

ELIZABETH II



1984 CHAPTER xx

An Act to empower the British Railways Board to construct works and to purchase land; to confer further powers on the Board and Sealink Harbours Limited; and for other purposes. [26th July 1984]

WHEREAS—

(1) By the Transport Act 1962 the British Railways Board 1962 c. 46. (hereinafter referred to as “the Board”) were established:

(2) It is the duty of the Board under the said Act of 1962 (inter alia) to provide railway services in Great Britain and, in connection with the provision of railway services, to provide such other services and facilities as appear to the Board to be expedient, and to have due regard, as respects all those railway and other services and facilities, to efficiency, economy and safety of operation:

(3) It is expedient that the Board should be empowered to construct the works authorised by this Act and to purchase the land referred to in this Act:

1981 c. 56.

(4) By the Sealink Harbours Scheme 1981, made by Sealink U.K. Limited under section 2 of the Transport Act 1981, there was transferred from Sealink U.K. Limited (a wholly-owned subsidiary of the Board) to Sealink Harbours Limited (a wholly-owned subsidiary of Sealink U.K. Limited) on 11th July 1982 (inter alia) all the property, rights and liabilities comprised in that part of the undertaking of Sealink U.K. Limited which consists of the harbour known as Parkeston Quay in the district of Tendring in the county of Essex:

(5) It is expedient that the powers in this Act contained should be conferred on Sealink Harbours Limited:

(6) It is expedient that the other powers in this Act contained should be conferred on the Board as therein provided, and that the other provisions in this Act contained should be enacted:

(7) Plans and sections showing the lines or situations and levels of the works to be constructed under this Act, and plans of the land authorised to be purchased or used by this Act, and a book of reference to such plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said land were duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the proper officers of the county councils of the several counties within which the said works will be constructed or the said land is situated, which plans, sections and book of reference are respectively referred to in this Act as the deposited plans, the deposited sections and the deposited book of reference:

(8) The purposes of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the British Railways (No. 2) Act 1984.

Interpretation.

2.—(1) In this Act, unless the context otherwise requires, words and expressions to which meanings are assigned by the

enactments incorporated herewith have in relation to the related subject-matter the same respective meanings; and—

PART I
—cont.

- “the Act of 1845” means the Railways Clauses Consolidation Act 1845; 1845 c. 20.
- “the Act of 1863” means the Railways Clauses Act 1863; 1863 c. 92.
- “the Act of 1965” means the Compulsory Purchase Act 1965; 1965 c. 56.
- “the (No. 2) Act of 1981” means the British Railways (No. 2) Act 1981; 1981 c. xxxv.
- “the Board” means the British Railways Board;
- “enactment” includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;
- “the limits of deviation” means the limits of deviation shown on the deposited plans;
- “reference point” means Ordnance Survey National Grid reference point;
- “the specified enactments” means the Highway (Railway Crossings) Act 1839, section 9 of the Railway Regulation Act 1842, section 47 of the Act of 1845, sections 5, 6 and 7 of the Act of 1863 and any other provision to the same or similar effect incorporated with, or contained in, any enactment; 1839 c. 45.
1842 c. 55.
- “traffic sign” has the meaning assigned to it by section 54 of the Road Traffic Regulation Act 1967; 1967 c. 76.
- “the tribunal” means the Lands Tribunal; and
- “the works” means the works authorised by Part II (Works, etc.) of this Act.

(2) All directions, 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 direction, distance and length and distances between points on a railway shall be taken to be measured along the railway.

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

3.—(1) The following enactments, so far as the same are applicable for the purposes of and are not inconsistent with this Act, are incorporated with this Act, and this Act shall be the special Act for the purposes of the said incorporated enactments:—

Incorporation
of general
enactments.

- (a) the Act of 1845, except sections 1, 7, 8, 9, 11, 12, 15, 17, 19, 20, 22 and 23 thereof; and

PART I
—*cont.*

(b) in the Act of 1863, Part I (relating to the construction of a railway), except sections 13 to 19 thereof.

(2) (a) For the purposes of the enactments incorporated by subsection (1) above—

(i) the expression “the company” where used in those enactments means the Board; and

(ii) Works Nos. 3 and 4 shall be deemed to be railways authorised by the special Act.

(b) Sections 18 and 21 of the Act of 1845, as incorporated by subsection (1) above, shall not extend to regulate the relations between the Board and any other person in respect of any matter or thing concerning which those relations are regulated in any respect by the provisions of—

1950 c. 39.

(i) Part II of the Public Utilities Street Works Act 1950; or

(ii) section 27 (For protection of electricity, gas and water undertakers) of this Act.

Application of Part I of Compulsory Purchase Act 1965.

4.—(1) Part I of the Act of 1965 (except sections 4 and 27 thereof and paragraph 3 (3) of Schedule 3 thereto), so far as it is applicable for the purposes of and is not inconsistent with this Act, shall apply to the compulsory purchase of land under this Act as it applies to a compulsory purchase to which the Acquisition of Land Act 1981 applies and as if this Act were a compulsory purchase order under the said Act of 1981.

1981 c. 67.

(2) In section 11 (1) of the Act of 1965 (which empowers the acquiring authority to enter on and take possession of land the subject of a notice to treat after giving not less than 14 days’ notice), as so applied, for the words “fourteen days” there shall be substituted the words “three months”.

1845 c. 18.

(3) The Lands Clauses Consolidation Act 1845 shall not apply to the purchase of land under this Act.

PART II

WORKS, ETC.

Works

Power to make works.

5.—(1) The Board may, in the lines or situations and within the limits of deviation shown on the deposited plans and according to the levels shown on the deposited sections, make and maintain the following works with all necessary works and conveniences connected therewith:—

In the metropolitan county of South Yorkshire—

In the borough of Rotherham—

PART II
—cont.

Work No. 1 A railway (743 metres in length) at Swinton commencing by a junction with the railway between Sheffield and York at a point 276 metres north of the bridge carrying the said railway over Station Street and terminating by a junction with the railway between Wath and Doncaster at a point 130 metres west of the bridge carrying the last-mentioned railway over Rowms Lane: (Railway at Swinton).

In the metropolitan county of West Midlands—

In the city of Birmingham—

Work No. 2 A railway (241 metres in length) commencing at a point 26 metres north-east of the junction of Branston Street and Hall Street and terminating by a junction with the commencement of Work No. 6 authorised by the British Railways Act 1981 at a point 32 metres south-east of the junction of Livery Street and Northwood Street: (Railway at Birmingham). 1981 c. xxiii.

