



Leeds Supertram Act 1993

1993 CHAPTER xv

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Leeds Supertram Act 1993.

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—

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

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

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

“the acquiring authority” means—

(a) in relation to the lands in the City shown numbered 32G on the deposited plans, the Council; and

(b) in relation to all other lands in the City shown on the deposited plans, the Executive;

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

“authorised works” means the works (including railways) authorised by this Act;

“car park” means a place where vehicles of any class may wait;

“the City” means the City of Leeds;

“the Council” means the Leeds City Council;

“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;

“the Executive” means the West Yorkshire Passenger Transport Executive;

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

“land” includes land covered by water, any interest in land and any easement or right in, to or over land;

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

“railway” includes such guided transport modes as may be authorised under section 17 of this Act;

“the railways board” means the British Railways Board;

“road” means any highway or other road to which the public has access and in sections 9, 18, 19 and 40 of this Act includes a bridleway, cycle track or footpath as defined in section 329 of the Highways Act 1980;

“statutory undertakers” 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 and a water undertaker within the meaning of the Water Industry Act 1991;

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

“tram” means a vehicle (whether or not used for the carriage of passengers) carried on flanged wheels on any railway forming part of the tramway system;

“tramway” means any railway, or any part of a railway, authorised by this Act which, being situated in the carriageway of a road or in a reserved area between dual carriageways, is thereby designated as a tramway;

“the tramway system” means the light rail or supertram 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; and

“the tribunal” means the Lands Tribunal.

- (2) In the case of any road in relation to which an order made under section 249 (2) of the Town and Country Planning Act 1990 (a pedestrian planning order) is in force, the kerbline of the road, where there is no kerb, shall be taken to be the edge of the part of the road on which the passage of vehicles is permitted.
- (3) 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.
- (4) References in this Act to access to any place include egress from that place.
- (5) 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.
- (6) (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:—

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section 12 (Power to deviate);
subsections (1) and (5) of section 15 (Gauge of railways and restrictions on working); and
paragraph (7) of section 41 (For protection of certain statutory undertakers).

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, 86, 94, 95 and 115 to 124 thereof); 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 Executive;
- (b) sections 18 and 21 of the Act of 1845 shall not extend to regulate the relations between the Executive and any other person in respect of any matter or thing concerning which those relations are regulated in any respect by—
 - (i) Part III of the Act of 1991; or
 - (ii) section 41 (For protection of certain statutory undertakers) of this Act;
- (c) the reference in section 34 of the Act of 1845 to a notice under section 33 of that Act shall include notice under section 33 (4) of this Act; and
- (d) 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 the tramway system:—

the Highway (Railway Crossings) Act 1839;
in the Railway Regulation Act 1842, sections 9 and 10;
in the Regulation of Railways Act 1889, sections 1 to 4 and 6;
in the Road and Rail Traffic Act 1933, section 42.

4 Application of Street Works Acts and Road Traffic Regulation Act 1984

(1) In relation to so much of the authorised works as would, if executed by the highway authority, be works for road purposes or major highway works within the meanings given by section 86 of the Act of 1991, Part III of that Act shall have effect as if the Executive were the highway authority.

(2) Part III of the Act of 1991 shall not extend to regulate the relations between the Executive and a highway authority in respect of any matter or thing concerning which those relations are regulated by section 38 (As to highways, traffic, etc.) of this Act.

(3) Section 41 (17) (b) (betterment arising on provision of alternative apparatus for statutory undertakers) of this Act shall have effect notwithstanding the repeal by the Act of 1991 of the Public Utilities Street Works Act 1950.

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- (4) Section 14 of the Road Traffic Regulation Act 1984 (temporary restriction or prohibition of the use of roads by vehicles in certain circumstances) shall apply to trams.
- (5) Section 65 (1) of the Road Traffic Regulation Act 1984 (placing of traffic signs by highway authorities) shall have effect with respect to the erection and display of any traffic sign by the Executive as if it were a traffic sign erected and displayed by the traffic authority.

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 Part II of 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 relates to notice of entry) 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 Executive may, in the lines or situations shown on the deposited plans and according to the levels shown on the deposited sections, make and maintain in the City the works 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 12 (Power to deviate) of this Act, the Executive may, with the consent of the Secretary of State, construct the whole or part of Works Nos. 2, 2A, 2B, 3, 3C, 9, 9A and 9B within the limits of deviation therefor in accordance with the dimensions and descriptions specified in the consent, instead of the dimensions and descriptions shown on the deposited plans and the deposited sections or specified in Part I of Schedule 1 to this Act, and, if so specified in such consent, the whole or part of the said Works Nos. 2, 3 and 9, as so specified, may be treated as if it were designated by this Act as a tramway.

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 sections, in the lines or situations and according to the levels so shown), the Executive may exercise the powers, and make and maintain in the City the

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further works described in Part II of Schedule 1 to this Act, 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 road, the Executive may, with the consent of the highway authority—
 - (a) increase the width of the carriageway of the road by reducing the width of any footway, cycle track or verge or other land within the boundary of the road;
 - (b) alter or interfere with the level of any kerb, footway, cycle track, verge or other land within the boundary of the road; or
 - (c) at any place on a tramway reduce the width of the carriageway of the road by forming a reserved area in the road or by setting forward the kerblines of the road and providing access for vehicles to adjoining premises and a footway on the side of that kerblines nearest to those premises.
- (3) No footway shall, under subsection (2) above, be reduced to a width less than 1·80 metres (5 feet 11 inches).
- (4) Where the carriageway, or part of the carriageway, of any road in which a tramway is laid is of sufficient width to provide not less than 3·3 metres of width for vehicular traffic clear of the tramway path (as determined in accordance with the clearance required by the Secretary of State), the Executive 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, whether by raising or lowering the level of the part of the carriageway occupied by the tramway path above or below the level of the adjoining carriageway or by placing a kerb or other obstruction along the edge of that adjoining carriageway.
- (5) In the case of any length of tramway which is situated clear of the carriageway of any road, the Executive 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)
 - (a) Subject to the provisions of this Act, the Executive may—
 - (i) 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 it or at any time thereafter, and construct or take up and reconstruct any such tramway or associated work in such position in the road or land in which it is authorised to be constructed as they think fit; and
 - (ii) 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 the tramway system, for the purposes of the control of traffic or for providing access to any premises.
 - (b) The powers of paragraph (a) above shall not be exercised in any road which is a highway without the consent of the highway authority.
- (7)
 - (a) When, by reason of the carrying out of any work affecting any road along or across which any tramway is laid, it is, in the opinion of the Executive, necessary or expedient temporarily to remove or discontinue the use of that tramway, or any part thereof, the Executive may, with the consent of the highway authority, construct and maintain, in the same or any adjacent

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road, a temporary tramway in lieu of the length of tramway so removed or discontinued.

- (b) If the Executive alter the route of a tramway under paragraph (a) above, they shall, in accordance with section 8 (2) of this Act, provide traffic signs to give warning of such alteration and any associated traffic arrangements.
- (8) Notwithstanding anything in section 68 of the Act of 1845, where any part of a railway is constructed on any verge or roadside waste comprised in a road, the Executive shall not be required to fence that part of that railway.
- (9) (a) Wherever in this section the consent of the highway authority is required, that consent shall be in writing and may be given subject to such conditions as the highway authority may reasonably require, but shall not be unreasonably withheld.
 - (b) If, within 56 days of application for any such consent and the supply of such plans, specifications and particulars as the highway authority may reasonably require in connection with the application, the highway authority do not grant consent, with or without conditions, the consent applied for shall be deemed to have been refused.
 - (c) Any difference arising between the Executive and the highway authority under this subsection shall be determined by the Secretary of State.
- (10) The Executive shall construct a good and sufficient fence on each side of any road bridge in respect of which widening is carried out as part of the authorised works.

8 Further provisions as to tramways

- (1) The tramways shall be so laid and maintained that—
- (a) except as provided in section 7 (4) and (5) of this Act, the uppermost surface of the rails is level with the surrounding surfaces of the road in which they are laid; and
 - (b) the distance between the sides of the widest trams when passing one another thereon shall not be less than 380 millimetres (15 inches).
- (2) (a) On completion of any tramway the Executive 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 road in such manner that—
- (i) the uppermost surface of the rails is level with the surface of the road; or
 - (ii) the level of the width of the carriageway occupied by the tramway path is altered as provided in section 7 (4) of this Act;
- works for the purpose, or having the effect, of altering the level of the part of the road in which the tramway is situated shall not be carried out without the consent of the Executive.
- (b) Consent under paragraph (a) above may be given subject to such reasonable terms and conditions as the Executive may require, but shall not be unreasonably withheld, and any difference arising under this paragraph shall be determined by the Secretary of State.

