

SCHEDULES

SCHEDULE 7

PROTECTIVE PROVISIONS

PART III

PROTECTION OF RAILWAYS BOARD

- 1 (1) The following provisions of this Part of this Schedule shall, unless otherwise agreed in writing between the Secretary of State and the Railways Board, have effect for the protection of the Railways Board.
- (2) In this Part of this Schedule—
 - “the Railways Board” means the British Railways Board;
 - “railway property” means any railway of the Railways Board, and any works connected with any such railway 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 any such railway or works;
 - “the existing works” means so much of any of the works authorised by the 1984 Act as is situated upon, across, under or over any railway property or may in any way affect railway property, including—
 - (a) the bridge constructed under the powers of the Dartford Tunnel Act 1937 for carrying the road authorised as Work No. 1A by that Act over the North Kent Railway (Southern Region) of the Railways Board; and
 - (b) the bridge constructed under the powers of the Dartford Tunnel Act 1957 for carrying the road authorised as Work No. 1 by that Act over the Tilbury Branch Railway (Eastern Region) of the Railways Board;
 - “the specified works” means so much of any of the works authorised by this Act as may be situated upon, across, under or over, or within 15 metres of, railway property or may in any way affect railway property;
 - “the authorised works” means the existing works and the specified works;
 - “construction” includes renewal;
 - “maintenance operations” means operations for the maintenance of the authorised works; and
 - “plans” includes sections, drawings, particulars and schedules of construction.
- 2 The Secretary of State shall not under section 2 of this Act acquire compulsorily any railway property but he may under that section create and acquire such easements and rights as may reasonably be required for the purposes specified in that section in or over any such property within the limits of land to be acquired.
- 3 (1) Not less than 56 days before commencing the construction of the specified works, the Secretary of State shall submit to the Railways Board for their approval plans of

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the works and such further particulars available to him as the Railways Board may, within 28 days of the submission of the plans, reasonably require.

- (2) The Railways Board's approval of plans submitted under sub-paragraph (1) above shall not be unreasonably withheld; and if within 56 days after the submission of the plans the Railways Board have not approved or disapproved them, they shall be deemed to have approved them.
- 4 (1) On signifying their approval of the plans the Railways Board may specify any protective works, whether temporary or permanent, which in their opinion should be carried out before the construction of the specified works to ensure the safety and stability of railway property.
- (2) Such protective works as may reasonably be necessary for those purposes shall be constructed by the Railways Board with all reasonable dispatch, and the Secretary of State shall not commence the construction of the specified works until the Railways Board shall have notified him that the protective works have been completed.
- 5 The Secretary of State shall give to the engineer of the Railways Board not less than 28 days' notice of his intention to commence the construction of any of the authorised works and, except in emergency (when he shall give such notice as may be reasonably practicable), of his intention to carry out any maintenance operations in so far as those operations affect or interfere with railway property.
- 6 (1) The construction of the authorised works shall, when commenced, be carried out with all reasonable dispatch in accordance with the plans approved or deemed to be approved or settled as mentioned in paragraph 3 above and under the supervision (if given), and to the reasonable satisfaction, of the engineer of the Railways Board, and in such manner as to cause as little damage to railway property as may be and as little interference as may be with the conduct of traffic on the railways of the Railways Board.
- (2) If any damage to railway property or any such interference shall be caused by the carrying out of the authorised works, the Secretary of State shall make good such damage and pay to the Railways Board reasonable expenses which they may incur and compensation for any loss which they may sustain by reason of any such damage or interference.
- (3) Nothing in this paragraph shall impose any liability of the Secretary of State with respect to any damage, costs, expenses or loss attributable to the act, neglect or default of the Railways Board or their servants, contractors or agents.
- 7 The Secretary of State shall at all times afford reasonable facilities to the engineer of the Railways Board for access to the authorised works during their construction or when maintenance operations are being carried out and shall supply to him all such information as he may reasonably require with regard to the authorised works and their method of construction or with regard to the maintenance operations.
- 8 (1) If any alteration or addition, whether permanent or temporary, to railway property shall be reasonably necessary during the construction of the specified works, or during a period of twelve months after their completion in consequence of their construction, such alterations and additions may be carried out by the Railways Board.
- (2) If the Railways Board give to the Secretary of State reasonable notice of their intention to carry out such alterations or additions, he shall pay to the Railways Board the reasonable cost of the alterations or additions including, in respect of

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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.

- (3) 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 Secretary of State to the Railways Board under this Part of this Schedule.

9 The Secretary of State shall pay to the Railways Board costs reasonably incurred by the Railways Board—

- (a) in constructing any protective works under paragraph 4 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 shall be reasonably necessary to appoint for inspecting, watching and lighting railway property and signalling railway traffic and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction of the specified works or any maintenance operations;
- (c) in respect of any special traffic working upon any existing railways of the Railways Board resulting from any speed restrictions, or any substitution or diversion of services, which may, in the opinion of the Railways Board, be required by reason or in consequence of the construction of the specified works or any maintenance operations;
- (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 or in consequence of the construction of the specified works or any maintenance operations;
- (e) in respect of the supervision by the engineer of the Railways Board of the construction of the specified works or any maintenance operations.

10 (1) Subject to sub-paragraph (2) below, the Secretary of State shall be responsible for, and make good to the Railways Board, costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule which may be occasioned to, or reasonably incurred by, the Railways Board—

- (a) by reason of the construction of the authorised works or any maintenance operations; or
- (b) by reason of any act or omission of the Secretary of State, or of any person in his employ, or of his contractors or others whilst engaged in the construction of the authorised works or in carrying out any maintenance operations;

and the Secretary of State shall indemnify the Railways Board from and against claims and demands arising out of, or in connection with, the construction of the authorised works, the carrying out of any such operations or any such act or omission.

- (2) The fact that any act or thing may have been done in accordance with plans approved by the engineer of the Railways Board, or in accordance with any requirement made by him, 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 Secretary of State from any liability under this Part of this Schedule.

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- (3) The Railways Board shall give to the Secretary of State reasonable notice of any claim or demand referred to in sub-paragraph (1) above and no settlement or compromise of any such claim or demand shall be made without his prior consent.
- 11 If the Railways Board give notice to the Secretary of State that the state of repair of the authorised works prejudicially affects railway property, the Secretary of State shall take such steps as may be reasonably necessary to avoid that effect on railway property.
- 12 Any difference arising between the Secretary of State and the Railways Board under this Part of this Schedule shall be determined by arbitration.