road as lies between the points marked T1 and T2 on the deposited plans;
- (xviii) Set back so much of the footway and kerb line on the western side of Tamworth Road as lies between the points marked B1 and B2 on the deposited plans;
- (xix) Set back so much of the kerb line on the western side of Tamworth Road as lies between the points marked C1 and C2 on the deposited plans;
- (xx) Narrow and stop up so much of the western side of Station Road as lies between the points marked D1 and D2 on the deposited plans;
- (xxi) Set back so much of the footway and kerb line on the north-western side of Station Road as lies between the points marked E1 and E2 on the deposited plans;
- (xxii) Narrow and stop up—
  - (a) so much of the western side of the southbound carriageway of Wellesley Road as lies between the points marked F1, F2 and F3 on the deposited plans;
  - (b) so much of the eastern side of the northbound carriageway of Wellesley Road as lies between the points marked F4 and F5 on the deposited plans;
- (xxiii) Stop up and discontinue so much of the pedestrian subway beneath Wellesley Road as lies within the limits of deviation of Work No. 4C;
- (xxiv) Set back so much of the kerb line on the eastern side of Wellesley Road as lies between the points marked G1 and G2 on the deposited plans;
- (xxv) Set back so much of the kerb line on the eastern side of Wellesley Road and the northern side of George Street as lies between the points marked L1 and L2 on the deposited plans;
- (xxvi) Stop up and discontinue so much of Woodbury Close as lies within the limits of deviation of Work No. 7A;
- (xxvii) Stop up and discontinue the footpath (No. PRW71) between the points marked S and V on the deposited plans, substituting therefor a new footpath between the points so marked S, T, U and V.



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In the London borough of Bromley—

- (xxviii) Stop up and discontinue the footpath (No. PRW71) between the points marked A and B on the deposited plans, substituting therefor a new footpath between the points so marked A, C and D;
- (xxix) Narrow and stop up so much of the northern side of Rectory Road as lies between the points marked E, F, G and H on the deposited plans.

In the London borough of Croydon—

- (xxx) Stop up and discontinue the footpath between the points marked W and X on the deposited plans, substituting therefor a new footpath between the points so marked W and Y;
- (xxxi) Stop up and discontinue the cycle way between the points marked Y1 and Y2 on the deposited plans, substituting therefor a new cycle way between the points so marked Z1 and Z2.

## SCHEDULE 2

Section 10.

### RAILWAY CROSSINGS IN STREETS

In the London borough of Merton—

Dundonald Road/Hartfield Crescent  
Kingston Road

In the London boroughs of Merton and Sutton—

Beddington Lane

In the London borough of Croydon—

Substituted footpath between Vicarage Road and Wandle Park  
Woodbury Close  
Bingham Road  
Lower Addiscombe Road  
Substituted part of footpath between the rear of Macclesfield Road and Elmers End Station  
Larcombe Close  
Lloyd Park Avenue  
Oaks Road  
Sunken Road  
Gravel Hill  
Kent Gate Way  
Roundabout (King Henry's Drive)  
Parkway (Link Road No. 1)  
Parkway (Link Road No. 2)  
Parkway (Link Road No. 3)  
Parkway

In the London borough of Bromley—

Footpath between Elmers End Station and Harrington Road

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## SCHEDULE 3

Section 28.

## LANDS TO BE ACQUIRED OR USED

## PART I

## LANDS OUTSIDE LIMITS OF DEVIATION WHICH MAY BE ACQUIRED OR USED

Location	Lands numbered on the deposited plans	Purpose
(1)	(2)	(3)
<b><i>In the London borough of Merton</i></b>		
Land at Wimbledon railway station.	1, 2, 3, 4, 5, 6 and 8	For the provision of station access.
Wimbledon Bridge and adjoining land.	7 and 9	For the provision of station access and access for construction purposes.
Hartfield Crescent and adjoining land, Wimbledon.	12, 13 and 18	For the provision of a working site and access for construction purposes and station access.
Land at the rear of Saxonbury Close.	41	For the provision of station access and access for construction purposes.
Willow Lane and adjoining land.	54 and 56	For the provision of a working site for construction purposes.
Carshalton Road and adjoining land.	58 and 59	For the provision of access for construction purposes.
<b><i>In the London borough of Sutton</i></b>		
Endeavour Way and adjoining land.	9 and 10	For the provision of access for construction purposes and for access to intended depot.
<b><i>In the London borough of Croydon</i></b>		
Land at Wandle Park.	7A	For the provision of a working site for construction purposes.
Cuthbert Road and adjoining land.	10A and 11	For the provision of access for construction purposes.
Land adjoining Drummond Road.	19	For the provision of a working site for construction purposes.