In the metropolitan county of Greater Manchester—

At Longsight in the city of Manchester—

Work No. 3 A widening on the north-east side thereof of the bridge carrying the railway between Stockport and Manchester over Stanley Grove: (Bridge widening over Stanley Grove, Longsight).

Work No. 4 A widening on the north-east side thereof of the bridge carrying a connection between the railway between Stockport and Manchester and the Board's Longsight depot over Kirkmanshulme Lane. (Bridge widening over Kirkmanshulme Lane, Longsight).

(2) The Board may, on lands in the ownership of, or to be made available to, them and in the line or situation and within the limit of deviation shown on the deposited plans and according to the levels shown on the deposited sections, maintain the following work, which has already been constructed by the Board, with all necessary works and conveniences connected therewith:—

In the county of Nottinghamshire—

Work No. 5 A railway (452 metres in length) at Rufford commencing in the district of Mansfield by a junction with the railway between Clipstone Colliery Junction and Blidworth Colliery at a point 575 metres south-west of the said junction and terminating in the parish of Rufford in the district of Newark by a junction with the Rufford (Railway at Rufford).

PART II
—cont.

colliery branch railway at a point 620 metres north of the bridge carrying the last-mentioned railway over Eaking Road.

(3) Notwithstanding anything shown on the deposited sections or in the Act of 1845, as incorporated with this Act, the Board may construct Work No. 3 with a clear headway of not less than 4.373 metres above the surface of the road as shown on the deposited sections.

(4) The Board may, in relation to Works Nos. 3 and 4, form and lay out means of access at the points specified in column (1) of Schedule 1 to this Act for the purposes mentioned in column (2) of that schedule.

Provisions incidental to section 5

Appropriation
of works for
Work No. 1.
1847 c. ccxci.

6.—(1) In this section—

“the Act of 1847” means The South Yorkshire, Doncaster, and Goole Railway Act 1847; and

“the original works” means so much of the works authorised by section XXI of the Act of 1847 as relates to a branch railway described in that section as commencing and terminating in the former township of Swinton and as lies within the limit of deviation of Work No. 1.

(2) If the Board proceed with the construction of Work No. 1 they may hold, use and appropriate such part of the original works as they require for the purposes of Work No. 1 and shall be relieved of the obligation to maintain such part of the original works for the purposes of the Act of 1847.

(3) Subject to subsection (2) above, all the powers and obligations conferred or imposed upon the Board by the Act of 1847 in relation to the original works shall cease to have effect.

(4) Any person who suffers loss by the extinguishment of any private right under this section shall be entitled to be paid by the Board compensation, to be determined in case of dispute by the tribunal.

Appropriation
of works for
Work No. 2.
1846 c. cccxv.

7.—(1) In this section—

“the Act of 1846” means The Birmingham, Wolverhampton, and Dudley Railway Act 1846;

“the original enactments” means sections LI and LII of the Act of 1846 (which provide protection for streets, drainage and waterworks in Birmingham); and

“the original works” means so much of the works authorised by section XIX of the Act of 1846 as lies within the limit of deviation of Work No. 2.

(2) (a) If the Board proceed with the construction of Work No. 2—

(i) they may hold, use and appropriate such part of the original works as they require for the purposes of Work No. 2 and shall be relieved of the obligation to maintain such part of the original works for the purposes of the Act of 1846; and

(ii) the provisions of the original enactments, so far as the same are applicable for the purposes of and are not inconsistent with or varied by this Act, shall continue to apply to the original works.

(b) The expressions “the Company” and “the said Company” where used in the original enactments shall mean the Board.

(3) Subject to subsection (2) above, all the powers and obligations conferred or imposed upon the Board by the Act of 1846 in relation to the original works shall cease to have effect.

(4) Any person who suffers loss by the extinguishment of any private right under this section shall be entitled to be paid by the Board compensation, to be determined in case of dispute by the tribunal.

Bridges

8.—(1) In this section—

“the designated enactment” means—

(a) in relation to the Kirkmanshulme Lane bridges, subsection (3) (B) of section 18 (For protection of corporation of Manchester) of the London and North Western Railway (Additional Powers) Act 1899; and

(b) in relation to Stanley Grove bridge, section 8 (Heights and spans of certain bridges) of the London and North-western Railway (New Railways, &c.) Act 1878;

Bridges at
Longsight,
Manchester.

1899 c. ccxiii.

1878 c. clxxxii.

“the Kirkmanshulme Lane bridges” means the two bridges at Longsight in the city of Manchester in the metropolitan county of Greater Manchester carrying the railway between Stockport and Manchester and a railway comprising a connection between that railway and the Board’s Longsight depot over Kirkmanshulme Lane; and

“Stanley Grove bridge” means the said bridge at Longsight carrying the railway between Stockport and Manchester over Stanley Grove.

(2) Notwithstanding anything in the designated enactment the Board shall not be obliged to maintain and keep cleansed the

PART II
—cont.

brick facings on the piers and abutments of the Kirkmanshulme Lane bridges.

(3) Notwithstanding anything shown on the deposited sections or in the designated enactment the Board may maintain Stanley Grove bridge with a clear headway of not less than 4.373 metres above the surface of the road.

Reconstruction
of bridges at
Birmingham.

9.—(1) In this section—

“the bridges” means the two bridges in the city of Birmingham in the metropolitan county of West Midlands carrying the railways between Derby and Rugby and Birmingham (New Street) station over Andover Street and Banbury Street or either of them; and

“relevant enactments” means—

(a) the fifth to the eighth paragraphs of section XXIV (Protecting the Interests of the Commissioners of Streets within the Town of Birmingham) of the Act 9 & 10 Vict. (1846) c. ccclix intituled “An Act for making a Railway from the London and Birmingham Railway to or near to Navigation Street within the Borough of Birmingham”; and

(b) paragraphs (13) and (16) of section 11 (For the protection of the corporation of Birmingham) of the London and North Western Railway (New Railways) Act 1892.

1892 c. clxviii.

(2) Notwithstanding anything in any enactment relating to the bridges, but subject to subsection (3) below, the Board may if at any time they require to reconstruct the bridges—

(a) reconstruct the same with such span and headway as they think fit; and

(b) for that purpose, stop up and discontinue so much of the footways crossed by the bridges as they require and as are situate within the lines marked “Public footways under bridges to be stopped up and appropriated” on the deposited plans.

(3) (a) If reconstructed under this section, the bridges shall (except as otherwise agreed in writing between the Board and the Birmingham City Council) have, in relation to the roads which they cross as mentioned in paragraph (b) below, the dimensions therein specified.