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9 Level crossings

- (1) The Executive may, in the construction of the authorised railways, carry the same with a double line across and on the level of each of the roads specified in Schedule 2 to this Act.
- (2) In the exercise of the powers of subsection (1) above, the Executive may alter or interfere with the level of any footway upon which any railway or associated work is to be laid.

10 Subsidiary works

- (1) The Executive may, for the purposes of the tramway system 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, escalators, lifts, stairs, platforms, ticket machines, shelters, public conveniences, car parks, balancing reservoirs, islands, gates, junctions, points, turntables, turnouts, crossings, temporary or permanent crossovers, passing places, pillars, posts, poles, brackets, wires, subways, manholes, shafts, engines, dynamos, substations, transformers, switchgear, cabling, signs, signalling, monitoring and communications equipment, together with subsidiary and incidental machinery, apparatus, works and appliances;
 - (b) in, or under any road in which it may be necessary or convenient, or in other land over which the Executive have or obtain sufficient right, lay, place, erect, maintain, renew and repair electric wires, conductors, cables, brackets, posts, tubes, substations, boxes and other electrical apparatus for connecting authorised railways and associated works with any electricity generating station or substations or for the purposes of lighting, signalling, monitoring and communication in connection with the tramway system; and
 - (c) alter the position of mains, sewers, cables and other apparatus.
- (2)
 - (a) For the purposes of exercising their powers under subsection (1) above in relation to any apparatus or works, or of inspecting or removing apparatus or works, the Executive may break open any road, and any sewer, drain or tunnel in or under any road, and may remove and use the soil or other materials in or under the road.
 - (b) In exercising their powers under this subsection the Executive shall do as little damage as may be, and for any damage done shall (in so far as the matter of compensation is not governed by the provisions of Part III of the Act of 1991) pay compensation to be determined, in case of dispute, in accordance with Part I of the Land Compensation Act 1961.

11 Provision of accommodation for apparatus

Where the Executive lay down conduits for the accommodation of cables or other apparatus for the purposes of the tramway system or associated traffic control under section 10 of this Act, they may 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 permit the use of such conduits and facilities on such terms and conditions as may be agreed between the Executive and such other person.

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12 Power to deviate

In the execution of the authorised works the Executive 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.

13 Agreements with British Railways Board

- (1) The Executive and the railways board may enter into, and carry into effect, agreements for the transfer to the Executive of any or any part of the existing railways of the railways board within or adjoining the limits of deviation of the authorised works, together with all lands and other property held in connection with that railway and all rights and obligations of the railways board in relation to that railway.
- (2) Where agreement is made for the transfer to the Executive of any existing railway of the railways board under subsection (1) above, or the Executive otherwise acquire any such existing railway or sufficient rights therein, the Executive may adapt for use, maintain, use and work that railway as part of the tramway system 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 the tramway system.
- (3) Any enactment by which any such existing railway was authorised shall have effect subject to the provisions of this Act.
- (4)
 - (a) Until the coming into force of an order under the Level Crossings Act 1983 providing for the protection of those using a level crossing on an existing railway which is to be transferred to the Executive by agreement under subsection (1) above, any enactment which makes provision for such protection, and which applied to the level crossing immediately before the date of such transfer, shall continue to apply to it thereafter, whether or not the enactment is disappplied, or excepted from application, by section 3 of this Act.
 - (b) In paragraph (a) above, “level crossing” has the same meaning as in the Level Crossings Act 1983.
- (5) The provisions of sections 54 and 56 of the Transport Act 1962 (advance notice of discontinuance of certain services to be published and functions of transport consultative committees) 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 the existing railways to form part of the tramway system.

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

- (1) Before constructing any of the authorised railways the Executive shall submit to the Secretary of State for his approval plans, sections and particulars of their proposals concerning—
 - (a) permanent way or track and stations;
 - (b) lifts, escalators and stairways;

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- (c) signalling; and
 - (d) lighting.
- (2) Any such works shall be constructed and maintained in accordance with such plans, sections and particulars approved by the Secretary of State.

15 Gauge of railways and restrictions on working

- (1) The railways 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 the tramway system shall be used for, or in connection with, the conveyance of passengers without the prior written permission of the Secretary of State and the Executive shall comply with the conditions (if any) which the Secretary of State may from time to time prescribe for the safety of persons using the tramway system.
- (3) The Executive shall submit for the approval of the Secretary of State details of their proposals for the trams to be used on the tramway system and the trams so used shall be constructed and maintained in accordance with particulars approved by the Secretary of State.
- (4) If, without reasonable excuse, the Executive contravene the provisions of subsection (2) or (3) above they shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) 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 and maintained 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 Executive shall, in accordance with section 8 (2) of this Act, erect and maintain such traffic signs as may be directed by the Secretary of State to give warning of the cable.

16 Operation and use of tramways

- (1) Subject to subsection (3) below and to section 66 (Powers of disposal, agreements for operation, etc.) of this Act, the Executive shall, for the purpose of operating the tramways, have the exclusive right to use the rails, foundations, cables, masts, overhead wires and other apparatus provided for their operation.
- (2) Any person who, without the consent of the Executive or other reasonable excuse, uses any tramway, or other apparatus mentioned in subsection (1) above, for the passage of vehicles having wheels suitable only for running on the rails of tramways shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (3) Nothing in this section shall restrict the exercise of any public right of way over any part of a road in which a tramway, or other apparatus mentioned in subsection (1) above, is situated except to the extent to which the exercise of that right is constrained by—
- (a) the presence of the tramway or such other apparatus; or
 - (b) the exercise of the powers of section 7 (4) of this Act.

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17 Substitution of guided transport mode

- (1) (a) If authorised to do so by means of an order made by the Secretary of State under this section on an application made jointly by the Council and the Executive, the Executive may construct and use the authorised railways so that, instead of railways provided in accordance with the relevant enactments, they constitute a transport system using the mode of guided transport prescribed by paragraph (e) or (f) of article 2 of the Transport and Works (Guided Transport Modes) Order 1992 (road-based with cable or rail guidance) as may be prescribed in the order made under this section.
 - (b) In this subsection “the relevant enactments” means the Railway Regulation Acts 1840 to 1893, the Act of 1845 and section 15 (1) of this Act.
- (2) Except as may be provided in any order under subsection (1) above, the provisions of any enactment relating to railways or tramways shall, so far as they are capable of doing so, apply as if the authorised railways were constructed (or, as the case may be, were to be constructed) under this Act for a system of transport employing parallel rails providing support and guidance for vehicles carried on flanged wheels.
- (3) Without prejudice to the generality of subsection (2) above, section 16 (Operation and use of tramways) of this Act shall have effect in relation to a guided transport system prescribed in an order made under this section as it has effect in relation to tramways.
- (4) An order under this section shall be made by statutory instrument and may contain such incidental, consequential and supplementary provisions as the Secretary of State thinks necessary or expedient.

18 Temporary stoppage of roads

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

19 Stopping up highways in case of diversion or substitution

- (1) Except as provided in section 18 of this Act, where this Act authorises the making of a new road, either by way of diversion of, or in substitution for, an existing road which is a highway and the stopping up of such existing road or portion thereof, the stopping up of the existing road shall not, in either case, take place until the highway authority are satisfied that the new road has been completed in accordance with their reasonable requirements and is open for public use or, in the case of any difference between the Executive 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 road has been completed accordingly.
- (2) Before referring the matter to arbitration under this section the Executive shall give to the highway authority 7 days' notice in writing of their intention to do so.

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- (3) As from the completion of the new road 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 road, or portion thereof, authorised to be diverted or stopped up shall be extinguished, and the Executive 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 road, or portion thereof, diverted or stopped.
- (4) Any person who suffers loss by the extinguishment of any private right under subsection (3) above shall be entitled to be paid by the Executive compensation to be determined, in case of dispute, under and in accordance with Part I of the Land Compensation Act 1961.

20 Provisions as to repair of highways

- (1) Any highway, 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 Executive 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) The Executive shall not, by reason of the obligation to maintain any highway under subsection (1) above, be taken to be the street authority in relation to that highway for the purposes of Part III of the Act of 1991.

21 Underpinning of houses near works

The Executive 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 that purpose the following provisions shall have effect:—

- (a) At least 28 days' notice shall (except in case of emergency) be given to the owner, lessee and occupier of the house or building intended to be so underpinned or otherwise strengthened:
- (b) 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:
- (c) If any owner, lessee or occupier of any such house or building shall, within 21 days after the giving of such notice, give 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:
- (d) In any case in which any house or building shall have been underpinned or strengthened under the powers of this section the Executive 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 use 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:
- (e) The Executive shall be liable to compensate the owner, lessee and occupier of every such house or building for any loss or damage which they may suffer by reason of the exercise of the powers of this section:

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- (f) Nothing in this section shall affect liability to compensate under section 6 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, except in so far as compensation is payable under paragraph (e) above:
- (g) Compensation payable under this section shall be determined, in case of dispute, in accordance with Part I of the Land Compensation Act 1961.