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Location (1)	Lands numbered on the deposited plans (2)	Purpose (3)
London Road and adjoining land.	23 and 24	For the provision of a working site for construction purposes.
Land adjoining Station Road.	25	For the provision of a working site for construction purposes, station access and landscaping.
Lansdowne Road and Dingwall Road and adjoining land.	31 and 32	For the provision of a working site for construction purposes.
Land adjoining Addiscombe Road, Lebanon Road.	33A, 33D and 33E	For the provision of remedial works.
Lebanon Road and adjoining land.	33B and 33C	For the provision of station access, turning area and landscaping.
Land adjoining Addiscombe Road.	34	For the provision of a working site for construction purposes.
Blackhorse Lane and adjoining land.	65A and 66	For the provision of station access and access for construction purposes.
Land adjoining Macclesfield Road.	74	For the provision of station access.
Albert Road and adjoining land.	76A and 77	For the provision of a working site for construction purposes.
Harrington Road and adjoining land.	79A and 80	For the provision of access for construction purposes.
Gravel Hill and adjoining land.	117A	For the provision of station access and access for construction purposes.

## PART II

### LANDS OF WHICH TEMPORARY POSSESSION ONLY MAY BE TAKEN

Area (1)	Lands numbered on the deposited plans (2)
In the London borough of Merton	54, 56, 58 and 59

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Area (1)	Lands numbered on the deposited plans (2)
In the London borough of Croydon	7A, 10A, 11, 19, 23, 24, 31, 32, 34, 76A, 77, 79A and 80

## SCHEDULE 4

Section 30.

### ADAPTATION OF PART I OF THE COMPULSORY PURCHASE ACT 1965

1 For section 7 of the Act of 1965 (measure of compensation) there shall be substituted the following:—

“7 In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had, not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right, but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

2 For section 8 (1) of the Act of 1965 (protection for vendor against severance of house, garden, etc.) there shall be substituted the following:—

“(1) No person shall be required to grant any right over part only—

- (a) of any house, building or factory; or
- (b) of a park or garden belonging to a house;

if he is willing to sell the whole of the house, building, factory, park or garden, unless the Lands Tribunal determine that—

- (i) in the case of a house, building or factory, the part over which the right is proposed to be acquired can be made subject to that right without material detriment to the house, building or factory; or
- (ii) in the case of a park or garden, the part over which the right is proposed to be acquired can be made subject to that right without seriously affecting the amenity or convenience of the house;

and, if the Lands Tribunal so determine, the tribunal shall award compensation in respect of any loss due to the acquisition of the right, in addition to its value; and thereupon the party interested shall be required to grant to the acquiring authority that right over that part of the house, building, factory, park or garden.

(1A) In considering the extent of any material detriment to a house, building or factory, or any extent to which the amenity or convenience of a house is affected, the Lands Tribunal shall have regard not only to the right which is to be acquired over the land, but also to any adjoining or adjacent land belonging to the same owner and subject to compulsory purchase.”.

3 The following provisions of the Act of 1965 (being provisions stating the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land):—

section 9 (4) (refusal by owners to convey);

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- paragraph 10 (3) of Schedule 1 (owners under incapacity);  
paragraph 2 (3) of Schedule 2 (absent and untraced owners); and  
paragraphs 2 (3) and 7 (2) of Schedule 4 (common land);  
shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.
- 4 Section 11 of the Act of 1965 (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on sheriff's warrant in the event of obstruction) shall be modified correspondingly.
- 5 Section 20 of the Act of 1965 (protection for interests of tenants at will etc.) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Act of the interests, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.
- 6 Section 22 of the Act of 1965 (protection of acquiring authority's possession of land where by inadvertence an interest in the land has not been purchased) shall be so modified as to enable the Corporation, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right in question, subject to compliance with that section as respects compensation.

## SCHEDULE 5

Section 57.

### PROTECTIVE PROVISIONS

#### *FOR PROTECTION OF HIGHWAY AUTHORITIES*

- 1 For the protection of highway authorities the following provisions shall, unless otherwise agreed in writing between the Corporation and the relevant highway authority, have effect:—
- (1) In this paragraph—  
“highway” means any highway vested in or repairable or maintainable by a highway authority;  
“specified works” means so much of the authorised works as may in any way affect any highway:
- (2) Notwithstanding anything in this Act or shown on the deposited plans, the Corporation shall not purchase compulsorily any estate or interest in land vested in a highway authority for highway purposes but they may purchase such easements or other rights in land of a highway authority in accordance with the provisions of section 30 (Power to acquire new rights) of this Act as they may reasonably require for the purposes of the specified works:

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- (3) The Corporation shall give to the highway authority not less than 28 days' notice in writing of their intention permanently to stop up and discontinue any highway under the powers of this Act:
- (4) The Corporation shall not exercise the powers of section 23 (Underpinning of houses near works) of this Act, so as to interfere with any highway except with the consent of the highway authority, which consent shall not be unreasonably withheld or delayed:
- (5) Before commencing the construction of any of the specified works, the Corporation shall submit plans, sections and particulars relating thereto to the relevant highway authority for their approval, which shall not be unreasonably withheld, and, notwithstanding anything shown on the deposited plans and the deposited sections, the work to which those plans, sections and particulars relate shall not be constructed otherwise than in accordance with such plans, sections and particulars as may be approved by the highway authority, or, if such approval be refused, as may be settled by arbitration:

Provided that, if within 56 days after the submission to them of plans, sections and particulars in accordance with the provisions of this sub-paragraph the highway authority do not signify their approval or disapproval thereof and the grounds for such disapproval, they shall be deemed to have approved thereof:

- (6) (a)

Before commencing to construct any part of the specified works which will involve interference with a highway the Corporation shall consult the highway authority as to—

- (i) when that part shall be commenced;
- (ii) the extent of the surface of the highway which it may be reasonably necessary for the Corporation to occupy in the construction of that part; and
- (iii) the conditions under which that part shall be constructed so as to reduce so far as possible inconvenience to the public and to ensure the safety of the public;

and such part shall not be constructed and the surface of the highway shall not be occupied by the Corporation except at the time, to the extent and in accordance with such reasonable conditions as may be agreed between the Corporation and the highway authority or, in default of agreement, as may be settled by arbitration;

- (b) Any such highway shall be reinstated by the Corporation in a manner approved by the highway authority, which approval shall not be unreasonably withheld, and to their reasonable satisfaction:

- (7) Any part of the construction of the specified works which may involve interference with a highway shall be carried out under the supervision (if given) and to the reasonable satisfaction of the highway authority:
- (8) The Corporation shall, at all reasonable times during the construction of any part of the specified works, afford to the engineer of the relevant highway authority or his duly authorised representatives access to that part of the specified works for the purposes of inspection:
- (9) The Corporation shall keep highway authorities indemnified against all actions, costs, claims and demands whatsoever brought or made against them by any person in respect of loss or damage caused by, or in consequence of the construction of any of the specified works and the fact that any act or thing may have been done in

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accordance with plans, sections and particulars approved by a highway authority or in accordance with any requirement of a highway authority or under their supervision shall not (if it was done without negligence on the part of the highway authority) excuse the Corporation from liability under the provisions of this paragraph:

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

- (10) The Corporation shall repay to a highway authority all costs, charges and expenses reasonably incurred by the highway authority for the examination of the plans, sections and particulars submitted to the highway authority under this paragraph in relation to any of the specified works:
- (11) Any differences arising between the Corporation and a highway authority under this paragraph shall be referred to and settled by arbitration.

*FOR PROTECTION OF ELECTRICITY, GAS AND WATER UNDERTAKERS*

2 For the protection of the several undertakers referred to in this paragraph, the following provisions shall, unless otherwise agreed in writing between the Corporation and the undertakers concerned, have effect:—

(1) In this paragraph—

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

“apparatus” means—

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

(b) in the case of gas or water undertakers, any mains, pipes or other apparatus belonging to or maintained by such undertakers; and includes any building, structure or works for the lodging therein of apparatus;

“functions” includes powers and duties;

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

“the undertakers” means a licence holder under Part I of the Electricity Act 1989, a public gas supplier within the meaning of Part I of the Gas Act 1986 or a water undertaker within the meaning of the Water Industry Act 1991 or any of such bodies; and, in relation to any apparatus, means the undertakers to whom it belongs or by whom it is maintained:

- (2) Notwithstanding the temporary stopping up or diversion of any street under section 18 (Temporary stoppage of streets) of this Act, the undertakers shall be at liberty at all times to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable them to inspect, repair, maintain, renew, remove or use any apparatus which at the time of the stopping up or diversion was in that street:
- (3) The Corporation, in the case of the powers conferred by section 23 (Underpinning of houses near works) of this Act, shall, so far as is reasonably practicable, so exercise those powers as not to obstruct or render less convenient the access to any apparatus

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and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of the undertakers or any interruption in the supply of electricity, gas or water, as the case may be, by the undertakers shall be caused, the Corporation shall bear and pay the cost reasonably incurred by the undertakers in making good such damage or restoring the supply; and shall—