(b) The roads and dimensions referred to in paragraph (a) above are—

(i) Andover Street, a clear span of 9.7 metres with a clear headway of 5.1 metres; and

(ii) Banbury Street, a clear span of 10.2 metres with a clear headway of 5.1 metres.

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—cont.

(4) If the bridges are reconstructed under this section, the provisions of the relevant enactments, to the extent that they are applicable to those bridges, shall cease to apply to them.

Footpaths

10.—(1) The Board may stop up and discontinue the portions of the existing footpaths referred to in subsection (2) below (which cross the railway on the level between Robertsbridge and Battle stations), and may make and maintain the new footpaths referred to in subsection (3) below with all necessary works and conveniences connected therewith.

Stopping up,
etc., footpaths
at Mountfield,
East Sussex.

(2) The portions of the existing footpaths to be stopped up under subsection (1) above are the following:—

In the county of East Sussex—

In the parish of Mountfield in the district of Rother—

(a) so much of the footpath between All Saints Church and the private road between Eatenden Lane and the premises of British Gypsum as lies between the points marked “A” and “B” on the deposited plans at Lot’s Wood footpath level crossing (reference point TQ 7369:1983);

(b) so much of the footpath between Glottenham Farm and Mountfield Court as lies between the points marked “A” and “B” on the deposited plans at High Hurst footpath level crossing (reference point TQ 7314:2170); and

(c) so much of the footpath between Lower Hucksteep Wood and Eatenden Lane as lies between the points marked “A”, “B” and “C” on the deposited plans at Selmes Webbs footpath level crossing (reference point TQ 7411:1978).

(3) The new footpaths to be made and maintained under subsection (1) above are the following:—

In the said parish of Mountfield—

(a) a new footpath, to be provided in substitution for the portion of the footpath at High Hurst footpath level crossing to be stopped up under subsection (2) (b) above, between the points marked “A”, “C”, “D” and “E” in the position shown on the deposited plans, a portion thereof between the points marked “C” and “D” to be taken under the railway between Robertsbridge and Battle stations by means of an existing underpass; and

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—cont.

(b) a new footpath, to be provided in substitution for the portion of the footpath at Selmes Webbs footpath level crossing to be stopped up under subsection (2) (c) above, between the points marked "A", "D", "E" and "F" in the position shown on the deposited plans.

Level crossings

Stopping up,
etc., level
crossings.

11.—(1) The Board may, at the level crossings described in this section, stop up and discontinue so much of the following roads as lies within the boundaries of their property:—

(a) In the county of Essex—

In the district of Basildon—

Wick Lane, Wickford, which is crossed by the railway between Wickford and Rayleigh stations at the level crossing known as Wick Lane crossing (reference point TQ 7533:9301):

(b) In the county of Suffolk—

In the borough of St. Edmundsbury—

the road between Great Barton and Bury St. Edmunds which is crossed by the railway between Bury St. Edmunds and Thurston stations at the accommodation level crossing known as Cattishall No. 15 crossing (reference point TL 8855:6510).

(2) Any person who suffers loss by the extinguishment of any private right consequent upon the stopping up of Wick Lane crossing or Cattishall No. 15 crossing under subsection (1) above shall be entitled to be paid by the Board compensation, to be determined in case of dispute by the tribunal.

(3) (a) The stopping up under this section of Wick Lane and Cattishall No. 15 crossings shall not affect the right of persons to use the same on foot and the Board shall provide and maintain wicket gates on both sides of the railway at the said level crossings.

(b) Upon the stopping up of Wick Lane crossing, the provisions of the specified enactments shall cease to apply to that crossing.

Poplar Road
level crossing,
Attleborough,
Norfolk.

12.—(1) In this section "Poplar Road crossing" means the level crossing in the parish of Attleborough in the district of Breckland in the county of Norfolk (reference point TM 0403:9392) whereby Poplar Road is crossed by the railway between Attleborough and Eccles Road stations.

(2) Notwithstanding the provisions of sections CCLXXVIII and CCCXXXVII (which provide for the construction of accommodation works and the imposition of penalties for failure to fasten gates) of the Act 7 & 8 Vict. (1844) c. xv intituled "An Act for making a Railway from Norwich to Brandon, with a Branch to Thetford" or any other enactment the vehicular gates at Poplar Road crossing may be kept open to road traffic and away from the railway at all times while the railway is closed to rail traffic.

PART II
—cont.

13.—(1) In this section—

"Carns-Alder crossing" means a new level crossing at Carns-Alder in the district of Fareham in the county of Hampshire whereby the new road between Newgate Lane (B.3385) and Gosport Road (A.32) proposed to be constructed by the council will be carried across the railway between Fareham and Gosport on the level at reference point SU 5750:0506 or in the vicinity thereof; and

New level crossing at Fareham, Hampshire.

"the council" means Hampshire County Council.

(2) The Board and the council may enter into and carry into effect agreements—

(a) for the construction of Carns-Alder crossing; and

(b) for defraying, or making contributions towards, the cost of constructing, maintaining and renewing Carns-Alder crossing and any other matters relating thereto.

(3) The Board may, subject to such requirements as the Secretary of State may from time to time lay down, provide, maintain and operate at or near Carns-Alder crossing such barriers, lights, traffic signs and automatic or other devices and appliances as may be approved by the Secretary of State.

(4) Any expenses incurred by the council for the purposes of this section shall be deemed to be expenses incurred by them in the exercise of their powers as a highway authority under the Highways Act 1980.

1980 c. 66.

14.—(1) In this section "the new level crossings" means two new level crossings, or either of them, in the borough of Oswestry in the county of Shropshire at Pentre Clawdd in the parish of Whittington and at Weston in the parish of Oswestry Rural (reference points respectively SJ 3015:3188 and SJ 2983:2741 or in the vicinity thereof) whereby the new Oswestry bypass road proposed to be constructed by the Secretary of State will twice be carried across the Gobowen to Nantmawr branch railway on the level.

New level crossings at Oswestry, Shropshire.

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—cont.

(2) The Board and the Secretary of State may enter into and carry into effect agreements—

- (a) for the construction of the new level crossings; and
- (b) for defraying, or making contributions towards, the cost of constructing, maintaining and renewing the new level crossings and any other matters relating thereto.

(3) The Board may, subject to such requirements as the Secretary of State may from time to time lay down, provide, maintain and operate at or near the new level crossings such barriers, lights, traffic signs and automatic or other devices and appliances as may be approved by the Secretary of State.

(4) Any expenses incurred by the Secretary of State for the purposes of this section shall be deemed to be expenses incurred by him in the exercise of his powers as a highway authority under the Highways Act 1980.

1980 c. 66.

Night-time
closure of level
crossings.

