



Greater Nottingham Light Rapid Transit Act 1994

1994 CHAPTER xv

PART IV

PROTECTIVE PROVISIONS

38 Notice to police, etc

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

39 As to highways, traffic, etc

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

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

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

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

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

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

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

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of the construction of the authorised works, the undertakers shall repay the amount of the expense reasonably so incurred by the highway authority:

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

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

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40 Approval of plans by local authorities, etc

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

(1) In this section—

“construction” includes placing, alteration and renewal;

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

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

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

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

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

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

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

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

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

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

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

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

41 For protection of British Railways Board

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

(1) In this section—

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“construction” includes placing, alteration and renewal;

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

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

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

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

(2) (a)

The undertakers shall not under the powers of this Act acquire any land or other property of the railways board, or any right in such land or other property, without the consent of the railways board, which consent shall not be unreasonably withheld;

(b) Where any specified works are situated in land in respect of which easements or rights only in railway property are acquired, the undertakers shall fence off those works from that railway property to the reasonable satisfaction of the engineer where so required by him and shall thereafter be responsible for keeping in good repair the fencing so provided:

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

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

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

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

(6) Upon signifying his approval or disapproval of the plans the engineer may specify any protective works (whether temporary or permanent) which in his opinion should be carried out before commencement of the construction of the specified works to ensure the safety or stability of the railways of the railways board, and such protective works as may be reasonably necessary for those purposes shall be constructed by

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the railways board or by the undertakers, if the railways board so desire, with all reasonable dispatch, and the undertakers shall not commence the construction of the specified works until the engineer shall have notified them that the protective works have been completed to his reasonable satisfaction:

(7) (a)

The undertakers shall give to the railways board notice in writing of their intention to commence the construction of any of the specified works in accordance with sub-paragraph (b) below and, except in case of emergency (when they shall give such notice as may be reasonably practicable), of their intention to carry out any works for the repair or maintenance of the specified works in so far as such works of repair or maintenance affect or interfere with railway property;

(b) The period of notice required under sub-paragraph (a) above shall be—

- (i) 6 months in any case where the engineer, upon signifying his approval or disapproval of plans supplied to the railwaysboard under paragraph (4) above, has reasonably given his opinion that the construction or maintenance of the specified works will require the undertakers to have temporary occupation of the permanent way of any operational railway (including land lying within a distance of 2 metres from any outer rail of the railway) or will necessitate the imposition of speed restrictions, or the substitution, diversion or suspension of train services; and
- (ii) 28 days in all other cases:

(8) (a)

When construction of any specified works is commenced the work shall be carried out—

- (i) with all reasonable dispatch in accordance with plans approved or deemed to have been approved or settled as aforesaid;
- (ii) under the supervision (if given) and to the reasonable satisfaction of the engineer;
- (iii) in such manner as to cause as little damage to railway property as may be; and
- (iv) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe user of any railway of the railways board or the traffic thereon and the use by passengers of railway property;
- (b) If any damage to railway property or any such interference or obstruction shall be caused or take place, the undertakers shall, notwithstanding any such approval as aforesaid, make good such damage and pay to the railways board all reasonable expenses to which they may be put and compensation for any loss which they may sustain by reason of any damage, interference or obstruction:

(9) Nothing in paragraph (8) (b) above shall impose any liability on the undertakers for any damage, cost, expense or loss which is attributable to the neglect or default of the railways board or their servants or agents:

(10) The undertakers shall—

- (a) at all times afford reasonable facilities to the engineer for access to the specified works during their construction; and