22 Use of sewers, etc., for removing water

- (1) The Executive 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 the relevant authority, 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.
- (2) (a) The Executive shall not—
 - (i) discharge any water into any sewer or drain vested in or under the control of the relevant authority except with the consent of that authority and subject to such terms and conditions as that authority 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 relevant authority.
- (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 water within the meaning of section 104 of that Act as if this section were excluded from the reference to any local statutory provision mentioned in section 88 (1) (f) of that Act.
- (b) In the exercise of their powers under this section the Executive shall not damage or interfere with the bed of any watercourse forming part of a main river or the banks thereof within the meaning of section 72 of the Land Drainage Act 1991.
- (4) The Executive 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 Executive and the National Rivers Authority or the relevant authority, as the case may be, under this section shall be determined by arbitration.
- (6) In this section “the relevant authority” means the Council or any sewerage undertaker within the meaning of the Water Industry Act 1991.

23 Attachment of brackets, etc., to buildings for purposes of works

- (1) The Executive may affix brackets, cables, wires and other apparatus required in connection with the tramway system 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—

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- (a) the attachments therein mentioned included any such apparatus; and
 - (b) for the reference to the street lighting authority there were substituted reference to the Executive.
- (2) For the purpose of the provisions of the said section 45 applied by subsection (1) above, consent to the affixing of attachments to a building under subsection (2) of that section shall be deemed to have been withheld if no such consent is received by the Executive before the expiration of the period of 56 days beginning on the date on which the Executive serve on the owner of the building, in accordance with section 285 of the Public Health Act 1936, notice of an application for such consent.

24 Provisions as to use of electrical energy

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

- (1) The Executive shall employ either insulated returns or uninsulated metallic returns of low resistance.
- (2) The Executive shall take all reasonable precautions in constructing, placing and maintaining their electric lines and circuits and other works and also in working the tramway system so as to—
 - (a) minimise the discharge of electrical currents into the ground; and
 - (b) avoid injuriously affecting by fusion or electrolytic action any electric lines or any gas or water pipes, or other metallic pipes, structures or substances, or injuriously interfering with, or with the working of, any wire, line or apparatus used for the purpose of transmitting electrical energy or of telecommunications, or 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 the tramway system, and the design, voltage, testing and working of the overhead line equipment and return circuits of the tramway 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.
- (b) Before making regulations under this section the Secretary of State shall consult the Executive and any statutory undertakers and telecommunications operators (within the meaning of the Telecommunications Act 1984) authorised to maintain or operate apparatus within the City.
- (4) The Executive 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 Executive, 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.

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- (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 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 Executive 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 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.

PART III

LANDS

25 Power to acquire lands

- (1) Subject to the provisions of this Act, the Executive may enter upon, take and use—
 - (a) so much of the land in the City delineated on the deposited plans and described in the deposited book of reference (not being land specified in subsection (2) below) 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 in the City specified in columns (2) and (3) 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 (1) of that Schedule.
- (2) Subject to the provision of this Act, the Council may enter upon, take and use so much of the land in the City delineated on the deposited plans and described in the deposited book of reference and therein numbered 32G as they may require to make available to the Executive for the purpose of—
 - (a) the construction of so much of Works Nos. 9, 9A and 9B as is to be situated on that land and any purpose connected with, or ancillary to, that purpose; and
 - (b) the provision of an interchange terminus, car park and associated facilities.

26 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.

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- (2) All private rights of way over land owned by the acquiring authority which, being within the limits of land which may be acquired shown on the deposited plans, is required for the purposes of this Act shall be extinguished on the appropriation of the land for any of those purposes by the acquiring authority.
- (3) Any person who suffers loss by the extinguishment 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.

27 Power to acquire new rights

- (1) In this section references to the purchase by the acquiring authority of new rights are references to the purchase of rights to be created in favour of the acquiring authority.
- (2) The acquiring authority may, for the purposes of the construction, maintenance, protection, renewal and use of 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.

28 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.
- (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 acquiring authority 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 subject to the notice to treat shall, unless the acquiring authority 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 reference to the tribunal the tribunal determine that the part subject to the notice to treat can be taken

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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 acquiring authority are authorised to acquire compulsorily under this Act.
- (6) If the acquiring authority 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 acquiring authority are authorised to acquire compulsorily under this Act.
- (7) In any case where, by virtue of a determination by the tribunal under subsections (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 acquiring authority 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.
- (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 acquiring authority 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.

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29 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.

30 Set-off for enhancement in value of retained land

- (1) In this section “relevant land” means any land or new rights over any land purchased by the acquiring authority for the purposes of the authorised works.
- (2) In assessing the compensation payable to any person on the purchase by the acquiring authority from him of any relevant land, the tribunal shall—
 - (a) have regard to the extent to which 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.

31 Grant of rights by persons under disability

- (1) Any person empowered by the Act of 1965 as applied by this Act to sell and convey or release lands may, if he thinks fit, subject to the provisions of the Act of 1965, grant to the acquiring authority any right required for the purposes of this Act over the lands.
- (2) Nothing in this section shall be construed as empowering persons to grant any right of water in which any other person has an interest unless that other person concurs in the grant.
- (3) The provisions of the Act of 1965 with respect to lands and rent-charges so far as they are applicable shall apply to any such grant and to any such right as aforesaid.

32 Compensation in case of land subject to mortgage

Where an interest in land is subject to a mortgage—

- (a) any compensation which is payable under this Act in respect of the depreciation in value of that interest shall be calculated as if the interest were not subject to the mortgage;

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- (b) a claim for the payment of any such compensation may be made by any mortgagee of the interest under a mortgage made before the happening of the event giving rise to the compensation, but without prejudice to the making of a claim by any other person;
- (c) a mortgagee shall not be entitled to claim any such compensation in respect of his interest as such; and
- (d) any such compensation payable in respect of the interest subject to the mortgage shall be paid to the mortgagee or, where there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

33 Temporary possession of land

- (1) In this section “the relevant land” means any of the lands in the City specified in Schedule 3 to this Act, numbered 1, 4 and 35 on the deposited plans.
- (2) Subject to the provisions of this section, the Executive may enter upon and take possession temporarily of or use the relevant land for the provision of working sites, and for that purpose may remove any structures and vegetation on the land.
- (3) All private rights of way over any land of which the Executive may take temporary possession under this Act shall be suspended and unenforceable against the Executive for so long as the Executive remain in lawful possession of the land.
- (4) Not less than 28 days before entering upon and taking temporary possession of the relevant land the Executive shall give notice to the owners and occupiers of the land stating the purpose for which possession is required.
- (5)
 - (a) The Executive 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 work of construction for which possession was required.
 - (b) Before giving up possession of the relevant land, the Executive shall remove all temporary works and structures constructed by them on the land and, subject to any agreement to the contrary with the owners and occupiers of the land, restore the relevant land to the reasonable satisfaction of the owners and occupiers.
- (6)
 - (a) The Executive shall not be empowered to purchase compulsorily, or be required to purchase, any land of which they take possession under this section.
 - (b) The Executive 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 that land.
 - (c) Nothing in this section shall relieve the Executive 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.
- (7) Compensation payable under this section shall be determined, in case of dispute, in accordance with Part I of the Land Compensation Act 1961.

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34 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 acquiring authority, 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, 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 Council, 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 acquiring authority 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.

35 Period of compulsory purchase of lands or rights

- (1) The powers of the acquiring authorities 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 an acquiring authority 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.

36 Acquisition of land in advance of requirements

Without prejudice to the generality of their powers to acquire land by agreement under section 10 (1) (xx) of the Transport Act 1968 and section 26 of the Land Compensation Act 1973, the Executive may acquire by agreement any land in their area which in their opinion—

- (a) is likely to be required for extension of the tramway system; or
- (b) by reason of published proposals indicating that it might be so required, is a hereditament in respect of which a valid blight notice could have been served on them under section 150 or 161 of the Town and Country Planning Act 1990 if it were land of the description specified in paragraph 21 of Schedule 13 to the said Act of 1990.

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PART IV

PROTECTIVE PROVISIONS

37 Notice to police, etc

Before breaking up or otherwise interfering with any highway in connection with the construction of the tramway system, the Executive 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.