15.—(1) In this section—

“the level crossings” means Holton Gatehouse crossing and Smithfield Road crossing;

“Holton Gatehouse crossing” means the level crossing in the parish of Holton le Moor in the district of West Lindsey in the county of Lincolnshire (reference point TF 0890:9830) whereby the road linking the A.46 road with the B.1434 road is crossed by the railway between Barnetby and Market Rasen stations; and

“Smithfield Road crossing” means the level crossing in the parish of North Kelsey in the district of West Lindsey (reference point TA 0725:0140) whereby Smithfield Road is crossed by the railway between Barnetby and Market Rasen stations.

(2) Notwithstanding the provisions of the specified enactments the vehicular gates at the level crossings may be kept permanently closed across the road from 2300 hours to 0600 hours.

(3) While the vehicular gates at the level crossings are closed in accordance with subsection (2) above, the Board shall not be required to employ proper persons to open and shut the gates at the level crossings.

(4) Notwithstanding the provisions of the specified enactments or any other enactment including this section, while the railway is closed to rail traffic, the Board may keep the vehicular gates at the level crossings permanently open to road traffic and shall not be required to employ proper persons to open and shut the gates at the level crossings.

16.—(1) (a) All rights of way over the level crossing referred to in Part I of Schedule 2 to this Act are hereby extinguished.

(b) All rights of way over the level crossing referred to in Part II of that schedule, other than a right for all persons to use that level crossing on foot, are hereby extinguished and the Board shall provide and maintain wicket gates or stiles on both sides of the railway at the said level crossing.

(c) All rights of way over the level crossing referred to in Part III of that schedule, other than a right for all persons to use that level crossing as a bridleway or on foot, are hereby extinguished and the Board shall provide and maintain gates on both sides of the railway at the said level crossing.

(2) The specified enactments shall cease to apply to the level crossings referred to in Schedule 2 to this Act.

(3) The level crossings referred to in Schedule 2 to this Act (including the gates thereof, other than the gates provided under subsection (1) above) shall be deemed to be works provided by the Board at the passing of this Act under section 68 of the Act of 1845 for the accommodation of the owners and occupiers of the land adjoining the railway and, for the purposes of this subsection, such owners and occupiers shall be deemed to include the owners and occupiers of any land the use of which would have been interrupted if such level crossings had been closed at the passing of this Act.

(4) If any part of the road crossed by the railway at the level crossings referred to in Schedule 2 to this Act shall in consequence of this section cease to be a road over which the public has a right of way for the passage of vehicles, the owners and occupiers of the land abutting on such part shall be deemed to have such rights of passage thereover as shall be necessary to enable them to pass and repass to and from the said land from and to such level crossings.

(5) Any person who suffers loss by the extinguishment under this section of such private rights of way, if any, as may exist over the level crossings referred to in Schedule 2 to this Act shall be entitled to be paid by the Board compensation, to be determined in case of dispute by the tribunal.

17.—(1) In this section “Marton Lane crossing” means the level crossing at Nunthorpe in the borough of Langbaugh in the county of Cleveland (reference point NZ 5317:1563) whereby Gypsy Lane is crossed by the railway between Gypsy Lane and Nunthorpe stations.

(2) Notwithstanding anything in section XXV (Company to erect a Station or Lodge at Points of crossing, and abide by Rules, &c. of Board of Trade) of the Middlesbrough and

PART II
—cont.

Reduction in
status of level
crossings.

Relief from
lodge
obligation at
Nunthorpe.

PART II

—*cont.*1852 c. lxxiii.
1858 c. cxvi.

Guisbrough Railway Act 1852 or section XIV (Company to perform duties of the Five Companies) of the Stockton and Darlington Railway Amalgamation Act 1858 the Board shall not be required to maintain a lodge at Marton Lane crossing.

Incorporated works provisions

Incorporation
of works
provisions.

18. The following provisions of the (No. 2) Act of 1981 are incorporated with this Act:—

- Section 8 (Power to deviate);
- Section 9 (Stopping up roads, bridleways and footpaths without providing substitute);
- Section 10 (Stopping up roads, bridleways and footpaths in case of diversion or substitution);
- Section 11 (Appropriating sites of roads, bridleways and footpaths);
- Section 12 (Repair of roads, bridleways and footpaths);
- Section 13 (Agreements between Board and highway authorities);
- Section 14 (Temporary stoppage of roads, bridleways and footpaths);
- Section 15 (Underpinning of buildings near works);
and
- Section 16 (Use of sewers, etc., for removing water).

PART III

LANDS

Purchase of land, etc.

Purchase of
land.

19.—(1) The Board may purchase compulsorily and use such of the land delineated on the deposited plans and described in the deposited book of reference as they require for the purposes of the works (other than Work No. 5) or for any purpose connected with or ancillary to their undertaking.

(2) Without prejudice to the generality of subsection (1) above, the Board may purchase compulsorily and use for the purposes specified in column (3) of Schedule 3 to this Act all or any of the land referred to in columns (1) and (2) of that schedule.

(3) The Board may enter upon, use and appropriate so much of the subsoil and undersurface of any public street, road, footway or place delineated on the deposited plans and described in the deposited book of reference as shall be necessary for the purposes of subsection (1) above without being required to purchase the same or any easement or other right therein or thereunder or to make any payment therefor.

20.—(1) (a) In this section “the specified purpose” means the provision by the Board of an access way for the purpose of the construction of Work No. 1 and the maintenance, alteration, renewal and use of that work and of the other works or lands of the Board in the vicinity thereof.

PART III
—cont.
Purchase of
rights over
land.

(b) References in this section to the purchase by the Board of new rights are references to the purchase of rights to be created in favour of the Board.

(2) The Board may for the purpose of constructing, maintaining, altering, renewing and using the works (other than Work No. 5) purchase compulsorily such new rights as they require over any of the land delineated on the deposited plans and described in the deposited book of reference instead of purchasing that land under section 19 (Purchase of land) of this Act.

(3) The Board may, for the specified purpose, purchase compulsorily such new rights as they require over the land numbered on the deposited plans 7 and 8 in the borough of Rotherham.

(4) 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 new rights under subsections (2) and (3) above as it applies to the compulsory purchase of land so that, in appropriate contexts, references in the Act of 1965 to land are read as referring, or as including references, to the new rights or to land over which the new rights are, or are to be, exercisable, according to the requirements of the particular context.

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

(a) Part I of the Act of 1965 shall have effect with the modifications specified in Schedule 3 to the (No. 2) Act of 1981 and as if for the references in that schedule to that Act there were substituted references 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.

21.—(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.

Purchase of
part of certain
properties.

PART III
—cont.