- (a) make reasonable compensation to the undertakers for any loss sustained by them; and
- (b) indemnify the undertakers against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the undertakers;

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

Provided that—

- (i) nothing in this sub-paragraph shall impose any liability on the Corporation with respect to any damage or interruption to the extent that such damage or interruption may be attributable to the act, neglect or default of the undertakers or their contractors or workmen;
  - (ii) the undertakers shall give to the Corporation reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Corporation:
- (4) Notwithstanding anything in section 24 (Use of sewers, etc., for removing water) of this Act, no use shall be made by the Corporation in the construction of the works of pumping or other like modes of removing water except where reasonably necessary or in case of emergency or unforeseen accident or for the purpose of removing rainwater or other small amounts of water:
  - (5) Notwithstanding anything in this Act or shown on the deposited plans the Corporation shall not acquire any apparatus under the powers of this Act otherwise than by agreement:
  - (6) If the Corporation, in the exercise of the powers of this Act, acquire any interest in any land in which any apparatus is placed, that apparatus shall not be removed under this paragraph and any right of the undertakers to maintain, repair, renew or inspect that apparatus in that land shall not be extinguished until adequate alternative apparatus shall have been constructed and be in operation to the reasonable satisfaction of the undertakers:
  - (7) If the Corporation, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Act, require the removal of any apparatus placed in that land, and shall give to the undertakers written notice of such requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed so as to provide adequate alternative apparatus in lieu of the apparatus to be removed, or, if in consequence of the exercise of any of the powers of this Act the undertakers shall reasonably require to remove any apparatus, the Corporation shall afford to the undertakers the necessary facilities and rights for the construction of such alternative apparatus in other land of the Corporation and thereafter for the maintenance, repair, renewal and inspection of such apparatus:

Provided that, if the alternative apparatus or any part thereof is to be constructed elsewhere than in other land of the Corporation, or the Corporation are unable to afford such facilities and rights as aforesaid in the land in which the alternative



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apparatus or such part thereof is to be constructed, the undertakers shall, on receipt of a written notice to that effect from the Corporation, forthwith use their best endeavours to obtain the necessary facilities and rights in such last-mentioned land:

(8) (a)

Any alternative apparatus to be constructed in land of the Corporation under this paragraph shall be constructed in such manner and in such line or situation as may be agreed between the undertakers and the Corporation or in default of agreement determined by arbitration;

(b) The undertakers shall, after the alternative apparatus to be provided or constructed shall have been agreed or determined by arbitration as aforesaid and after the grant to the undertakers of any such facilities and rights as are referred to in sub-paragraph (7) above, proceed with all reasonable dispatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the Corporation to be removed under the provisions of this paragraph:

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

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

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

Provided that—

- (a) in determining such terms and conditions as aforesaid in respect of alternative apparatus to be constructed in or along any railways of the Corporation, the arbitrator shall—
- (i) give effect to all reasonable requirements of the Corporation for ensuring the safety and efficient operation of the railway and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of the Corporation or the traffic on the railway; and
  - (ii) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions applicable to the apparatus, if any, constructed in or along the railway for which the alternative apparatus is to be substituted;
- (b) if the facilities and rights to be afforded by the Corporation in respect of any alternative apparatus and the terms and conditions subject to which the same are to be granted are in the opinion of the arbitrator less favourable on the

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whole to the undertakers than the facilities and rights enjoyed by them in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator shall make such provision for the payment of compensation by the Corporation to the undertakers in respect thereof as appear to him to be reasonable having regard to all the circumstances of the particular case:

(11) (a)

Not less than 28 days before commencing to execute any such works as are referred to in sub-paragraph (7) above and are near to or will or may affect any apparatus the removal of which has not been required by the Corporation under the said sub-paragraph (7), the Corporation shall submit to the undertakers a plan, section and description of the works to be executed;

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

Provided that—

- (i) if the undertakers within 14 days after the submission to them of any such plan, section and description, in consequence of the works proposed by the Corporation, reasonably require the removal of any apparatus and give written notice to the Corporation of such requirement, the foregoing provisions of this paragraph shall have effect as if the removal of such apparatus had been required by the Corporation under the said sub-paragraph (7);
- (ii) nothing in sub-paragraph (11)(b) shall preclude the Corporation from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any such works, a new plan, section and description thereof in lieu of the plan, section and description previously submitted, and thereupon the provisions of sub-paragraph (11)(b) shall apply to and in respect of such new plan, section and description;
- (c) The Corporation shall not be required to comply with sub-paragraph (11) (a) above in a case of emergency but in such a case they shall give to the undertakers notice as soon as reasonably practicable and a plan, section and description of the works as soon as reasonably practicable thereafter and shall comply with sub-paragraph (11)(b) above so far as reasonably practicable in the circumstances:
- (12) Where, in consequence of this Act, any part of any highway in which any apparatus is situate ceases to be part of a highway the undertakers may exercise the same rights of access to such apparatus as they enjoyed immediately before the passing of this Act, but nothing in this sub-paragraph shall prejudice or affect any right of the Corporation or of the undertakers to require removal of such apparatus under this paragraph or the power of the Corporation to execute works in accordance with sub-paragraph (11) above:
- (13) Subject to sub-paragraph (14) below the Corporation shall pay to the undertakers the costs, charges and expenses reasonably incurred by the undertakers in or in connection with the inspection, removal, alteration or protection of any apparatus