38 As to highways, traffic, etc

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

- (1) In this section “public highway” means a highway 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 public highway, or the traffic in any public highway, or before temporarily stopping up any public highway, the Executive shall consult the highway authority as to—
 - (a) the time when such part shall be commenced;
 - (b) the extent of the surface of the public highway which it may be reasonably necessary for the Executive 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, the public highway shall be stopped up; and
 - (d) the conditions under which such part shall be constructed or the public 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 Executive; or
- (ii) the highway shall not be stopped up and the interference with traffic shall not be caused by the Executive;

except at such time, to such extent, and in accordance with such conditions, as may be agreed between the Executive 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 public highway in exercise of the powers of section 11 (3) of the Act of 1965 as applied by this Act, the Executive 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

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arbitration before the making of any trial hole is commenced, but if no such objection is made the Executive 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 Executive 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) (a) This paragraph applies to any of the following works (referred to as “a new bridge”), namely—
- (i) a new bridge, or the extension or alteration of an existing bridge, carrying any part of the authorised works over a public highway; and
 - (ii) a new bridge, or the extension of an existing bridge, carrying a public highway over any part of the authorised works;
- (b) Before commencing the construction of a new bridge, or carrying out any work in connection with a new bridge which involves interference with a public highway, the Executive shall submit to the highway authority proper and sufficient plans, sections and specifications thereof (hereinafter referred to as “plans”) for their approval and the construction of the new bridge or, as the case may be, the carrying out of such works shall not be commenced before such plans have been approved by the highway authority or settled by arbitration:
- Provided that if, within 56 days after the submission to them of plans under this paragraph, the highway authority do not notify the Executive of their disapproval thereof and the grounds of their disapproval, they shall be deemed to have approved the plans as submitted;
- (c) Any part of the construction of a new bridge or any part of any work as aforesaid which involves interference with a public highway shall be carried out 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 highway authority;
- (d) A new bridge which carries any part of the authorised works over any public highway shall be constructed in such manner as to prevent, so far as may be reasonably practicable, the dripping of water therefrom;
- (e) The highway authority may, at the cost of the Executive—
- (i) provide and place on a new bridge such apparatus as may from time to time be reasonably necessary for efficiently lighting any public highway under or in the vicinity of the new bridge; and
 - (ii) keep the highway sufficiently lighted during the construction of a new bridge;
- (7) It shall be lawful for the proper officer of the highway authority at all reasonable times, on giving to the Executive such notice as may in the circumstances be reasonable, to enter upon and inspect any part of the authorised works in any public highway, or which may affect any public highway or any property or work of the highway authority, during the execution thereof, and the Executive shall give to such officer all reasonable facilities for such inspection:

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- (8) The Executive 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 public highway or repairable by them or the access thereto:
- (9) If the highway authority, after giving to the Executive 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 public highway, by reason of the diversion thereto of traffic from a highway of a higher classification in consequence of the construction of the authorised works, the Executive shall repay the amount of the expense reasonably so incurred by the highway authority:
- (10) The Executive 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 public 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 public highway except within a hoarding:
- (11) The Executive 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 Executive may occupy any part of a public 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 public highway:
- (12)
 - (a) Where any part of any public highway shall have been temporarily broken up or disturbed by the Executive, the Executive shall make good the subsoil foundations and surface of such part of the road 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:
 - (b) 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 Executive:
- (13) It shall not be lawful for the Executive to place any hoardings on any part of any public 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 public 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:
- (14) The Executive shall make compensation to the highway authority for any subsidence of, or damage to, any public 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 public highway, or maintainable by them, which may be caused by, or in consequence of, any act or

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default of the Executive, their contractors, servants or agents, whether such damage or subsidence shall happen during the construction of the authorised works or at any time thereafter:

- (15) The highway authority may require that the authorised works, so far as they involve any serious interference with the movement of traffic in any public highway, shall be carried on, so far as reasonably practicable, continuously by day and night, and the Executive shall take all such steps as may be reasonably necessary to reduce so far as possible the period of such interference:
- (16) Except as provided in paragraph (5) above, any difference arising between the Executive and the highway authority under this section (other than a difference as to its meaning or construction) shall be determined by arbitration.

39 For protection of British Railways Board

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

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- (1) In this section—
 - “construction” includes placing, alteration and renewal;
 - “the engineer” means an engineer to be appointed by the railways board;
 - “plans” includes sections, drawings, specifications, particulars and descriptions (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 lands held or used by the railways board for the purposes of such railway or works;
 - “the 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, railway property:
 - (2) The Executive shall not under the powers of this Act acquire compulsorily any railway property but they may acquire such easements or other rights in or over any railway property delineated on the deposited plans as they may reasonably require for the purposes of the specified works:
 - (3) The Executive 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 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 56 days after such plans have been supplied to the railways board the engineer shall not have notified his disapproval thereof and the grounds of his disapproval, he shall be deemed to have approved the plans as supplied:

- (4) If, within 56 days after such plans have been supplied to the railways board, the railways board give notice to the Executive that the railways board desire themselves to construct any part of the specified works which, in the opinion of the engineer, will or may affect the stability of railway property or the safe operation of traffic on the railways of the railways board, then, if the Executive desire such part of the specified works to be constructed, the railways board shall construct it with all reasonable

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dispatch on behalf of, and to the reasonable satisfaction of, the Executive in accordance with the plans approved or deemed to be approved or settled as aforesaid:

- (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 commencement of the construction of the specified works to ensure the safety or stability of railway property, and such protective works as may be reasonably necessary for those purposes shall be constructed by the railways board or by the Executive, if the railways board so desire, with all reasonable dispatch; and the Executive shall not commence the construction of the specified works until the engineer shall have notified the Executive that the protective works have been completed:
- (6) The Executive shall give to the railways board not more than six months and not less than 28 days' notice in writing of their intention to commence the construction of any of the specified works 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:
- (7) The construction of the specified works shall, when commenced, be carried out—
 - (a) with all reasonable dispatch in accordance with the plans approved, or deemed to be approved, or settled as aforesaid;
 - (b) under the supervision (if given), and to the reasonable satisfaction, of the engineer;
 - (c) in such manner as to cause as little damage as may be to railway property; and
 - (d) 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;

and, if any damage to railway property or any such interference or obstruction shall be caused or take place in consequence of the construction of the specified works, the Executive shall, notwithstanding any such approval as aforesaid, make good such damage and shall pay to the railways board all reasonable expenses to which they may be put and compensation for any loss which they may sustain by reason of any such damage, interference or obstruction:

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

- (8) The Executive shall at all times afford reasonable facilities to the engineer for access to the specified works during their construction and supply him with all such information as he may reasonably require with regard to the specified works or the method of construction thereof:
- (9) The railways board shall at all times afford reasonable facilities to the Executive and their agents for access to any works carried out by the railways board under this section during their construction, and shall supply the Executive with such information as they may reasonably require with regard to such works or the method of construction thereof:
- (10) If any alterations or additions, whether permanent or temporary, to railway property shall be reasonably necessary during the construction of the specified works, or during a period of 12 months after the completion thereof, in consequence of the construction

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of the specified works, and the railways board give to the Executive reasonable notice of their intention specifying the alterations or additions to be carried out, the Executive shall pay to the railways board the reasonable cost thereof including, in respect of any permanent alterations and additions, a capitalised sum representing the 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 Executive to the railways board under this section:

- (11) The Executive 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 Executive as provided by paragraph (4) above or in constructing any protective works under the provisions of paragraph (5) 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, signalling, watching and lighting railway property 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 are necessary as a result of the construction, repair or failure of the specified works or from the substitution, suspension or diversion of services which may be 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 as a result of the specified works or the failure thereof;
 - (e) in respect of the approval by the engineer of plans submitted by the Executive and the supervision by him of the construction of the specified works:
- (12) If at any time after the completion of the specified works the railways board shall give notice to the Executive that the state of repair of the specified works prejudicially affects railway property, the Executive shall take such steps as may be reasonably necessary to avoid the prejudicial effect on railway property:
- (13) Before providing any illumination or illuminated traffic sign on or in connection with the specified works in the vicinity of any railway of the railways board, the Executive shall consult with the railways board and comply, subject to the approval of the Secretary of State, with the board's reasonable requirements in regard thereto with a view to ensuring that such illumination or illuminated sign will not be confused with any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway:
- (14) The Executive shall be responsible for, and make good to the railways board, all costs, charges, damages and expenses not otherwise provided for in this section which may be occasioned to, or reasonably incurred by, the railways board—
- (a) by reason of the construction or repair of the specified works or the failure thereof; or

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- (b) by reason of any act or omission of the Executive, 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 Executive 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, and the fact that any act or thing may have been done by the railways board on behalf of the Executive under the provisions of this Act, 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 not attributable to the neglect or default of the railways board, or of any person in their employ, or of their contractors or agents) excuse the Executive from any liability under the provisions of this section:

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

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

40 For protection of public sewers

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

- (1) In this section—

“public 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 Executive and the sewerage authority are regulated by the provisions of Part III of the Act of 1991;

“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 public 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, that approval shall be in writing but shall not be unreasonably withheld:
- (3) The Executive 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 (10) below (in this section referred to as “the said plans”) for their approval:

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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 said plans as submitted:

- (4) The said plans of the specified works shall make provision for such new, altered or substituted works 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 public 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, including any such new, altered or substituted works, shall be constructed in accordance with such plans as may be approved or deemed to be approved by the sewerage authority under paragraph (3) above, or settled by arbitration, and to their reasonable satisfaction in compliance with all reasonable orders, directions and regulations of the sewerage authority:
- (6) The Executive shall give to the sewerage authority reasonable notice of the commencement of any new, altered or substituted works:
- (7) 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 Executive, 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 Executive:
- (8) When any new, altered or substituted works shall be completed by, or at the cost of, the Executive 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:
- (9) It shall not be lawful for the Executive 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 public sewer:
- (10) 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 public sewers of the sewerage authority within the limits of deviation (for which purpose the sewerage authority shall allow the Executive access to plans in their possession and to any of their sewers in order to enable the Executive to obtain reliable information) and shall comprise detailed drawings of every alteration which the Executive may propose to make in any such sewer:
- (11) The Executive 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:
- (12) If the Executive, in the construction of the specified works or any new, altered or substituted works provided in accordance with this section, damage or, without the

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consent of the sewerage authority, alter or in any way interfere with any existing public sewer of the sewerage authority, the Executive 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:
- (13) It shall be lawful for the proper officer of the sewerage authority at any reasonable time, on giving to the Executive 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:
- (14) 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 Executive from any liability, or affect any claim for damages, under this section or otherwise:
- (15) The following provisions of this paragraph shall have effect for the provision by the Executive, in the construction of the railways authorised by this Act, of accommodation or other facilities for the laying under those railways of any sewer not more than 18 inches in diameter and any drains or private sewers connecting with any sewer and other associated apparatus (all or any of which is hereafter in this paragraph called “apparatus”):—
- (a) Not less than six months before the Executive commence the construction of any of the railways in any highway they shall give notice thereof in writing to the sewerage authority;
 - (b) If, within 56 days from the service on them of notice of the intended construction of any works under paragraph (a) above, the sewerage authority give to the Executive notice in writing that they desire such accommodation or other facilities to be provided, and such information as the Executive 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 Executive 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 sewerage authority, or in default of agreement, determined by arbitration to be reasonably practicable;
 - (c) Subject to the provisions of this section, the sewerage authority shall be entitled to use accommodation or other facilities and the means of access thereto provided by the Executive 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 sewerage authority shall give to the Executive 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 Executive the sewerage authority shall conform with the reasonable requirements of the Executive as to the times at which, and the manner in which, such undertakers' works affecting the tramway system shall

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- be carried out, and the Executive shall be entitled to superintend the carrying out of such works;
- (f) The sewerage authority shall maintain in good repair and to the reasonable satisfaction of the Executive any apparatus laid and installed in accommodation or facilities provided by the Executive and shall take such precautions as the Executive reasonably require to be taken for ensuring the safety of the railway and the traffic thereon;
 - (g) The accommodation or facilities provided by the Executive shall be maintained by the Executive to the reasonable satisfaction of the sewerage authority;
 - (h) Except in case of emergency, when they shall give such notice as they can, the Executive shall give to the sewerage authority 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 sewerage authority may reasonably require for the protection of, or for preventing interference with, apparatus laid or installed therein:
- (16) As soon as reasonably practicable after the completion of the construction of a specified work the Executive 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:
- (17) (a) If by reason, or in consequence of, the construction or failure of any part of the tramway system or any subsidence resulting from the tramway 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 Executive shall repay the cost reasonably incurred by the sewerage authority in making good such damage and shall—
- (i) make reasonable compensation to the sewerage authority for any loss sustained by them; and
 - (ii) 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;
- (b) Nothing in sub-paragraph (a) above shall impose any liability on the Executive 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;
 - (c) The sewerage authority shall give to the Executive reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Executive:
- (18) Where, in consequence of this Act, any part of any road in which any sewer is situate ceases to be part of the road, 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 Executive or of the sewerage authority to require alteration of such sewer under this section:
- (19) Notwithstanding the temporary stopping up or diversion of any highway under the powers of section 18 (Temporary stoppage of roads) of this Act, the sewerage authority shall be at liberty at all times to construct and do all such works and things in, upon

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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:

- (20) The Executive shall, so far as is reasonably practicable, so exercise the powers conferred by section 21 (Underpinning of houses near works) of this Act as not to obstruct or render less convenient the access to any sewer:
- (21) Any difference arising between the Executive and the sewerage authority under this section (other than a difference as to its meaning or construction) shall be determined by arbitration.

41 For protection of certain statutory undertakers

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

- (1) In this section, unless the context otherwise requires—
- “the undertakers” means the statutory undertakers or any of them, as the case may be, and, in relation to any apparatus, means the undertakers to whom it belongs or by whom it is maintained;
- “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) electric lines and electric plant (as defined in Part I of the Electricity Act 1989) belonging to, or maintained by, a licence holder under that Part;
 - (b) mains, pipes or other apparatus belonging to, or maintained by, a public gas supplier; 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 Executive and the undertakers are regulated by the provisions of Part III of the Act of 1991), and includes any structure for the lodging therein of apparatus;
- “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 Executive shall not acquire any apparatus under this Act otherwise than by agreement:
- (3) If the Executive in the exercise of the powers of this Act acquire any interest in any lands in which any apparatus is placed, that apparatus shall not be removed under this section, nor shall any right of the undertakers 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 undertakers:
- (4) (a) If the Executive, for the purpose of constructing any of the authorised works in, on or under any lands (including lands forming part of any road) acquired, held or used under this Act, require the removal of any apparatus placed in those lands, and give to the undertakers not less than 56 days' written notice of such requirement, together with a plan and section of the work proposed,

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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 Executive shall, if it is practicable to do so, afford to the undertakers the necessary facilities and rights for the construction of any necessary adequate alternative apparatus in other lands of the Executive 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 in a road or elsewhere than in other lands of the Executive, the undertakers shall, on receipt of a written notice to that effect from the Executive, as soon as reasonably practicable exercise their powers to lay the alternative apparatus:
- (5) (a) Subject, in the case of 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 undertakers and the Executive or, in default of agreement, determined by arbitration;
- (b) The undertakers shall, after the manner of construction and the line and situation of any necessary alternative apparatus have been agreed or determined, proceed with all reasonable dispatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the Executive to be removed under the provisions of this section:
- (6) Notwithstanding anything in paragraph (5) above, if the Executive give notice in writing to the undertakers 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 undertakers, shall be carried out by the Executive with all reasonable dispatch under the superintendence (if given) and to the reasonable satisfaction of the undertakers:
- (7) Nothing in paragraph (6) above shall authorise the Executive to carry out the actual placing, erection, installation, bedding, packing, removal, connection or disconnection of any apparatus or, where the apparatus is laid in a trench, execute any filling around the apparatus within 600 millimetres (measured in any direction) of the apparatus:
- (8) Where, in accordance with the provisions of this section, the Executive afford to the undertakers facilities and rights for the construction, maintenance, repair, renewal and inspection in lands of the Executive 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 Executive and the undertakers or, in default of agreement, determined by arbitration:
- (9) In determining the terms and conditions 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 Executive 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

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- (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 Executive 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 undertakers 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 Executive by or to the undertakers 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 Executive under paragraph (4) above, the Executive shall submit to the undertakers 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 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 construction of such works:
- (12) If within 42 days after the submission to them of any plan, section and description under paragraph (11) above, in consequence of the works proposed by the Executive, the undertakers reasonably require the removal of any apparatus and give written notice to the Executive of such requirement, the foregoing provisions of this section shall have effect as if the removal of such apparatus had been required by the Executive under paragraph (4) above:
- (13) Nothing in paragraph (11) or (12) above shall preclude the Executive 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 Executive 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 undertakers 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 Executive shall provide alternative means of access to such apparatus:
- (16) The following provisions of this paragraph shall have effect for the provision by the Executive, 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 six months before the Executive commence the construction of any of the railways in any highway they shall give notice thereof in writing to each of the undertakers;

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- (b) If, within two months from the service on them of notice of the intended construction of any works under paragraph (a) above, the undertakers give to the Executive notice in writing that they desire such accommodation or other facilities to be provided, and such information as the Executive 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 Executive 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 undertakers, or in default of agreement, determined by arbitration to be reasonably practicable;
 - (c) Subject to the provisions of this section, the undertakers shall be entitled to use accommodation or other facilities and the means of access thereto provided by the Executive 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 undertakers shall give the Executive 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 Executive the undertakers shall conform with the reasonable requirements of the Executive as to the times at which, and the manner in which, such undertakers' works affecting the railways shall be carried out, and the Executive shall be entitled to superintend the carrying out of such works;
 - (f) The undertakers shall maintain in good repair and to the reasonable satisfaction of the Executive any apparatus laid and installed in accommodation or facilities provided by the Executive and shall take such precautions as the Executive reasonably require to be taken for ensuring the safety of the railway and the traffic thereon;
 - (g) The accommodation or facilities provided by the Executive shall be maintained by the Executive to the reasonable satisfaction of the undertakers;
 - (h) Except in case of emergency when they shall give such notice as they can, the Executive shall give to the undertakers 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 undertakers may reasonably require for the protection of, or for preventing interference with, their apparatus laid or installed therein:
- (17) (a) The Executive shall repay the reasonable expenses incurred by the undertakers in, or in connection with—
- (i) the removal and relaying 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 as enacted shall extend and apply to any payment to be made by the Executive 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