(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 Board a counter-notice objecting to the sale of the part and stating that he is willing and able to sell the whole (in this section referred to as “the land subject to the counter-notice”), the question whether he shall be required to sell the part shall, unless the Board agree to take the land subject to the counter-notice, be referred to the tribunal.

(3) If the said person does not serve such a counter-notice as aforesaid within 21 days after the day on which the notice to treat is served on him, or if on such a reference to the tribunal the tribunal determine that the part subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, in the case of part of land consisting of a house, together with a park or garden belonging thereto, without such detriment 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 such detriment 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 Board are authorised to purchase compulsorily under this Act.

(6) If the Board 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 such detriment 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 the land is land which the Board are authorised to purchase compulsorily under this Act.

(7) In any case where, by virtue of a determination by the tribunal under subsection (4), (5) or (6) above, a notice to treat is deemed to be a notice to treat for part of the land specified in the notice or for more land than is specified in the notice, the Board may, within six weeks after the tribunal make their determination, withdraw the notice to treat and, if they do so, shall pay to the said person compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice to be determined in case of dispute by the tribunal:

Provided that the determination of the tribunal shall not be deemed to be made so long as—

- (a) the time for requiring the tribunal to state a case with respect thereto has not expired and any proceedings on the points raised by a case so stated have not been concluded; or
- (b) any proceedings on appeal from any decision on the points raised by a case so stated have not been concluded.

(8) (a) Where a person is required under this section to sell part only of a house, building or factory, or land consisting of a house, together with any park or garden belonging thereto, the Board 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.

(b) Any dispute as to a person's entitlement to compensation under this section or as to the amount of the compensation shall be determined by the tribunal.

22. In determining a question with respect to compensation claimed in consequence of the compulsory purchase of land under this Act, the tribunal shall not take into account—

Disregard of recent improvements and interests.

- (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 purchased or on any other land with which the claimant is, or was at the time of the 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

PART III
—cont.

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.

Access road
at Swinton,
Rotherham.

23.—(1) In this section “the Swinton land” means the access road comprised in the land numbered on the deposited plans 7 at Swinton in the metropolitan borough of Rotherham.

(2) Notwithstanding anything in sections 19 (Purchase of land) and 20 (Purchase of rights over land) of this Act or section 21 (Extinction or suspension of private rights of way) of the (No. 2) Act of 1981, as incorporated with this Act, the Board shall not purchase compulsorily, nor shall there be extinguished or suspended, any private rights of way enjoyed by or vested in any person over the Swinton land.

Time for
purchase of
land and rights
over land.

24. The powers of the Board for the compulsory purchase of land and rights over land under this Act shall cease on 31st December 1989.

Incorporated lands provisions

Incorporation
of lands
provisions.

25. The following provisions of the (No. 2) Act of 1981 are incorporated with this Act:—

- Section 21 (Extinction or suspension of private rights of way);
- Section 24 (Correction of errors in deposited plans and book of reference); and
- Section 25 (Cellars under streets not referenced).

PART IV

PROTECTIVE PROVISIONS

Incorporation
of protective
provisions.

26.—(1) The following provisions of the (No. 2) Act of 1981 are incorporated with this Act:—

- Section 29 (For protection of British Telecommunications);
- Section 32 (Notice of interference with roads); and
- Section 33 (Crown rights).

(2) For the purposes of section 29 of the (No. 2) Act of 1981 as incorporated by subsection (1) above—

- (a) the expression “road” where used in that section shall be construed as including a footway;
- (b) in paragraph (1), the reference to subsection (1) (c) of section 7 (Further works and powers) shall be construed as a reference to section 9 (Reconstruction of bridges at Birmingham) and subsection (1) (a) of section 11 (Stopping up, etc., level crossings) of this Act; and

(c) in paragraph (2), the reference to the said section 7 shall be construed as a reference to the said sections 9 and 11 of this Act.

PART IV
—cont.

27. For the protection of the several undertakers referred to in this section, the following provisions shall, unless otherwise agreed in writing between the Board and the undertakers concerned, apply and have effect:—

For protection of electricity, gas and water undertakers.

(1) In this section—

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

“apparatus” means—

(a) in the case of electricity undertakers, electric lines or works (as respectively defined in the Electricity (Supply) Acts 1882 to 1936) belonging to or maintained by such undertakers; or

(b) in the case of gas or water undertakers, any mains, pipes or other apparatus belonging to or maintained by such undertakers;

(not being in either case apparatus in respect of which the relations between the Board and the undertakers are regulated by the provisions of Part II of the Public Utilities Street Works Act 1950) and includes any building, structure or works 1950 c. 39. for the lodging therein of apparatus;

“functions” includes powers and duties;

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

“the undertakers” means any person authorised to carry on an undertaking for the supply of electricity, gas or water within any area within which the Board are by this Act authorised to purchase land or execute works and, in relation to—

(a) water undertakers, includes a water authority in their capacity as an authority authorised to carry on an undertaking for the supply of water within their area;

(b) any apparatus, means the undertakers to whom the apparatus belongs or by whom the apparatus is maintained:

PART IV
—cont.

- (2) Notwithstanding the temporary stopping up or diversion of any road, bridleway or footpath under the powers of section 14 (Temporary stoppage of roads, bridleways and footpaths) of the (No. 2) Act of 1981, as incorporated with this Act, the undertakers shall be at liberty at all times to execute and do all such works and things in, upon or under any such road, bridleway or footpath as may be reasonably necessary or desirable to enable them to inspect, repair, maintain, renew, remove or use any apparatus which at the time of the stopping up or diversion was in that road, bridleway or footpath:
- (3) The Board, in the case of the powers conferred by section 15 (Underpinning of buildings near works) of the (No. 2) Act of 1981, as incorporated with this Act, shall, so far as is reasonably practicable, so exercise those powers as not to obstruct or render less convenient the access to any apparatus and if by reason or in consequence of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of the undertakers or any interruption in the supply of electricity, gas or water, as the case may be, by the undertakers shall be caused, the Board shall bear and pay the cost reasonably incurred by the undertakers in making good such damage or restoring the supply; and shall—
- (a) make reasonable compensation to the undertakers for any loss sustained by them; and
 - (b) indemnify the undertakers against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the undertakers;
- by reason or in consequence of any such damage or interruption:
- Provided that—
- (i) nothing in this paragraph shall impose any liability on the Board with respect to any damage or interruption to the extent that such damage or interruption may be attributable to the act, neglect or default of the undertakers or their contractors or workmen;
 - (ii) the undertakers shall give to the Board reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Board:

- (4) Notwithstanding anything in section 16 (Use of sewers, etc., for removing water) of the (No. 2) Act of 1981, as incorporated with this Act, no use shall be made by the Board in the construction of the works of pumping or other like modes of removing water except where reasonably necessary or in the case of emergency or unforeseen accident or for the purpose of removing rainwater or other small amounts of water, and the provisions of section 26 of the Public Utilities Street Works Act 1950 shall apply to, and in relation to, the laying down, taking up or altering of conduits, pipes or other works under the said section 16 as if executed by the Board as operating undertakers within the meaning of the said section 26 for purposes other than the purposes of a railway undertaking: 1950 c. 39.
- (5) Notwithstanding anything in this Act or shown on the deposited plans the Board shall not acquire any apparatus under the powers of this Act otherwise than by agreement:
- (6) If the Board, in the exercise of the powers of this Act, acquire any interest in any land in which any apparatus is placed, that apparatus shall not be removed under this section and any right of the undertakers to maintain, repair, renew or inspect that apparatus in that land shall not be extinguished until adequate alternative apparatus shall have been constructed and be in operation to the reasonable satisfaction of the undertakers:
- (7) If the Board, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Act, require the removal of any apparatus placed in that land, and shall give to the undertakers written notice of such requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed so as to provide adequate alternative apparatus in lieu of the apparatus to be removed, or if, in consequence of the exercise of any of the powers of this Act, the undertakers shall reasonably require to remove any apparatus, the Board shall afford to the undertakers the necessary facilities and rights for the construction of such alternative apparatus in other land of the Board and thereafter for the maintenance, repair, renewal and inspection of such apparatus:

PART IV
—cont.

Provided that, if the alternative apparatus or any part thereof is to be constructed elsewhere than in other land of the Board, and the Board are unable to afford

PART IV
—cont.

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

- (8) (a) Any alternative apparatus to be constructed in land of the Board under this section shall be constructed in such manner and in such line or situation as may be agreed between the undertakers and the Board or in default of agreement settled by arbitration;
- (b) The undertakers shall, after the alternative apparatus to be provided or constructed shall have been agreed or settled by arbitration as aforesaid and after the grant to the undertakers of any such facilities and rights as are referred to in paragraph (7) above, proceed with all reasonable dispatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the Board to be removed under the provisions of this section:
- (9) Notwithstanding anything in paragraph (8) above, if the Board give notice in writing to the undertakers that they desire themselves to execute any part of so much of the work necessary in connection with the construction of the alternative apparatus, or the removal of the apparatus required to be removed, as will be situate in any land of the Board, such work, in lieu of being executed by the undertakers, shall be executed by the Board with all reasonable dispatch under the superintendence, if given, and to the reasonable satisfaction of the undertakers:

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

- (10) Where, in accordance with the provisions of this section, the Board afford to the undertakers facilities and rights for the construction, maintenance, repair, renewal and inspection in land of the Board 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 Board and the undertakers or in default of agreement determined by arbitration:

Provided that—

PART IV
—cont.

(a) in determining such terms and conditions as aforesaid in respect of alternative apparatus to be constructed in or along any railway of the Board, the arbitrator shall—

(i) give effect to all reasonable requirements of the Board for ensuring the safety and efficient operation of the railway and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of the Board or the traffic on the railway; and

(ii) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions applicable to the apparatus, if any, constructed in or along the railway for which the alternative apparatus is to be substituted;

(b) if the facilities and rights to be afforded by the Board in respect of any alternative apparatus and the terms and conditions subject to which the same are to be granted are in the opinion of the arbitrator less favourable on the whole to the undertakers than the facilities and rights enjoyed by them in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator shall make such provision for the payment of compensation by the Board to the undertakers in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the particular case:

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

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

PART IV
—cont.

Provided that—

(i) if the undertakers within 14 days after the submission to them of any such plan, section and description shall, in consequence of the works proposed by the Board, reasonably require the removal of any apparatus and give written notice to the Board of such requirement, the foregoing provisions of this section shall apply and have effect as if the removal of such apparatus had been required by the Board under the said paragraph (7):

(ii) nothing in this sub-paragraph shall preclude the Board from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any such works, a new plan, section and description thereof in lieu of the plan, section and description previously submitted, and thereupon the provisions of this paragraph shall apply to and in respect of such new plan, section and description;

(c) The Board shall not be required to comply with sub-paragraph (a) above in a case of emergency but in such a case they shall give to the undertakers notice as soon as reasonably practicable and a plan, section and description of the works as soon as reasonably practicable thereafter and shall comply with sub-paragraph (b) above so far as reasonably practicable in the circumstances:

(12) Where, in consequence of this Act, any part of any street, road, bridleway or footpath in which any apparatus is situate ceases to be part of a street, road, bridleway or footpath, 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 Board or of the undertakers to require removal of such apparatus under this section or the power of the Board to execute works in accordance with paragraph (11) above:

(13) The Board shall pay to the undertakers the costs, charges and expenses reasonably incurred by the undertakers in or in connection with the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph (7) above, less the value of any apparatus removed under the provisions

of this section (such value being calculated after removal) and shall also make compensation to the undertakers—

PART IV
—cont.

(a) for any damage caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal in accordance with the provisions of this section); and

(b) for any other expenses, loss, damages, penalty or costs incurred by the undertakers;

by reason or in consequence of the execution, maintenance, user or failure of any such works or otherwise by reason or in consequence of the exercise by the Board of the powers of this Act:

- (14) Where, by reason or in consequence of the stopping up of any street, road, bridleway or footpath under the powers of this Act, any apparatus belonging to the undertakers and laid or placed in such street, road, bridleway or footpath or elsewhere is rendered derelict or unnecessary, the Board shall pay to the undertakers the then value of such apparatus (which shall thereupon become the property of the Board) and the reasonable cost of and incidental to the cutting off of such apparatus from any other apparatus, and of and incidental to the execution or doing of any works or things rendered necessary or expedient by reason or in consequence of such apparatus being so rendered derelict or unnecessary:

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

- (15) Any difference arising between the Board and the undertakers under this section shall be referred to and settled by arbitration:
- (16) Nothing in this section shall be deemed to prejudice or affect the provisions of any enactment or agreement regulating the relations between the Board and the undertakers in respect of any apparatus laid or erected in land belonging to the Board at the date of the passing of this Act.

PART IV

—cont.

For protection
of North West
Water
Authority.