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

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- (d) in respect of any additional temporary lighting of railways in the vicinity of the specified works, being lighting made reasonably necessary by reason of the specified works or the failure thereof;
 - (e) in respect of the approval by the engineer of plans supplied by the undertakers under paragraph (4) above and the supervision by him of the construction of the specified works:
- (15) If at any time after the completion of the specified works, not being works vested in the railways board, the railways board give notice to the undertakers that the state of repair of the specified works appears to affect prejudicially any operational railway of the railways board, the undertakers shall, on receipt of such notice, take such steps as may be reasonably necessary to remedy any such defect:
- (16) All temporary structures, erections, works, apparatus and appliances erected or placed by the undertakers under the powers of this Act upon, over or under any operational railway of the railways board shall, as soon as reasonably practicable, be removed by the undertakers at times to be agreed with, and to the reasonable satisfaction of, the engineer and in such a way as to cause as little damage to the railway and as little interference with, or delay or interruption to, the traffic on the railways of the railways board as may be; and if any damage to railway property or such interference, delay or interruption shall be caused by any such failure to remove any such temporary structures, erections, works, apparatus or appliances, the undertakers shall make good such damage and pay to the railways board the reasonable costs and expenses to which they may be put, and reasonable compensation for any loss which they may sustain, by reason of such damage, interference, delay or interruption:
- (17) Before providing any illumination or illuminated traffic sign on or in connection with the specified works, or otherwise in the vicinity of any railway of the railways board, the undertakers shall consult with the railways board and comply with their reasonable requirements with a view to ensuring that such illumination or illuminated sign could not be confused with any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway:
- (18) (a)
- The undertakers shall be responsible for and make good to the railways board all costs, charges, damages and expenses not otherwise provided for in this section which may be occasioned to, or reasonably incurred by, the railways board—
- (i) by reason of the construction or repair of the specified works or the failure thereof; or
 - (ii) by reason of any act or omission of the undertakers or of any person in their employ or of their contractors or others whilst engaged upon the construction or repair of the specified works;
- and the undertakers shall indemnify the railways board from and against all claims and demands arising out of, or in connection with, the construction or repair of the specified works or any such failure, act or omission as aforesaid;
- (b) The fact that any act or thing may have been done by the railways board on behalf of the undertakers or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not (if it was done without neglect or default on the part of the railways board or of any person in their employ or of their contractors or agents) excuse the undertakers from any liability under this paragraph;

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- (c) The railways board shall give to the undertakers reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the undertakers:
- (19) Any difference arising between the undertakers and the railways board under this section (other than a difference as to its meaning or construction) shall be determined by arbitration.

42 For protection of British Waterways Board

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

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

Provided that approval of plans supplied under this paragraph shall not be unreasonably withheld and, if within 28 days after such plans have been supplied to the

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waterways board the engineer shall not have intimated his disapproval thereof and the grounds of his disapproval, he shall be deemed to have approved the plan as supplied:

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

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- (b) to carry out any works to, or make any opening in, or otherwise interfere with the canal (including the banks and bed thereof) save in accordance with plans approved by, and under the supervision (if given), of the engineer:
- (13) The consent of the waterways board under paragraph (12) (a) above and the approval of plans under paragraph (12) (b) above shall not be unreasonably withheld but may be given subject to reasonable conditions which (without prejudice to the generality of the foregoing) may include conditions—
 - (a) requiring the undertakers to make payments to the waterways board for the discharge of water in accordance with the said section 23 including payments in respect of the employment of persons in connection with such discharges and the cost to the waterways board of pumping water so discharged;
 - (b) providing for the charges so payable by the undertakers (other than any charge in respect of the employment of persons, or the provision or alteration of works or facilities for the accommodation and disposal of water) to be determined by reference to the volume of such discharges as recorded by metering devices of a design approved by the waterways board and supplied and maintained by them at the expense of the undertakers;
 - (c) specifying the maximum volume of water which may be discharged in any period;
 - (d) authorising the waterways board to require the undertakers to suspend the discharge of water or reduce the flow thereof where this is necessary by reason of any operational requirement of the waterways board.
- (14) The undertakers shall pay to the waterways board all costs, charges and expenses reasonably incurred by them in respect of the approval by the engineer of plans supplied by the undertakers under paragraph (4) above and the supervision by him of the construction of the specified works:
- (15) If any damage to the canal or other land or property of the waterways board, any stoppage of the canal or any interference with the passage of vessels using the canal shall be caused by the carrying out of works for the construction of the specified works, the undertakers shall make good such damage and pay to the waterways board all reasonable expenses to which they may be put and compensation for any loss which they may sustain by reason of any such damage, stoppage or interference:

Provided that nothing in this paragraph shall impose any liability on the undertakers with respect to any damage, expenses or loss which is attributable to the act, neglect or default of the waterways board or their servants, contractors or agents:
- (16) Nothing in this Act shall authorise the undertakers to make or maintain any permanent works in or over the canal so as to reduce the width thereof if such reduction in width would impede or prevent the passage of any vessel of a kind (as to its dimensions) for which the waterways board are required by section 105 (1) (b) and (2) of the Transport Act 1968 to maintain the canal:
- (17) (a)

The undertakers shall be responsible for and make good to the waterways board all costs, charges, damages and expenses not otherwise provided for in this section which may be occasioned to, or reasonably incurred by, the waterways board—

 - (i) by reason of the construction or repair of the specified works or the failure thereof; or

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- (ii) by reason of any act or omission of the undertakers or of any person in their employ or of their contractors or others whilst engaged upon the construction or repair of the specified works;

and the undertakers shall indemnify the waterways board from and against all claims and demands arising out of, or in connection with, the construction or repair of the specified works or any such failure, act or omission as aforesaid;

- (b) The fact that any act or thing has been done by the waterways board on behalf of the undertakers or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not (if it was done without neglect or default on the part of the waterways board or of any person in their employ or of their contractors or agents) excuse the undertakers from any liability under this paragraph;
- (c) The waterways board shall give to the undertakers reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the undertakers:

(18) (a)

The undertakers shall not exercise the powers of the sections of this Act mentioned in sub-paragraph (b) below in relation to the towing path forming part of the canal without the consent in writing of the waterways board;

- (b) The sections to which sub-paragraph (a) above applies are—
 - section 10 (Subsidiary works),
 - section 18 (Temporary stoppage of highways);
- (c) The consent of the waterways board under paragraph (a) above shall not be unreasonably withheld but may be given subject to reasonable conditions;
- (d) Where the waterways board own the towing path in respect of which consent is given under sub-paragraph (a) above for the exercise of the powers of the said section 10, they may require the payment of such charges as would have been fair and reasonable if that consent had been given willingly;
- (e) Nothing in this paragraph applies to anything done by the undertakers on the existing viaduct referred to in the description of Work No. 1:

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

43 For protection of National Rivers Authority

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

(1) In this section—

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

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

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

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

“specified work” means so much of any work or operation authorised by this Act (other than works required in an emergency) as is in, on, under, over or within 16 metres of a drainage work or is otherwise likely to—

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

“watercourse” has the meaning given in section 221 of the Water Resources Act 1991;

- (2) In the event that the undertakers commence to construct Work No. 7C or any other specified work the rivers authority may so far as is reasonably necessary for the protection of any drainage work or fishery or water resources or for the prevention of flooding and pollution require the undertakers to construct and complete the whole of that work and any other work required in the approval of that work under paragraph (3) below:

(3) (a)

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

- (b) Any such specified work shall not be constructed except in accordance with such plans as may be approved in writing by the rivers authority, or settled in accordance with paragraph (12) below;
- (c) Any approval of the rivers authority required under this paragraph—
 - (i) shall not be unreasonably withheld;
 - (ii) shall be deemed to have been given if it is neither given nor refused in writing and with a statement of the grounds for refusal within two months of the submission of plans for approval;
 - (iii) may be given subject to such reasonable requirements as the rivers authority may impose for the protection of any drainage work or the fishery or water resources, for the prevention of flooding and water pollution and in the discharge of its environmental and recreational duties;

- (4) Without prejudice to the generality of paragraph (3) above, the requirements which the rivers authority may impose under that paragraph include—

- (a) requirements as to the levels and alignments within the limits of deviation for Work No. 7C;
- (b) requirements as to sluices, gauges and other monitoring devices to be constructed as part of or in connection with Work No. 7C;
- (c) conditions as to the time at which and the manner in which any work is to be carried out;
- (d) conditions requiring the undertakers at their own expense—
 - (i) to provide or maintain means of access for the rivers authority;