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so to be by the promoting authority” there were substituted the words “agreed or settled by arbitration under section 41 (For protection of certain statutory undertakers) of the Leeds Supertram Act 1993”:

- (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 undertakers, or any interruption shall be caused in the supply of electricity, gas or, as the case may be, water by the undertakers, the Executive shall repay the cost reasonably incurred by the undertakers in making good such damage, or restoring the supply, and shall—
- (i) make reasonable compensation to the undertakers for any loss sustained by them; and
 - (ii) 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;

- (b) Nothing in sub-paragraph (a) above shall impose any liability on the Executive with respect to any damage or interruption to the extent that such damage or interruption is attributable to the neglect or default of the undertakers, their officers, servants, contractors or other agents;
 - (c) The undertakers shall give to the Executive reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Executive:
- (19) Where, in consequence of this Act, any part of any highway in which any apparatus is situate ceases to be part of the 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 paragraph shall prejudice or affect any right of the Executive or of the undertakers to require removal of such apparatus under this section, or the power of the Executive to execute 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 roads) of this Act, the undertakers 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 Executive shall, so far as is reasonably practicable, so exercise the powers conferred by section 21 (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 Executive and the undertakers 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 Executive to execute any temporary or other works so as to avoid, so far as may be reasonably possible, interference with the use of any apparatus.

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42 For protection of tele- communications operators

For the protection of telecommunications operators the following provisions shall, unless otherwise agreed in writing between the Executive and the telecommunications operators concerned, 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 roads) 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.

43 Removal of human remains

- (1) In this section “the specified land” means the lands in the City numbered 31A on the deposited plans.
- (2) Before the Executive begin to use any part of the specified land for the construction of any authorised works therein they shall remove, or cause to be removed, from that part of the specified land the remains of all deceased persons interred therein in accordance with the following provisions of this section.
- (3) Before any such remains are removed from the specified land the Executive shall give notice of such intended removal, describing the specified land and stating the general effect of the following provisions of this section, by—
 - (a) publishing it once in each of two successive weeks in a newspaper circulating in the City; and
 - (b) displaying it in a conspicuous place upon or near to the specified land.
- (4) At any time within 56 days after the first publication of such notice, any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land, may give notice in writing to the Executive of his intention to undertake the removal of such remains, and thereupon if such remains can be identified he shall be at liberty to cause such remains to be removed and reinterred in any burial ground or cemetery in which burials may legally take place, or to be removed to, and cremated in, any crematorium, and forthwith after such reinterment or cremation shall provide to the Executive a certificate for the purpose of enabling compliance with subsection (8) below.
- (5) If any person giving such notice as aforesaid fails to satisfy the Executive that he is such personal representative or relative as he claims to be, or that the remains in question can be identified, the question shall be determined on the application of either party in a summary manner by the county court, and the court shall have power to make an order specifying who shall remove the remains and as to the payment of the costs of the application.
- (6) The Executive shall defray the reasonable expenses of the removal and reinterment or cremation of such remains.
- (7) If—
 - (a) within the said period of 56 days no notice under subsection (4) above has been given to the Executive in respect of any remains in the specified land; or

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- (b) such notice is given and no application is made under subsection (5) above within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days thereafter; or
- (c) within 56 days after any order is made by the county court under subsection (5) above any person, other than the Executive, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice relates cannot be identified;

the Executive shall remove the remains and cause them either to be reinterred in such burial ground or cemetery in which burials may legally take place as the Executive think suitable for the purpose, or cremated in such crematorium as the Executive think suitable for the purpose:

Provided that if any personal representative or relative has given notice under subsection (4) above and has satisfied the Executive that he is such personal representative or relative as he claims to be, and that the remains in question can be identified, but does not remove the remains, the Executive shall comply with any reasonable request he may make in relation to the removal and reinterment or cremation of the remains.

- (8) Upon the reinterment or cremation of any remains under this section, a certificate of reinterment or cremation shall be sent to the Registrar General by the Executive giving the date of reinterment or cremation and identifying the place from which the remains were removed and the place in which they were reinterred or cremated.
- (9) The removal of the remains of any deceased person under this section shall be carried out in accordance with any directions which may be given by the Secretary of State.
- (10) Any jurisdiction or power conferred on the county court by this section may be exercised by the district judge of the court.
- (11) Section 25 of the Burial Act 1857 shall not apply to a removal carried out in accordance with this section.

44 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 Executive 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.

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- (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 38 (As to highways, traffic, etc.) of this Act apply.

PART V

PENALTY FARES

45 Interpretation for Part V

- (1) In this Part, unless the context otherwise requires—
- “authorised person” means, in relation to any purpose, a person authorised for that purpose by the Executive;
 - “fare ticket” means a ticket authorising the person in respect of whom it is issued to travel on a tram;
 - “general travel authority” means any permit, other than a fare ticket, authorising the person in respect of whom it is issued to travel on a tram;
 - “penalty fare” means a penalty fare payable pursuant to section 47 of this Act;
 - “the penalty fare provisions” means sections 47 to 50 of this Act; and
 - “tramway stop” means a station or other regular stopping place on the tramway system at which passengers may get on or off trams.
- (2) Any reference in this Part to a person producing a fare ticket or general travel authority on being required to do so by an authorised person is a reference to producing, when so required, a fare ticket or general travel authority which, either by itself or together with any other document produced by that person at the same time, is valid for the journey he has made.
- (3) For the purposes of subsection (2) above, a person who is on a tram shall be taken to have made a journey ending at the next scheduled tramway stop.

46 Operation of Part V

- (1) The penalty fare provisions have effect in relation to travel on any tram if an order under subsection (2) below is for the time being in force.
- (2) The Secretary of State may by order (referred to in subsections (3) to (5) below as an “activating order”) provide that the penalty fare provisions shall have effect on and after such day as may be specified in the order.
- (3) The revocation by the Secretary of State of an activating order shall be without prejudice to the power of the Secretary of State to make further activating orders.
- (4) Any activating order, and any order revoking an activating 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.
- (5) No activating order may be made except at the request of the Executive.

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47 Penalty fares

- (1) If a person travelling on a tram, on being required to do so by an authorised person, fails to produce a fare ticket or a general travel authority, he shall be liable to pay a penalty fare if required to do so by an authorised person.
- (2) (a) A person shall not be liable to pay a penalty fare if at the tramway stop where, and the time when, he boarded the tram—
 - (i) in the case of a person falling within paragraph (b)
 - below, there were no facilities for making the required imprint on fare tickets; or
 - (ii) in the case of any other person, there were no facilities for the sale of the necessary fare ticket for his journey.
 - (b) A person falls within this paragraph if (pursuant to a requirement under subsection (1) above) he produces a fare ticket which is invalid only by reason of its not bearing the required imprint.
- (3) Subsections (4) and (5) below have effect with respect to the burden of proof in any action for the recovery of a penalty fare under this section so far as concerns the question whether the facts of the case fall within subsection (2) above.
- (4) In any case where the defendant has provided the plaintiff with a relevant statement in due time it shall be for the plaintiff to show that the facts of the case do not fall within subsection (2) above, and in any other case it shall be for the defendant to show that the facts of the case fall within that provision.
- (5) For the purposes of subsection (4) above—
 - (a) a relevant statement is a statement giving an explanation of the defendant’s failure to produce a fare ticket or general travel authority, together with any information as to his journey relevant to that explanation (including, in every case, an indication of the tramway stop where he boarded the tram); and
 - (b) a statement is provided in due time if it is provided when the defendant is required to produce a fare ticket or general travel authority, or at any later time before the expiration of the period of 21 days beginning with the day following the day on which the journey is completed.
- (6) In this section “the required imprint” means an imprint signifying a date, time and stop (being the date and time when, and the tramway stop where, the imprint is made).

48 Amount of penalty fare

- (1) Subject to subsection (2) below, a penalty fare shall be £10 and shall be payable to the Executive before the expiration of the period of 21 days beginning with the day following the day on which the journey in respect of which it is payable is completed.
- (2) The Secretary of State may by order prescribe that the amount of the penalty fare shall be different (whether higher or lower), and any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

49 Document to be issued in connection with penalty fare requirement

- (1) An authorised person who requires a person (referred to below as “the passenger”) to pay a penalty fare shall give him either a receipt for the payment of the amount of the

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penalty (where the passenger makes that payment to the authorised person) or a notice stating that the requirement has been made.