28. For the protection of the North West Water Authority (in this section referred to as “the authority”) the following provisions shall, unless otherwise agreed in writing between the Board and the authority, apply and have effect:—

(1) In this section, unless the context otherwise requires—

“construction” includes execution, placing and altering and, in relation to temporary works, includes removal; and “construct” and “constructed” shall be construed accordingly;

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

“sewer” means a sewer, including a public sewer, within the meaning of the Public Health Act 1936 and includes any manholes, ventilating shafts, pumps or other accessories belonging to or forming part of a sewer;

“specified work” means so much of Works Nos. 3 and 4 and of any work (whether temporary or permanent) forming part of, or constructed in connection with, any of those works as will or may be situated over or within 15 metres measured in any direction of, or (wherever situated) impose any load directly upon, any sewer, and includes the construction, maintenance or renewal of any such works:

(2) The Board shall not commence any specified work until they shall have given to the authority two months’ previous notice in writing of their intention to commence the same, by leaving such notice at the principal office of the authority with plans as described in paragraph (7) below (in this section referred to as “the said plans”), and until the authority shall have signified their approval of the said plans:

Provided that such approval shall not be unreasonably withheld and if, within two months after the submission of the said plans, the authority have not signified to the Board their approval or disapproval thereof, they shall be deemed to have approved the said plans:

(3) The Board shall comply with and conform to all reasonable orders, directions and regulations of the authority in the construction of any specified work and shall provide new, altered or substituted works in such manner as the authority shall reasonably require for the proper protection of, and for preventing injury or impediment to, any sewer by reason of any specified work and shall save harmless the authority against all expenses to be occasioned thereby:

- (4) (a) The specified works and all such new, altered or substituted works shall be constructed only in accordance with such plans as may be approved or be deemed to be approved by the authority as aforesaid or settled by arbitration, subject however to any modification of those plans from time to time agreed upon between the engineer of the Board and the engineer of the authority duly authorised for that purpose, and be constructed to the reasonable satisfaction of the authority who shall be given reasonable notice of the date and time on and at which any new, altered or substituted works are to be commenced;
- (b) The Board shall indemnify the authority against all costs, charges and expenses which the authority may reasonably incur or have to pay or which they may sustain in the preparation or examination of plans:
- (5) When any such new, altered or substituted works shall be completed under the provisions of this section, the same shall thereafter be as fully and completely under the direction, jurisdiction and control of the authority as any sewer now or hereafter may be:
- (6) Nothing in this Act shall extend to prejudice, diminish, alter or take away any of the rights, powers or authorities vested or to be vested in the authority in relation to any sewer but all such rights, powers and authorities shall be as valid and effectual as if this Act had not been passed:
- (7) The plans to be submitted to the 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, any specified work is proposed to be constructed and shall accurately describe the position of all sewers within the limits of deviation (for which purpose the authority shall allow the Board access to plans in their possession in order to enable the Board to obtain reliable information) and shall comprise detailed drawings of every alteration which the Board may propose to make in any sewer:
- (8) The authority may require such modifications to be made in the said plans as may be reasonably necessary to secure the sewers against interference or risk of damage and to provide and secure proper and convenient means of access to any sewer:
- (9) The Board shall indemnify the authority against all claims, demands, costs, expenses, damages or loss which may be made on or against the authority or

PART IV
—cont.

PART IV
—cont.

which the authority may incur or have to pay or which they may sustain in consequence of the construction, maintenance or renewal of a specified work or of the failure or want of repair thereof or any subsidence caused by the construction of any specified work or in consequence of any act or omission of the Board, their contractors, agents, workmen or servants, whilst engaged upon the specified work:

Provided that—

(i) the authority shall give to the Board reasonable notice of any such claim or demand as aforesaid and no settlement or compromise thereof shall be made without the agreement in writing of the Board; and

(ii) nothing in this paragraph shall impose any liability on the Board with respect to any claim, demand, costs, expenses, damage or loss which is attributable to the act, neglect or default of the authority or their servants or agents:

- (10) If the Board in the construction of any specified work or any new, altered or substituted work alter, damage or in any way interfere with any sewer, the Board shall give to the authority full, free and uninterrupted access at all times to any such new, altered or substituted work or to any such sewer and every reasonable facility for the inspection, maintenance, alteration and repair thereof:
- (11) Notwithstanding the temporary stopping up or diversion of any road, bridleway or footpath under the powers of section 14 (Temporary stoppage of roads, bridleways and footpaths) of the (No. 2) Act of 1981, as incorporated with this Act, the authority shall be at liberty at all times to execute and do all such works and things in, upon or under any such road, bridleway or footpath as may be reasonably necessary or desirable to enable them to inspect, repair, maintain, renew, remove or use any sewer which at the time of the stopping up or diversion was in that road, bridleway or footpath:
- (12) In the exercise of the powers of section 15 (Underpinning of buildings near works) of the (No. 2) Act of 1981, as incorporated with this Act, the Board shall not, so far as reasonably practicable, obstruct or render less convenient the access to any sewer and, if by reason or in consequence of the exercise of those powers any damage to any sewer (other than a sewer the repair of which is not reasonably necessary in view of its intended removal or abandonment) shall be

caused, the Board shall bear and pay the cost reasonably incurred by the authority in making good such damage and shall—

PART IV
—cont.

(a) make reasonable compensation to the authority for any loss sustained by them; and

(b) indemnify the authority against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the authority;

by reason or in consequence of any such damage:

Provided that—

(i) nothing in this paragraph shall impose any liability on the Board with respect to any damage to the extent that such damage may be attributable to the act, neglect or default of the authority or their contractors or workmen;

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

- (13) It shall be lawful for an officer of the authority duly appointed for the purpose at any reasonable time to enter upon and inspect any specified work or any other work constructed under the powers of this Act, for which purpose the Board shall allow to any such officer access over any other works or land of the Board:
- (14) The fact that any specified work has been constructed in accordance with a plan approved or not objected to by the authority or to their satisfaction or in accordance with any directions or award of an arbitrator shall not relieve the Board from any liability under the provisions of this section:
- (15) As soon as reasonably practicable after the completion of the construction of a specified work the Board shall deliver to the authority a plan and section showing the position and level of that work as constructed and all new, altered or substituted works provided under this section:
- (16) Any difference arising between the Board and the authority under this section shall be referred to and settled by arbitration.

PART V

PARKESTON QUAY

Limits of
jurisdiction at
Parkeston
Quay.
1874 c. cxxviii.

29.—(1) In this section—

“Parkeston Quay” means the quay (formerly known as Stour Quay) authorised by The Great Eastern Railway Act 1874 and all extensions or other works forming part of that quay authorised by the other relevant enactments; and

“relevant enactments” means so much of the following enactments as relate to Parkeston Quay:—

The Great Eastern Railway Act 1874;
Great Eastern Railway (General Powers) Act 1904;
London and North Eastern Railway Act 1931;
British Railways Act 1966;
British Railways Act 1971;
the (No. 2) Act of 1981; and
Parkeston Quay Act 1983.