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- (ii) to undertake landscaping;
 - (iii) to construct such protective works whether temporary or permanent during the construction of the specified works (including the provision of flood banks, walls or embankments and other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary to safeguard any drainage work against damage or to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased by reason of any specified work:
- (5) Any specified work, and all protective works required by the rivers authority under paragraph (3) above, shall be constructed to the reasonable satisfaction of the rivers authority and the rivers authority shall be entitled by its officer to watch and inspect the construction of such works:
- (6) If by reason of the construction of any specified work the efficiency of any drainage work for flood defence purposes is impaired or that work is damaged, such impairment or damage shall be made good by the undertakers to the reasonable satisfaction of the rivers authority and, if the undertakers fail to do so, the rivers authority may make good the same and recover from the undertakers the expense reasonably incurred by it in so doing:
- (7) (a)

Without prejudice to the other provisions of this section, the undertakers shall take all such measures as may be reasonably practicable to prevent any interruption in the passage of fish during the construction of any specified work;

 - (b) The undertakers shall be responsible for and make good to the rivers authority all costs, charges, expenses and losses which may be occasioned to, suffered by, or reasonably incurred by the rivers authority in taking action—
 - (i) after notice in writing to the undertakers to protect the fishery against anticipated damage; or
 - (ii) to remedy any damage to that fishery; being damage anticipated or suffered by reason or in consequence of the execution of the authorised works, of the failure or want of repair of the works, or in consequence of any act or omission of the undertakers, their contractors, agents, workmen or servants in connection with those works:
- (8) The undertakers shall indemnify the rivers authority in respect of all costs, charges and expenses which the rivers authority may reasonably incur or have to pay or which it may sustain—
 - (a) in the examination or approval of plans under this section;
 - (b) in the inspection of the construction of the specified works or any protective works required by the rivers authority under this section:
- (9) (a)

Without prejudice to the other provisions of this section the undertakers shall indemnify the rivers authority from all claims, demands, proceedings, costs, damages or expenses or loss which may be made or taken against, or recovered from or incurred by, the rivers authority by reason of—

 - (i) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence; or

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- (ii) any damage to the fishery; or
- (iii) any raising of the water table in land adjoining the works or any sewers, drains and watercourses; or
- (iv) any flooding or increased flooding of any such lands; or
- (v) inadequate water quality in any watercourse or other surface waters or in groundwater;

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

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

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

- (11) For the purposes of section 109 of the Water Resources Act 1991 (as to structures in, over or under watercourses) as applying to the construction of any authorised work, any consent or approval given or deemed to be given by the rivers authority under this section with respect to such construction shall be deemed also to constitute a consent or approval under that section:

- (12) (a)

Unless the parties agree to arbitration any difference arising between the undertakers and the rivers authority under paragraph (3) above shall be settled by the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly on a reference to them by the undertakers or rivers authority after notice by one to the other;

- (b) Subject to sub-paragraph (a) above, any difference arising between the undertakers and the rivers authority under this section (other than a difference as to its meaning or construction) shall be referred to and settled by arbitration.

44 For protection of public sewers

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

- (1) In this section—

“construction” includes placing and altering;

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

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

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

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

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

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

- (4) The undertakers shall comply with, and conform to, all reasonable orders, directions and regulations of the sewerage authority in the construction of the specified works and shall provide new, altered or substituted works in such manner as the sewerage authority shall reasonably require for the protection of, and for preventing injury or impediment to, or for securing access to, any existing sewer of the sewerage authority by reason of the specified works, and shall indemnify the sewerage authority against all expenses occasioned thereby:
- (5) The specified works and all such new, altered or substituted works—
 - (a) shall be constructed in accordance with such plans as may be approved or deemed to be approved by the sewerage authority as aforesaid or settled by arbitration, subject however to any modification of those plans from time to time agreed upon between the undertakers and the sewerage authority; and
 - (b) shall be constructed to the reasonable satisfaction of the sewerage authority who shall be given reasonable notice of the date and time on and at which any new, altered or substituted works are to be commenced:
- (6) All new, altered or substituted works shall, where so required by the sewerage authority, be constructed by the sewerage authority, or under the direction, superintendence and control of an officer of the sewerage authority duly appointed for the purpose, at the cost of the undertakers and all costs, charges and expenses reasonably incurred by the sewerage authority by reason of such works, whether in the execution thereof, or in the preparation or examination of plans or designs, or in such direction, superintendence or control as aforesaid, or otherwise, shall be paid to the sewerage authority by the undertakers:
- (7) When any new, altered or substituted works shall be completed by, or at the cost of, the undertakers under the provisions of this section the same shall thereafter be as fully and completely under the direction, jurisdiction and control of the sewerage authority as any sewers or works now or hereafter may be:

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- (8) It shall not be lawful for the undertakers without the consent of the sewerage authority, in the exercise of the powers of section 11 (3) of the Act of 1965 as applied by this Act, to make any trial holes which interfere with any sewer:
- (9) The plans to be submitted to the sewerage authority for the purposes of this section shall be detailed plans, drawings, sections and specifications which shall describe the exact position and manner in which, and the level at which, the specified works are to be constructed and shall accurately describe the position of all sewers of the sewerage authority within the limits of deviation (for which purpose the sewerage authority shall allow the undertakers access to plans in their possession and to any of their sewers in order to enable the undertakers to obtain reliable information) and shall comprise detailed drawings of every alteration which the undertakers may propose to make in any such sewer:
- (10) The undertakers shall be liable to make good, or, if the sewerage authority so decide, to repay any expense reasonably incurred by the sewerage authority in making good, damage caused by, or resulting from, the construction of the specified works to any sewers, drains or works vested in the sewerage authority whether or not identified at the commencement of the construction of the specified works:
- (11) If the undertakers, in the construction of the specified works or any new, altered or substituted works provided in accordance with this section, damage, or, without the consent of the sewerage authority, alter or in any way interfere with, any existing sewer of the sewerage authority, the undertakers shall—
 - (a) pay to the sewerage authority any additional expense which may be reasonably incurred by the sewerage authority in the maintenance, operation, management or renewal of any new, altered or substituted sewer which may be necessary in consequence of the said construction; and
 - (b) give to the sewerage authority free and uninterrupted access at all times to any such new, altered or substituted sewer and reasonable facilities for the inspection, maintenance, alteration and repair thereof:
- (12) It shall be lawful for the proper officer of the sewerage authority at any reasonable time, on giving to the undertakers such notice as may in the circumstances be reasonable, to enter upon and inspect the specified works or any other works constructed under the powers of this section:
- (13) The approval by the sewerage authority of any plans, or the superintendence by them of any work, under the provisions of this section shall not exonerate the undertakers from any liability, or affect any claim for damages, under this section or otherwise:
- (14) As soon as reasonably practicable after the completion of the construction of a specified work the undertakers shall deliver to the sewerage authority a plan and section showing the position and level of that work as constructed and all new, altered or substituted works of the sewerage authority provided under this section:
- (15) If by reason or in consequence of the construction or failure of any of the LRT system or any subsidence resulting from the LRT system any damage shall be caused to any sewer or property of the sewerage authority (other than a sewer the repair of which is not reasonably necessary in view of its intended removal), the undertakers shall repay the cost reasonably incurred by the sewerage authority in making good such damage and shall—
 - (a) make reasonable compensation to the sewerage authority for any loss sustained by them; and

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- (b) indemnify the sewerage authority against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from, or incurred by, the sewerage authority; by reason or in consequence of any such damage:

Provided that—

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

45 For protection of certain statutory undertakers

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

- (1) In this section, unless the context otherwise requires—
- “the company” means any of the following, namely a licence holder within the meaning of Part I of the Electricity Act 1989, a public gas supplier within the meaning of Part I of the Gas Act 1986 or a water undertaker;
 - “adequate alternative apparatus” means alternative apparatus adequate to enable the company to fulfil their statutory functions in a manner not less efficient than previously;
 - “apparatus” means—
 - (a) electric lines and works (as defined in Part I of the Electricity Act 1989) belonging to, or maintained by, a licence holder under that Part; or