- (2) A receipt or notice given under subsection (1) above shall specify the passenger's destination on the tram on which he is travelling when required to pay the penalty fare, and shall operate as an authority to him to complete his journey to that destination.
- (3) For the purposes of subsection (2) above, the passenger's destination shall (unless only one destination is possible in the circumstances) be taken to be the destination stated by the passenger or, in default of any statement by him identifying his destination, such destination as may be specified by the authorised person.

50 Notice of penalty fare provisions

- (1) It shall be the duty of the Executive to secure that a warning notice meeting the requirements of subsection (2) below shall be posted—
 - (a) at every tramway stop, in such a position as to be readily visible to prospective passengers; and
 - (b) in every tram, in such a position as to be readily visible to passengers travelling on that vehicle.
- (2) A warning notice posted pursuant to subsection (1) above shall (however expressed) indicate the circumstances (as provided in section 47 of this Act) in which persons travelling on a tram may be liable to pay a penalty fare and state the amount of the penalty fare.

51 Supplementary provisions

- (1) A person who is required to pay a penalty fare shall, unless he pays, immediately and in cash, the amount of the penalty fare to an authorised person requiring such payment, give to that authorised person, if that person requires him to do so, his name and address; and any person failing to do so shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (2) Where an authorised person requires any person to do anything pursuant to any provision of this Act he shall, if so requested by the person concerned, produce to that person a duly authenticated document showing his authority; and a requirement by an authorised person shall be of no effect if, as respects that requirement, he fails to comply with this subsection.

52 Exclusion of double liability

- (1) Where a person has become liable to pay a penalty fare in respect of any journey (referred to below as “the relevant journey”), no proceedings may be brought against him for any of the offences specified in subsection (2) below before the end of the period mentioned in section 48 (1) of this Act; and no such proceedings may be brought after the end of that period if—
 - (a) he has paid the penalty fare to the Executive before the end of that period; or
 - (b) an action has been brought against him for the recovery of that fare.
- (2) The offences mentioned in subsection (1) above are—

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- (a) any offence under byelaws made under section 59 below involving a failure to obtain or produce a fare ticket or general travel authority for the relevant journey;
 - (b) any offence under section 25 (3) of the Public Passenger Vehicles Act 1981 of contravening or failing to comply with any provision of regulations for the time being having effect by virtue of that section and section 60 of this Act by failing to pay the fare properly payable for the relevant journey or any part of it; and
 - (c) any offence under section 5 (3) (a) or (b) of the Regulation of Railways Act 1889 (travelling without paying the correct fare with intent to avoid payment) arising from the relevant journey.
- (3) If proceedings are brought against any such person for any such offence he shall cease to be liable to pay the penalty fare and, if he has paid it, the Executive shall be liable to repay to him an amount equal to the amount of that fare.

53 Orders under this Part

Any power to make an order conferred on the Secretary of State by this Part shall be exercisable by statutory instrument.

PART VI

MISCELLANEOUS AND GENERAL

Noise insulation

54 Insulation against noise

- (1) The Executive may, after consulting the West Yorkshire Passenger Transport Authority, make a scheme providing for the making of grants towards the cost of insulating buildings, or such classes of buildings as the Executive may think fit, or any parts of any such buildings, against noise caused, or expected to be caused, by the use of the tramway system.
- (2) The Executive may make grants in accordance with a scheme made under subsection (1) above.
- (3) A scheme under subsection (1) above—
 - (a) shall specify the areas in respect of which grants are payable;
 - (b) shall make provision as to the persons to whom, the expenditure in respect of which, and the rate at which, the grants are to be paid;
 - (c) may make the payment of any grant dependent upon compliance with such conditions as may be specified in the scheme;
 - (d) shall specify a date, not less than two years after first publication of the notice referred to in subsection (5) below, for the submission of a valid application for a grant; and
 - (e) shall require the Executive, in any case where application for a grant is refused, to give to the applicant at his request a written statement of their reasons for the refusal.

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- (4) A scheme under subsection (1) above may make different provisions with respect to different areas or different circumstances and may be varied or revoked by a subsequent scheme under subsection (1) above without affecting grants already made.
- (5)
 - (a) As soon as may be after the making of a scheme under this section the Executive shall publish, once at least in each of two successive weeks in one or more newspapers circulating in the areas to which the scheme relates, a notice stating the general effect of the scheme and specifying a place or places in each such area where a copy of the scheme may be inspected by any person free of charge at all reasonable hours.
 - (b) A photostatic or other reproduction certified by the secretary of the Executive or some other person authorised by the Executive for that purpose to be a true reproduction of a page, or part of a page, of any newspaper bearing the date of its publication and containing a notice mentioned in this subsection shall be evidence of the publication of the notice and of the date of publication.

55 Orders for insulating new buildings.

- (1) Where the Executive have made a scheme under section 54 (Insulation against noise) of this Act in respect of any area or areas, they may apply to the Secretary of State for an order requiring provision for insulation against noise to be made in any building of a class to which the scheme applies which is erected after a date specified in the order, or in any extension of, or alteration to, any building of such class made after that date.
- (2) The order shall define by reference to a map the areas to which it applies, which may comprise the whole or part of any areas to which the scheme relates.
- (3) Application for an order under this section shall be accompanied by a draft of the order and a map defining the areas to which it relates.
- (4) Before making application for an order under this section the Executive shall publish, once at least in each of two successive weeks in one or more newspapers circulating in the areas to which the draft order applies, a notice—
 - (a) stating the general effect of the intended order;
 - (b) specifying a place in the said areas where a copy of the draft order and of the relevant map may be inspected by any person free of charge at all reasonable hours during a period of 28 days from the date of the first publication of the notice;
 - (c) stating that within that period any person may, by notice to the Secretary of State, object to the application.
- (5) Any person claiming to be affected by the application may object to it by sending notice of his objection, stating the grounds of objection, to the Secretary of State within the period specified in the notice and a copy of the notice of objection to the Executive.
- (6) The Secretary of State may make the order in the terms of the draft or in those terms as modified in such manner as he thinks fit:

Provided that, if any objection is duly made by any person appearing to the Secretary of State to be affected by the application and is not withdrawn, the Secretary of State shall not make the order unless he has caused a public local inquiry to be held into the proposed order and has considered the report of the person who held the inquiry.

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- (7) If the Secretary of State makes an order under this section the Executive shall publish notice of the making, and of the effect, of the order in one or more newspapers circulating in the areas to which the order relates.
- (8) An order under this section shall be a local land charge.
- (9) Where—
- (a) plans are in accordance with building regulations deposited with a local authority; or
 - (b) an initial notice is given to a local authority under section 47 of the Building Act 1984;
- for the erection or alteration of a building in an area to which an order under this section relates, the local authority shall, notwithstanding anything in section 16 or 47 of that Act, reject the plans or, as the case may be, the notice unless it is shown to them—
- (i) that satisfactory provision will be made for insulating the building (or, as the case may be, the extension or alteration of the building) against noise; or
 - (ii) that in the case of an extension or alteration no such insulation is necessary.
- (10) Section 16 (6) to (8) and section 36 (2) to (6) and section 48 (2) of the Building Act 1984 (notice of rejection or passing of plans, enforcement of requirements and effect of initial notice) shall have effect as if this section were a section of that Act and specified in section 48 (3) of that Act.

56 Repeal of sections 54 and 55

- (1) If it appears to the Secretary of State that, as a result of the passing of any enactment after the date of this Act, it is appropriate that sections 54 (Insulation against noise) and 55 (Orders for insulating new buildings) of this Act should be repealed, he may make an order repealing those sections.
- (2) An order under this section shall be made by statutory instrument and may contain such transitional, consequential and saving provisions as may be appropriate.
- (3) An order under this section shall not be made except on an application by the Executive.

Prevention of obstruction

57 Removal of obstructions

- (1) If any obstruction to traffic on the tramway system 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 Executive may remove the vehicle or load, taking all necessary steps for that purpose, and may recover from the 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—

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- (i) the owner of the vehicle at the time at which it became an obstruction to traffic on the tramway system unless he shows that he was not concerned in, or aware of, the placing of the vehicle at that time; and
 - (ii) the person by whom the vehicle was placed so that it became an obstruction to traffic on the tramway system; 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 placing of the vehicle or its load at that time; and
 - (ii) the person in charge of the vehicle at the time when the load fell from it.

58 Power to lop trees overhanging railway

- (1) The Executive may cut and lop any trees in or near any railway forming part of the tramway system 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 vehicles and their passengers.
- (2) In exercising the powers of this section the Executive shall do no unnecessary damage to trees and shall pay compensation to any person who may sustain damage by reason of exercise of the powers.