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or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in sub-paragraph (7) above, less the value of any apparatus removed under the provisions of this paragraph (such value being calculated after removal) and shall also make compensation to the undertakers—

- (a) for any damage caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal in accordance with the provisions of this paragraph); and
- (b) for any other expenses, loss, damages, penalty or costs incurred by the undertakers;

in consequence of the execution, maintenance, use or failure of any such works or otherwise in consequence of the exercise by the Corporation of the powers of this Act:

(14) If in pursuance of the provisions of this paragraph—

- (a) alternative apparatus of better type, or greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, or smaller capacity or of smaller dimensions, except where this has been solely due to using the nearest currently available type, capacity or dimension, or
- (b) apparatus (whether existing apparatus or alternative apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the Corporation, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of works under sub-paragraphs (8) and (9) exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the undertakers by virtue of sub-paragraph (13) above shall be reduced by the amount of that excess:

(15) For the purposes of sub-paragraph (14) above—

- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus, and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined:

(16) An amount which apart from this sub-paragraph would be payable to the undertakers in respect of works by virtue of sub-paragraph (13) above (and having regard, where relevant, to sub-paragraph (14) above) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7½ years earlier so as to confer on the undertakers any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit as calculated in accordance with the Code of Practice entitled “Measures Necessary Where Apparatus is Affected by Major Works (Diversionary Works)” and dated June 1992, and approved by the Secretary of State on 30th June 1992 as revised and reissued from time to time:

(17) Where, in consequence of the stopping up of any highway under the powers of this Act, any apparatus belonging to the undertakers and laid or placed in such highway or elsewhere is rendered derelict or unnecessary, the Corporation shall pay to the

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undertakers the then value of such apparatus (which shall thereupon become the property of the Corporation) and the reasonable costs of and incidental to the cutting off of such apparatus from any other apparatus, and of and incidental to the execution or doing of any works or things rendered necessary or expedient by reason of such apparatus being so rendered derelict or unnecessary:

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

- (18) Any difference arising between the Corporation and the undertakers under this paragraph shall be determined by arbitration:
- (19) Nothing in this paragraph shall be deemed to prejudice or affect the provisions of any enactment or agreement regulating the relations between the Corporation and the undertakers in respect of any apparatus laid or erected in land belonging to the Corporation at the date of the passing of this Act:
- (20) Nothing in this paragraph shall apply—
- (a) in relation to street works (within the meaning of Part III of the New Roads and Street Works Act 1991) executed by the Corporation; or
  - (b) in relation to apparatus in respect of which the relations between the Corporation and the undertakers are regulated by that Part of the Act.

*FOR PROTECTION OF THAMES WATER UTILITIES LIMITED*

3 For the protection of Thames Water Utilities Limited (hereinafter called “the sewerage undertakers”) the following provisions shall, unless otherwise agreed in writing between the Corporation and the sewerage undertakers, have effect:—

- (1) In this paragraph—
- “construction” includes execution, placing and altering and, in relation to temporary works, includes removal and “construct” and “constructed” shall be construed accordingly;
- “new, altered or substituted works” includes any works required for the protection of any sewer;
- “sewer” means a sewer or part of a sewer, including a public sewer, within the meaning of the Water Industry Act 1991 and includes any manholes, ventilating shafts, pumps or other accessories belonging to or forming part of a sewer;
- “specified work” means so much of the authorised works and of any work (whether temporary or permanent) forming part of, or constructed in connection with, the authorised works, or any of them, as will or may be situated over or within 15 metres measured in any direction of, or (wherever situated) impose any load directly upon, any sewer, and includes the construction, maintenance or renewal of any such works:
- (2) The Corporation shall not commence any specified work until they shall have given to the sewerage undertakers 56 days' previous notice in writing of their intention to commence the same, by leaving such notice at the principal office of the sewerage undertakers with plans as described in sub-paragraph (7) below (in this paragraph