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- (b) mains, pipes or other apparatus belonging to, or maintained by, a public gas supplier within the meaning of Part I of the Gas Act 1986; or
 - (c) mains, pipes or other apparatus belonging to, or maintained by, a water undertaker for the purposes of water supply;
- (not being apparatus in respect of which the relations between the undertakers and the company are regulated by the provisions of Part III of the Act of 1991), and includes any structure for the lodging therein of apparatus;
- “construction” includes placing and altering;
- “in” in a context referring to apparatus includes under, over, across, along or upon:
- (2) Notwithstanding anything in this Act or shown on the deposited plans the undertakers shall not acquire any apparatus under this Act otherwise than by agreement:
 - (3) If the undertakers in the exercise of the powers of this Act acquire any interest in any land in which any apparatus is placed, that apparatus shall not be removed under this section, nor shall any right of the company to use, maintain, repair, renew or inspect any apparatus in those lands be extinguished, until any necessary adequate alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the company:
 - (4) (a)

If the undertakers, for the purpose of constructing any of the authorised works in, on or under any lands (including lands forming part of any street) acquired, held or used under this Act, require the removal of any apparatus placed in those lands, and give to the company not less than 56 days' written notice of such requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed so as to provide adequate alternative apparatus in lieu of the apparatus to be removed, or if, in consequence of the exercise of any of the powers of this Act, the company shall reasonably require to remove any apparatus, the undertakers shall, if it is practicable to do so, afford to the company the necessary facilities and rights for the construction of any necessary adequate alternative apparatus in other lands of the undertakers and thereafter for the maintenance, repair, renewal and inspection of such apparatus;

 - (b) If the alternative apparatus, or any part thereof, is to be constructed elsewhere than in other lands of the undertakers, the company shall, on receipt of a written notice to that effect from the undertakers, as soon as reasonably practicable exercise their powers to lay alternative apparatus:
 - (5) (a)

Subject, in the case of any alternative apparatus to be laid in a road, to any requirements imposed under Part III of the Act of 1991 any alternative apparatus to be constructed in pursuance of paragraph (4) above shall be constructed in such manner, and in such line or situation, as may be agreed between the company and the undertakers or, in default of agreement, determined by arbitration;

 - (b) The company shall, after the manner of construction and the line and situation of any necessary alternative apparatus have been agreed or determined as aforesaid, proceed with all reasonable dispatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the undertakers to be removed under the provisions of this section:

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- (6) Notwithstanding anything in paragraph (5) above, if the undertakers give notice in writing to the company that they desire to carry out any part of so much of the work necessary in connection with the construction of the alternative apparatus, or the removal of the apparatus required to be removed, such work, instead of being carried out by the company, shall be carried out by the undertakers with all reasonable dispatch under the superintendence (if given) and to the reasonable satisfaction of the company:
- (7) Nothing in paragraph (6) above shall authorise the undertakers to carry out the actual placing, erection, installation, bedding, packing, removal, connection or disconnection of any apparatus or execute any filling around the apparatus (where the apparatus is laid in a trench, tunnel, heading or boring) within 600 millimetres (measured in any direction) of the apparatus:
- (8) Where, in accordance with the provisions of this section, the undertakers afford to the company facilities and rights for the construction, maintenance, repair, renewal and inspection in lands of the undertakers of alternative apparatus in substitution for apparatus to be removed as aforesaid, those facilities and rights shall be granted upon such terms and conditions as may be agreed between the undertakers and the company or, in default of agreement, determined by arbitration:
- (9) In determining such terms and conditions as mentioned in paragraph (8) above in respect of alternative apparatus to be constructed across or along the authorised works the arbitrator shall—
- (a) give effect to all reasonable requirements of the undertakers for ensuring the safety and efficient operation of the authorised works and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any such works; and
 - (b) so far as it may be reasonable and practicable to do so in the circumstances of the case, give effect to any terms and conditions applicable to the apparatus (if any) constructed across or along the authorised works for which the alternative apparatus is to be substituted:
- (10) If the facilities and rights to be afforded by the undertakers in respect of any alternative apparatus under paragraph (8) above and the terms and conditions subject to which the same are to be granted are, in the opinion of the arbitrator, more or less favourable on the whole to the company than the facilities, rights, terms and conditions applying to the apparatus to be removed, the arbitrator shall make such provision for the payment of compensation to or by the undertakers by or to the company in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the case:
- (11) (a)
- Not less than 56 days before commencing to construct any of the authorised works which are near to, or will or may affect, any apparatus the removal of which has not been required by the undertakers under paragraph (4) above, the undertakers shall submit to the company a plan, section and description of the works to be constructed;
- (b) Such works shall be constructed only in accordance with the plan, section and description submitted as aforesaid and in accordance with such reasonable requirements as may be made by the company for the alteration or otherwise for the protection of the apparatus, or for securing access thereto, and the company shall be entitled by their officer to watch and inspect the construction of such works:

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- (12) If the company within 42 days after the submission to them of any plan, section and description under paragraph (11) above shall, in consequence of the works proposed by the undertakers, reasonably require the removal of any apparatus and give written notice to the undertakers of such requirement, the foregoing provisions of this section shall have effect as if the removal of such apparatus had been required by the undertakers under paragraph (4) above:
- (13) Nothing in paragraph (11) or (12) above shall preclude the undertakers from submitting at any time, or from time to time, but in no case less than 28 days before commencing the construction of any such works, a new plan, section and description thereof in lieu of the plan, section and description previously submitted, and thereupon the provisions of those paragraphs shall apply to, and in respect of, such new plan, section and description:
- (14) The undertakers shall not be required to comply with paragraph (11) (a) above in a case of emergency but, in such a case, they shall give to the company notice so soon as reasonably practicable, and a plan, section and description of the works so soon as reasonably practicable thereafter, and shall comply with paragraph (11) (b) above so far as reasonably practicable in the circumstances:
- (15) If in consequence of the exercise of the powers of this Act the access to any apparatus is materially obstructed the undertakers shall provide alternative means of access to such apparatus:
- (16) The following provisions of this paragraph shall have effect for the provision by the undertakers, in the construction of the railways authorised by this Act, of accommodation or other facilities for the laying of apparatus under the railways:—
- (a) Not less than 6 months before the undertakers commence the construction of any of the railways in any highway they shall give notice thereof in writing to each of the companies;
 - (b) If, within 56 days from the service on them of notice of the intended construction of any works under paragraph (a) above, the company give to the undertakers notice in writing that they desire such accommodation or other facilities to be provided, and such information as the undertakers may require to enable them to determine the extent and description of the accommodation or facilities to be provided and the means of access to apparatus laid therein, the undertakers shall, so far as it is reasonably practicable to do so, provide in the construction of the railway such accommodation or facilities for the laying of apparatus under the railway as may be agreed between them and the company, or in default of agreement, determined by arbitration;
 - (c) Subject to the provisions of this section, the company shall be entitled to use accommodation or other facilities and the means of access thereto provided by the undertakers for the laying and installing therein of the apparatus for which they were provided and for the purpose of inspecting, repairing, removing or renewing that apparatus;
 - (d) Except in case of emergency when they shall give such notice as they can in the circumstances, the company shall give the undertakers not less than 42 days' notice of their intention to lay and install or to repair, remove or renew apparatus in any such accommodation or facilities;
 - (e) In laying and installing apparatus in accommodation or other facilities provided by the undertakers the company shall conform with the reasonable requirements of the undertakers as to the times at which, and the manner in

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which, such company's works affecting the railways shall be carried out, and the undertakers shall be entitled to superintend the carrying out of such works;

- (f) The company shall maintain in good repair and to the reasonable satisfaction of the undertakers any apparatus laid and installed in accommodation or facilities provided by the undertakers and shall take such precautions as the undertakers reasonably require to be taken for ensuring the safety of the railway and the traffic thereon;
- (g) The accommodation or facilities provided by the undertakers shall be maintained by the undertakers to the reasonable satisfaction of the company;
- (h) Except in case of emergency when they shall give such notice as they can, the undertakers shall give to the company not less than 42 days' notice in writing of their intention to carry out any works affecting any such accommodation or facilities and, in carrying out the same, shall take such measures as the company may reasonably require for the protection of, or for preventing interference with, their apparatus laid or installed therein:

(17) (a)

The undertakers shall repay the reasonable expenses incurred by the company in, or in connection with—

- (i) the removal and re-laying or replacing, alteration or protection of any apparatus or the provision and construction of any new apparatus under any of the provisions of this section; and
- (ii) the cutting off of any apparatus from any other apparatus;
- (b) Subsections (3) and (4) of section 23 of the Public Utilities Street Works Act 1950 shall, so far as material, apply to any payment to be made by the undertakers under sub-paragraph (a) above as if the works there mentioned were such undertakers' works as are referred to in the said subsection (3), and as if in that subsection for the words "specified as so necessary in a specification of the works settled under Part I of the Fourth Schedule to this Act or agreed so to be by the promoting authority" there were substituted the words "agreed or settled by arbitration under section 45 (For protection of certain statutory undertakers) of the Greater Nottingham Light Rapid Transit Act 1994":

(18) (a)

If, by reason or in consequence of the construction or failure of any of the authorised works or any subsidence resulting from any of those works, any damage shall be caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal) or property of the company, or any interruption shall be caused in the supply of electricity, gas or, as the case may be, water by the company, the undertakers shall repay the cost reasonably incurred by the company in making good such damage, or restoring the supply, and shall—

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

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

- (b) Nothing in sub-paragraph (a) above shall impose any liability on the undertakers with respect to any damage or interruption to the extent that such

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damage or interruption is attributable to the neglect or default of the company, their officers, servants, contractors or other agents;

- (c) The company shall give to the undertakers reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the consent of the undertakers:
- (19) Where, in consequence of this Act, any part of any street, bridleway or footpath in which any apparatus is situate ceases to be part of the street, bridleway or footpath, the company may exercise the same rights of access to such apparatus as they enjoyed immediately before the passing of this Act, but nothing in this paragraph shall prejudice or affect any right of the undertakers or of the company to require removal of such apparatus under this section or the power of the undertakers to construct works in accordance with paragraph (11) above:
- (20) Notwithstanding the temporary stopping-up or diversion of any highway under the powers of section 18 (Temporary stoppage of highways) of this Act, the company shall be at liberty at all times to carry out and do all such works and things in, upon or under any such highway as may be reasonably necessary to enable them to inspect, repair, maintain, renew, remove or use any apparatus which at the time of the stopping-up or diversion was in that highway:
- (21) The undertakers shall, so far as is reasonably practicable, so exercise the powers conferred by section 22 (Underpinning of houses near works) of this Act as not to obstruct or render less convenient the access to any apparatus:
- (22) (a)
- Any difference arising between the undertakers and the company under this section (other than a difference as to its meaning or construction) shall be determined by arbitration;
- (b) In determining any difference under this section the arbitrator may, if he thinks fit, require the undertakers to construct any temporary or other works so as to avoid, so far as may be reasonably possible, interference with the use of any apparatus.

46 For protection of tele- communications operators

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

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

47 Crown rights

- (1) Nothing in this Act affects prejudicially any estate, right, power, privilege or exemption of the Crown and, without prejudice to the generality of the foregoing,

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nothing in this Act authorises the undertakers to take, use or in any manner interfere with any land or hereditaments or any rights of whatsoever description—

- (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those commissioners; or
 - (b) belonging to Her Majesty in right of Her Crown and under the management (pursuant to any statute or otherwise) of the Secretary of State, without his consent in writing; or
 - (c) belonging to a government department or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.
- (2) A consent under subsection (1) above may be given unconditionally or subject to such conditions and upon such terms as may be considered necessary or appropriate.
- (3) Nothing in this section shall prejudice or affect the exercise of statutory powers to carry out works in or affecting any highway vested in or maintained by the Secretary of State in relation to which the provisions of section 39 (As to highways, traffic, etc.) of this Act apply.