Public order

59 Byelaws relating to tramway system

- (1) The Executive may make byelaws regulating the use of and working of, and travel on, the tramway system, the maintenance of order on the tramway system and on the Executive's premises or other facilities provided in connection with the tramway system, and the conduct of all persons, including officers and servants of the Executive, 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 the tramway system, 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 the tramway system or other facilities provided in connection with the tramway system;
 - (c) for prohibiting or regulating the carriage of dangerous goods on the tramway system;
 - (d) with respect to the use of tobacco or other substances and the prevention of nuisances;
 - (e) for regulating the passage of bicycles and other vehicles on ways and other places intended for the use of persons on foot within premises of the Executive forming part of the tramway system, not being premises within the boundary of any road;
 - (f) for the safe custody and re-delivery or disposal of property found in premises of the Executive forming part of, or provided in connection with, the tramway

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system, or elsewhere on the tramway system and for fixing the charges which may be made in respect thereof; and

- (g) for prohibiting or restricting the placing or leaving of any vehicle without its driver on any authorised railway, or in premises of the Executive forming part of the tramway system.
- (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 Executive in the conduct of the tramway system, it shall be lawful for the Executive summarily to take action to obviate or remove the danger, annoyance or hindrance.
- (5) In subsection (4) above the reference to action to obviate or remove danger, annoyance or hindrance includes, in the case of a vehicle parked in any part of any premises provided in connection with the tramway system which is not a public highway, in contravention of any byelaw having effect under this section, action to fix to the vehicle a device or appliance for the purpose of preventing it from being driven or put in motion, together with a notice specifying the steps to be taken to secure the release of the vehicle from the device or appliance.
- (6) Subsections (5) to (11) of section 67 of the Transport Act 1962 (confirmation of byelaws) shall apply to any byelaws made by the Executive under this section as if for references to the board, or to the board in question, there were substituted references to the Executive.

60 Trams 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 trams were public service vehicles used in the provision of a local service within the meaning of the Transport Act 1985.
- (2) (a) The Executive 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 Executive shall publish in a newspaper circulating in their area, 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 Executive 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.

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61 Intentional obstruction of works or operation of tramways

- (1) Any person who, without reasonable excuse, intentionally obstructs another person in the laying out, construction, repair or renewal of any authorised work shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (2) Any person who, without reasonable excuse, intentionally—
- (a) removes or alters any part of a tramway;
 - (b) operates, moves, or tampers with, any mechanical or electrical apparatus forming part of a tramway; or
 - (c) places any obstruction on any part of a tramway or otherwise obstructs a tram on any tramway;
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

62 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 of the tramway system which is not designated as a tramway and which is sufficiently fenced to deter trespass, or upon any other lands of the Executive 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 shall be 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 of the tramway system by notice clearly exhibited and maintained at the station on the tramway system nearest to the place where the offence is alleged to have been committed.

63 Modification of railway regulation enactments

In their application to the Executive and the tramway system the enactments specified in column (1) of the following table (which create the offences broadly described in column (2) of the table) shall each have effect as if the maximum fine which may be imposed on summary conviction of any offence specified in the enactment were, instead of that specified in column (3) of the table, a fine not exceeding the level specified in column (4) of the table.

THE TABLE

(1) Enactment	(2) Description of offence	(3) Maximum fine otherwise applicable (level on standard scale)	(4) Maximum fine (level on standard scale)
Section 16 of the Railway Regulation Act 1840.	Obstruction of officers of railway company or	Level 1.	Level 3.

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(1) Enactment	(2) Description of offence	(3) Maximum fine otherwise applicable (level on standard scale)	(4) Maximum fine (level on standard scale)
	trespass upon railway.		
Section 17 of the Railway Regulation Act 1842.	Misconduct of persons employed on railways.	Level 1.	Level 3.
In section 5 of the Regulation of Railways Act 1889—			
Subsection (1)	Failure to produce ticket, to pay fare or to give name and address.	Level 1.	Level 2.
Subsection (2)	Travel with intent to avoid payment of fare.	Level 2.	Level 3.

General

64 Power to contract for police

- (1) The Executive may from time to time make agreements with the chief officer of police and a police authority for the employment by the Executive of any members of the police establishment of that police authority for police duty within the Executive's premises, or other facilities provided in connection with the tramway system, or elsewhere upon any part of the tramway system.
- (2) Any such agreement may contain such terms and conditions and provide for such payment or consideration as the Executive may agree with the police authority.
- (3) Where agreement under this section is made with the railways board, members of the British Transport Police Force may act in accordance with the terms of the agreement as constables in, on and in the vicinity of any premises of the Executive notwithstanding the provisions of subsection (1) of section 53 (As to appointment of constables) of the British Transport Commission Act 1949.
- (4) In this section "police authority" includes—
 - (a) a police authority within the meaning of the Police Act 1964; and
 - (b) the railways board.

65 Powers to operate tramway system and charge

- (1) The Executive may operate and use the tramway system for the carriage of passengers and goods.

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- (2) The Executive may demand, take and recover such charges for the use of the tramway system and any services and facilities provided in connection therewith, and may make such use subject to such terms and conditions, as they think fit.

66 Powers of disposal, agreements for operation, etc

- (1) The Executive may, with the consent of the Secretary of State, sell, lease, charge or otherwise dispose of, on such terms and conditions as they think fit, the whole or any part of the tramway system or the right to operate the tramway system under this Act.
- (2) Without prejudice to the generality of subsection (1) above, the Executive may enter into and carry into effect agreements with respect to any of the following matters, namely, the construction, maintenance, use and operation of the tramway system, or any part or parts of that system, by any other person, and other matters incidental or subsidiary thereto or consequential thereon, and the defraying of, or the making of contributions towards, the cost of the matters aforesaid by the Executive or any other person.
- (3) Any agreement under subsection (2) above may provide (inter alia) for the exercise of the powers of the Executive in respect of the tramway system or any part or parts thereof, and for the transfer to any person of the tramway system or any part or parts thereof together with the rights and obligations of the Executive in relation thereto.
- (4) The exercise of the powers of any enactment by any person in pursuance of any sale, lease, charge or disposal under subsection (1) above, or any agreement under subsection (2) above, shall be subject to the same restrictions, liabilities and obligations as would apply under this Act if those powers were exercised by the Executive.
- (5) For the avoidance of doubt it is hereby declared that nothing in section 15 (2) of the Transport Act 1968 (restriction on alteration of charges) shall apply in relation to the operation of the tramway system by any person other than the Executive, but this subsection is without prejudice to any provision with respect to charges that may be made in an agreement under subsection (1) or (2) above.
- (6) (a) The Council shall have power to acquire or to take on lease from the Executive pursuant to subsection (1) above the whole or any part of the tramway system, or the right to operate that system.
- (b) The Council or the railways board may enter into and carry into effect agreements with the Executive under subsection (2) above.

67 Application of landlord and tenant law

- (1) This section applies to any agreement for leasing to any person the whole or any part of the tramway system or the right to operate the same under section 66 (1) of this Act, and any agreement entered into by the Executive with any person for the construction, maintenance, use or operation of the tramway system, or any part of that system, under section 66 (2) of this Act so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.
- (2) No enactment or rule of law regulating the rights and obligations of landlords and tenants shall prejudice the operation of any agreement to which this section applies.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (3) Accordingly no such enactment or rule of law shall apply in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—
- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
 - (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
 - (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

68 Restoration of streets if tramway discontinued

If the Executive cease to operate any tramway with the intention that that cessation shall be permanent, they shall as soon as reasonably practicable, unless otherwise agreed with the highway authority—

- (a) remove from the street in which that discontinued tramway is laid, the rails and any other works, equipment and apparatus which have become redundant; and
- (b) restore, to the reasonable satisfaction of the highway authority, the part of the street along which the discontinued tramway was laid, regard being had to the condition of the street before the tramway was laid.

69 Local inquiries

- (1) Subject to subsection (2) below, subsections (2) to (5) of section 250 of the Local Government Act 1972 (supplementary provisions with respect to local inquiries held in pursuance of that section) shall apply to local inquiries under this Act as they apply to inquiries under that section.
- (2) Subsection (4) of the said section 250 shall apply in accordance with subsection (1) above, in relation to such local inquiries as are held with respect to any order under this Act as if the reference to a local authority in that subsection were a reference to the Executive.

70 Arbitration

Where under this Act any difference (other than a difference to which the provisions of the Act of 1965 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.

71 Planning permission

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

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (2) Subsection (1) above shall not apply to the carrying out of any development consisting of the alteration, maintenance or repair of the authorised works or the substitution of new works therefor.
- (3) The planning permission referred to in subsection (1) above is that granted for development permitted by article 3 of, and Class A in Part 11 of Schedule 2 to, the Town and Country Planning General Development Order 1988 (which permits development authorised by private Act designating specifically both the nature of the development thereby authorised and the land on which it may be carried out).