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referred to as “the said plans”), and until the sewerage undertakers shall have signified their approval of the said plans:

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

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

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by the construction of any specified work or in consequence of any act or omission of the Corporation, their contractors, agents, workmen or servants, whilst engaged upon the specified work:

Provided that—

- (i) the sewerage undertakers shall give to the Corporation reasonable notice of any such claim or demand as aforesaid and no settlement or compromise thereof shall be made without the agreement of the Corporation; and
  - (ii) nothing in this sub-paragraph shall impose any liability on the Corporation with respect to any claim, demand, costs, expenses, damage or loss which is attributable to the act, neglect or default of the sewerage undertakers or their agents, contractors, employees or workmen:
- (10) If, in the construction of any specified work, or any new, altered or substituted works, or any work of defence connected therewith provided in accordance with this paragraph, the Corporation damage or, without the consent of the sewerage undertakers, in any way interfere with any sewer of the sewerage undertakers, the Corporation shall—
- (a) pay to the sewerage undertakers a capitalised sum representing any additional expense which may be expected to be reasonably incurred by the sewerage undertakers in the maintenance, management or renewal of any new, altered or substituted work which may be necessary in consequence of the said construction taking into account any betterment; and
  - (b) give to the sewerage undertakers full, free and uninterrupted access at all times to any such new, altered or substituted work or to any such sewer and every reasonable facility for the inspection, maintenance, alteration and repair thereof:
- (11) Notwithstanding the temporary stopping up or diversion of any street under the powers of section 18 (Temporary stoppage of streets) of this Act, the sewerage undertakers shall be at liberty at all times to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable them to inspect, repair, maintain, renew, remove or use any sewer which at the time of the stopping up or diversion was in that street:
- (12) In the exercise of the powers of section 23 (Underpinning of houses near works) of this Act, the Corporation shall not, so far as reasonably practicable, obstruct or render less convenient the access to any sewer of the sewerage undertakers and, if by reason or in consequence of the exercise of those powers any damage to any sewer (other than a sewer the repair of which is not reasonably necessary in view of its intended removal or abandonment) shall be caused, the Corporation shall bear and pay the cost reasonably incurred by the sewerage undertakers in making good such damage and shall—
- (a) make reasonable compensation to the sewerage undertakers for any loss sustained by them; and
  - (b) indemnify the sewerage undertakers against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the sewerage undertakers;

by reason or in consequence of any such damage:

Provided that—

- (i) nothing in this sub-paragraph shall impose any liability on the Corporation with respect to any damage to the extent that such damage may be

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attributable to the act, neglect or default of the sewerage undertakers or their agents, contractors, employees or workmen;

- (ii) the sewerage undertakers shall give to the Corporation reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Corporation:

(13) (a)

If in the construction of any new, altered or substituted works under this paragraph—

- (i) a sewer of better type or greater capacity is placed in substitution for an existing sewer of worse type or smaller capacity, except where this has been solely due to using the nearest currently available type or capacity, or
- (ii) a sewer (whether an existing sewer or a sewer substituted for an existing sewer) is placed at a depth greater than the depth at which the existing sewer was,

and the placing of a sewer of that type or capacity or the placing of a sewer at that depth, as the case may be, is not agreed by the Corporation, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the construction of the new, altered or substituted works exceeding that which would have been involved if the apparatus placed had been of the existing type or capacity, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the sewerage undertakers by virtue of sub-paragraphs (4) and (10) above shall be reduced by the amount of that excess:

- (b) For the purposes of sub-paragraph (13) (a) above an extension of a sewer to a length greater than the length of an existing sewer shall not be treated as a placing of a sewer of greater dimensions than those of the existing sewer:
- (c) An amount which apart from this sub-paragraph would be payable to the sewerage undertakers in respect of any new, altered or substituted works by virtue of sub-paragraphs (4) and (10) above (and having regard, where relevant, to sub-paragraph (13) (a) above) shall, if the works include the placing of a sewer provided in substitution for a sewer placed more than 7½ years earlier so as to confer on the sewerage undertakers any financial benefit by deferment of the time for renewal of the sewer in the ordinary course, be reduced by the amount which represents that benefit as calculated in accordance with the Code of Practice entitled “Measures Necessary Where Apparatus is Affected by Major Works (Diversionary Works)” and dated June 1992, and approved by the Secretary of State on 30th June 1992 as revised and reissued from time to time:

- (14) It shall be lawful for an officer of the sewerage undertakers duly appointed for the purpose at any reasonable time and, if required by the Corporation, under their supervision to enter upon and inspect any specified work or any other works constructed under the powers of this Act, for which purpose the Corporation shall allow to any such officer access over any other works or land of the Corporation:

- (15) The fact that any specified work has been constructed in accordance with a plan approved or not objected to by the sewerage undertakers or to their satisfaction or in accordance with any directions or award of an arbitrator shall not relieve the Corporation from any liability under the provisions of this paragraph:

- (16) As soon as reasonably practicable after the completion of the construction of a specified work the Corporation shall deliver to the sewerage undertakers a plan and

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section showing the position and level of that work as constructed and all new, altered or substituted works provided under this paragraph:

- (17) Any difference arising between the Corporation and the sewerage undertakers under this paragraph shall be referred to and settled by arbitration but the Corporation and the sewerage undertakers shall use their best endeavours to ensure that proceedings before an arbitrator commence in every case within seven days of the Corporation or the sewerage undertakers registering a failure to agree:
- (18) Nothing in this paragraph shall apply—
- (a) in relation to street works (within the meaning of Part III of the New Roads and Street Works Act 1991) executed by the Corporation; or
  - (b) in relation to apparatus in respect of which the relations between the Corporation and the sewerage undertakers are regulated by that Part of that Act.

*FOR PROTECTION OF TELECOMMUNICATIONS OPERATORS*

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

- (1) In this paragraph unless the contrary intention appears expressions defined in the Telecommunications Act 1984 have the same meanings as in that Act and—
- “apparatus” has the same meaning as in Part III of the New Roads and Street Works Act 1991; and
- “relocation works” means works executed, or apparatus provided, under sub-paragraph (5) below:
- (2) The temporary stopping up or diversion of any street under section 18 (Temporary stoppage of streets) of this Act shall not affect any right of a telecommunications operator under paragraph 9 of the telecommunications code (contained in Schedule 2 to the Telecommunications Act 1984) to inspect, maintain, adjust, repair or alter any apparatus which, at the time of the stopping up or diversion, is in that street:
- (3) Where a street is stopped up, diverted or substituted under section 19 (Stopping up streets without providing substitute) or section 20 (Stopping up streets in case of diversion or substitution) of this Act any telecommunications operator whose apparatus is under, in, upon, over, along or across the street shall have the same powers and rights in respect of that apparatus, subject to the provisions of this paragraph, as if this Act had not been passed:
- (4) The Corporation shall give not less than 28 days' notice in writing of their intention to stop up, divert or substitute any street under section 19 (Stopping up streets without providing substitute) or section 20 (Stopping up streets in case of diversion or substitution) of this Act to any telecommunications operator whose apparatus is under, in, upon, over, along or across the street:
- (5) Where a notice under sub-paragraph (4) above has been given, the telecommunications operator may, and if reasonably requested so to do by the Corporation in the notice, shall, as soon as reasonably practicable from the service of the notice—



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- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the telecommunications operator may reasonably determine and have power to place it, or
  - (b) provide other apparatus in substitution for the existing apparatus and place it in such position as aforesaid:
- (6) Subject to the following provisions of this paragraph, the Corporation shall pay to any telecommunications operator an amount equal to the cost reasonably incurred by the telecommunications operator in or in connection with—
  - (a) the execution of relocation works required in consequence of the stopping up, diversion or substitution of the street, and
  - (b) the doing of any other work or thing rendered necessary by the execution of relocation works:
- (7) If in the course of the execution of relocation works under sub-paragraph (5) above—
  - (a) apparatus of better type, or greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, or smaller capacity or of smaller dimensions, except where this has been solely due to using the nearest currently available type, capacity or dimension, or
  - (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the Corporation, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this paragraph would be payable to the telecommunications operator by virtue of sub-paragraph (6) above shall be reduced by the amount of that excess.
- (8) For the purposes of sub-paragraph (7) above—
  - (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as placing of apparatus of greater dimensions than those of the existing apparatus, and
  - (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined:
- (9) An amount which apart from this sub-paragraph would be payable to a telecommunications operator in respect of works by virtue of sub-paragraph (6) above (and having regard, where relevant, to sub-paragraph (7) above) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7½ years earlier so as to confer on the telecommunications operator any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit as calculated in accordance with the Code of Practice entitled “Measures Necessary Where Apparatus is Affected by Major Works (Diversionary Works)” and dated June 1992, and approved by the Secretary of State on 30th June 1992 as revised and reissued from time to time.

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- (10) Sub-paragraphs (6) to (9) above shall not apply where the authorised works constitute major transport works for the purposes of Part III of the New Roads and Street Works Act 1991, but instead—
- (a) the allowable costs of the relocation works shall be determined in accordance with section 85 of that Act (sharing of costs of necessary measures) and any regulations for the time being having effect under that section, and
  - (b) the allowable costs shall be borne by the Corporation and the telecommunications operator in such proportions as may be prescribed by any such regulations.