1904 c. cviii.
1931 c. xcii.
1966 c. xvii.
1971 c. xlv.

1983 c. vi.

1847 c. 27.

(2) Notwithstanding anything in the relevant enactments, the expression “the prescribed limits” in the Harbours, Docks, and Piers Clauses Act 1847 as applying to Parkeston Quay by virtue of those enactments shall mean a distance of 200 metres measured from any part of the riverward face of Parkeston Quay.

(3) The provisions of the relevant enactments mentioned in Part II of Schedule 4 to this Act, which are rendered unnecessary by subsection (2) above, shall cease to have effect.

Amendment
of section 51
of British
Railways
(No. 2) Act
1981.

1981 c. xxxv.

30. Section 51 (Works to be within parish of Ramsey and Parkeston, etc.) of the (No. 2) Act of 1981 shall have effect as if paragraphs (c) and (d) thereof were omitted.

PART VI

MISCELLANEOUS

Powers of
police as to
search and
arrest.
1962 c. 46.
1949 c. xxix.

31.—(1) In its application to the Board and British Transport Hotels Limited under Part III of Schedule 2 to the Transport Act 1962, subsection (3) of section 54 (Powers of police as to search and arrest) of the British Transport Commission Act 1949, in relation only to subsection (1) of that section and as amended by section 57 (Powers of police as to search and arrest) of the (No. 2) Act of 1981, shall have effect as if for the words “one thousand nine hundred and eighty-five” there were substituted “1988”.

(2) This section shall not extend to Scotland.

32. In its application to Work No. 2 authorised by the British Railways (No. 2) Act 1975, subsection (2) of section 30 (Saving for Town and Country Planning Acts 1971 and 1972) of that Act shall have effect as if for the words "ten years" there were substituted "15 years".

PART VI
—cont.
Amendment
of section 30
of British
Railways
(No. 2) Act
1975.
1975 c. xxix.

33.—(1) In this section "Class XII development" means development authorised by Article 3 of, and Class XII in Schedule 1 to, the Town and Country Planning General Development Order 1977 (which permit 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).

Planning
permission.

S.I. 1977/289.

(2) Subject to subsection (3) below, in its application to development authorised by this Act, the planning permission granted for Class XII development 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.

(3) Subsection (2) above shall not apply to the carrying out of any development consisting of the alteration, maintenance or repair of works or the substitution of new works therefor.

34. The enactments specified in columns (1) and (2) of Schedule 4 to this Act are hereby repealed to the extent mentioned in column (3) of that schedule.

Repeals.

35. Where under any provision of this Act any difference (other than a difference to which the Act of 1965, as applied by this Act, applies or as to the meaning or construction of any such provision) is to be referred to or settled by arbitration, then such 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.

Arbitration.

36. All costs, charges and expenses of and incidental to the preparing for, obtaining and passing of this Act, or otherwise in relation thereto, shall be paid by the Board and may in whole or in part be defrayed out of revenue.

Costs of Act.

SCHEDULES

Section 5 (4).

SCHEDULE 1

MEANS OF ACCESS REFERRED TO IN SECTION 5 (4) OF THIS ACT

Description of access by reference to letter on deposited plans. (1)	Purpose for which access may be used. (2)
At the point marked "E" from Stanley Grove	For the construction of Work No. 3 and the railway retaining wall referred to in Schedule 3 to this Act, or either of them.
At the point marked "F" from Victoria Terrace and at the point marked "G" from Kirkmanshulme Lane	For the construction of Work No. 4.

Section 16.

SCHEDULE 2

LEVEL CROSSINGS REFERRED TO IN SECTION 16 OF THIS ACT

Area	Description of level crossings
PART I	
In the county of Suffolk— In the parish of Needham Market in the district of Mid Suffolk	The level crossing known as Coddendam Road crossing (reference point TM 0938:5462) whereby Coddendam Road is crossed by the railway between Ipswich and Needham Market stations.
PART II	
In the county of Humberside— In the parish of Gilberdyke in the district of Boothferry	The level crossing known as Bennetland crossing (reference point SE 8286:2888) whereby Bennetland Lane is crossed by the railway between Gilberdyke and Eastington stations.

Area	Description of level crossings
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SCH. 2
—cont.

PART III

In the county of Lincolnshire— In the parish of Blankney in the district of North Kesteven . .	The level crossing known as Martin Road crossing (reference point TF 0885:6050) whereby the road between Blankney and the B.1189 road is crossed by the railway between Ruskington and Metheringham stations.
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SCHEDULE 3

LAND REFERRED TO IN section 19 (2) OF THIS ACT

Section 19 (2).

Area (1)	No. on deposited plans (2)	Purposes for which land may be used (3)
In the metropolitan county of Greater Manchester— City of Manchester	1a, 4 to 6	To provide a working site for Work No. 3 and a railway retaining wall.
	9a, 13	To provide a working site for Work No. 4.

SCHEDULE 4

REPEALS

PART I

REPEAL IN CONSEQUENCE OF section 9 (4) OF THIS ACT

Section 34.

Chapter (1)	Title (2)	Extent of repeal (3)
9 & 10 Vict. c. ccclix (1846).	An Act for making a Railway from the London and Birmingham Railway to or near to Navigation Street within the Bor- ough of Birmingham.	In the eighth paragraph of section XXIV, the words from the beginning to "be less than Eighteen Feet."

SCH. 4
—cont.

PART II

REPEALS IN CONSEQUENCE OF SECTIONS 29 AND 30 OF THIS ACT

Chapter (1)	Short title (2)	Extent of repeal (3)
37 & 38 Vict. c. cxxviii.	The Great Eastern Railway Act 1874.	In section 2, the words “and the prescribed limits shall be two hundred yards from any part of the quay”.
4 Edw. 7 c. cviii.	Great Eastern Railway (General Powers) Act 1904.	In section 8, the words “the definition of the prescribed limits con- tained in”.
21 & 22 Geo. 5 c. xcii.	London and North Eastern Railway Act 1931.	In section 19, the words “the definition of the prescribed limits con- tained in”.
1981 c. xxxv.	British Railways (No. 2) Act 1981.	In section 48, the proviso and in section 51, paragraphs (c) and (d).
1983 c. vi.	Parkeston Quay Act 1983.	In section 18, the proviso.

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FOR W. J. SHARP

 Controller and Chief Executive of Her Majesty's Stationery Office and
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British Railways (No. 2) Act 1984

CHAPTER xx

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