*FOR PROTECTION OF NATIONAL RIVERS AUTHORITY*

- 5 For the protection of the National Rivers Authority (in this paragraph referred to as “the river authority”) the following provisions shall, unless otherwise agreed in writing between the Corporation and the rivers authority, have effect;—

- (1) In this paragraph—

“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;

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

“specified work” means so much of any permanent or temporary work or operation authorised by this Act (other than works required in an emergency) as is situated in, on, under, over or within 8 metres of a drainage work; and

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

- (2) (a)

Before beginning to construct any specified work, the Corporation shall submit to the rivers authority plans of the work and such further particulars available to them as the rivers authority may reasonably require;

- (b) Any such specified work shall not be constructed except in accordance with such plans as may be approved in writing by the rivers authority, or settled in accordance with sub-paragraph (10) below;
- (c) Any approval of the rivers authority required under this paragraph—
  - (i) shall not be unreasonably withheld;
  - (ii) shall be deemed to have been given if it is neither given nor refused in writing and with a statement of the grounds for refusal within two months of the submission of plans for approval;
  - (iii) may be given subject to such reasonable requirements as the rivers authority may impose for the protection of any drainage work or water resources for the prevention of flooding and water pollution and in the discharge of its environmental and recreational duties:

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- (3) Without prejudice to the generality of sub-paragraph (2) above, the requirements which the rivers authority may impose under that sub-paragraph include conditions requiring the Corporation 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 rivers authority under sub-paragraph (2) above, shall be constructed to the reasonable satisfaction of the rivers authority and the rivers authority shall be entitled by its officer to watch and inspect the construction of such works:
- (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 Corporation to the reasonable satisfaction of the rivers authority and, if the Corporation fail to do so, the rivers authority may make good the same and recover from the Corporation the expense reasonably incurred by it in so doing:
- (6) The Corporation shall indemnify the rivers authority in respect of all reasonable costs, charges and expenses which the rivers authority may reasonably incur or have to pay or which it may sustain—
- (a) in the examination or approval of plan under this paragraph;
  - (b) in the inspection of the construction of the specified works or any protective works required by the rivers authority under this paragraph:
- (7) (a)
- Without prejudice to other provisions of this paragraph the Corporation shall indemnify the rivers authority from all claims, demands, proceedings, costs, damages or expenses or loss which may be made or taken against, or recovered from or incurred by, the rivers authority by reason of—
- (i) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence; or
  - (ii) any raising of the water table in land adjoining the works or any sewers, drains and watercourses; or
  - (iii) any flooding or increased flooding of any such lands; or
  - (vi) inadequate water quality in any watercourse or other surface waters or in groundwater;
- which is caused by the construction of any of the works or any act or omission of the Corporation, their contractors, agents, workmen or servants whilst engaged upon any such work;
- (b) The rivers authority shall give to the Corporation reasonable notice of any such claim or demand and no settlement or compromise thereof shall be made without the agreement of the Corporation:
- (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 rivers authority, or to its satisfaction, or in accordance with any directions or award of an arbitrator, shall not relieve the Corporation from any liability under the provisions of this paragraph:

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

- (9) For the purposes of section 109 of the Water Resources Act 1991 (as to structures in, over or under watercourses) as applying to the construction of any authorised work, any consent or approval given or deemed to be given by the rivers authority under this paragraph with respect to such construction shall be deemed also to constitute a consent or approval under that section:
- (10) Any difference arising between the Corporation and the rivers authority under this paragraph (other than a difference as to its meaning or construction) shall be referred to and settled by arbitration.

*FOR PROTECTION OF CERTAIN PROPERTIES AT GRAVEL HILL*

- 6 The Corporation may enter into agreements to purchase any land pursuant to any direction of, or any undertaking given to, a Parliamentary Committee during the passage through Parliament of the Bill for this Act; and any such agreement may provide for the purchase price payable for that land to be equal to the amount of the compensation that would have been payable if the Corporation had been authorised to acquire the land compulsorily under Part III of this Act and had served a notice to treat in respect of that land.

*FOR PROTECTION OF CERTAIN PROPERTIES AT WADDON NEW ROAD*

- 7 The Council may enter into agreements to purchase any land pursuant to any direction of, or any undertaking given to, a Parliamentary Committee during the passage through Parliament of the Bill for this Act; and any such agreement may provide for the purchase price payable for that land to be equal to the amount of the compensation that would have been payable if the Council had been authorised to acquire the land compulsorily under Part III of this Act and has served a notice to treat in respect of that land.