



# Tamar Bridge Act 1998

## 1998 CHAPTER iv

### PART I

#### PRELIMINARY

#### **1 Short and collective titles**

- (1) This Act may be cited as the Tamar Bridge Act 1998.
- (2) The Tamar Bridge Acts 1957 and 1979 and this Act may be cited together as the Tamar Bridge Acts 1957 to 1998.

#### **2 Interpretation**

- (1) In this Act unless the context otherwise requires—
  - “the Act of 1957” means the Tamar Bridge Act 1957;
  - “the Act of 1961” means the Land Compensation Act 1961;
  - “the Act of 1965” means the Compulsory Purchase Act 1965;
  - “the Act of 1981” means the Acquisition of Land Act 1981;
  - “the Act of 1991” means the New Roads and Street Works Act 1991;
  - “the Authorities” means the city council and the county council and includes either council;
  - “the bridge” means the existing bridge including any strengthening, widening, improvement, alteration, extension, renewal, reconstruction or replacement thereof and any carriageways, cycletracks and footways thereon, and so much (if any) of any streets and cycletracks giving access thereto within the limits of deviation shown on the deposited plan as may be agreed in writing between the Authorities and the relevant highway authority;
  - “the city” means the city of Plymouth;
  - “the city council” means the council of the city;
  - “the county” means the county of Cornwall;
  - “the county council” means the council of the county;

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“the district” means the district of Caradon;

“the existing bridge” means the fixed bridge over the river with approach roads commencing in the district at a point 162 metres or thereabouts east of the centreline of the overbridge linking North Road and Fore Street and terminating in the city at a point 30 metres or thereabouts west of the centrepoint of the roundabout forming the junction of the Parkway and Pemros Road, and includes all improvements thereto and the carriageway and footways thereon and the toll gates and toll keepers' lodges and offices and other conveniences provided in connection therewith;

“the ferry” means the Torpoint ferry;

“the specified work” means the work authorised by section 17 (Power to construct works) of this Act;

“statutory undertakers” means statutory undertakers within the meaning of section 262 of the Town and Country Planning Act 1990 and includes any persons who are deemed by that section to be statutory undertakers for any of the purposes mentioned in that section;

“street” has the meaning given by section 48(1) of the Act of 1991;

“the Tamar Bridge Acts” means the Tamar Bridge Acts 1957 to 1998;

“the tribunal” means the Lands Tribunal;

“the undertaking” means the bridge and the ferry and includes all land and assets of whatever description held by the Authorities for the purposes of the bridge or the ferry;

“the works” means the specified work and any other works authorised by this Act including any works authorised by or things done under sections 19 (Power to improve bridge) or 20 (Supplementary works powers) of this Act.

- (2) The several words and expressions to which meanings are assigned by the Act of 1957 shall have the same respective meanings, subject to any amendments made to those meanings by section 34 (Amendments to Act of 1957) of this Act, unless there is something in the subject or context repugnant to such construction.

### **3 Application of Act of 1991**

Without prejudice to the application of Part III of the Act of 1991 to so much of any works authorised by the Tamar Bridge Acts as are major bridge works within the meaning of that Act, the said Part III shall have effect—

- (a) in relation to so much of any works authorised by the Tamar Bridge Acts as are not major bridge works within the definition of the Act of 1991, but would, if executed by the highway authority, be major highway works within the definition of that Act, as if the Authorities were the highway authority; and
- (b) in relation to so much of any works authorised by the Tamar Bridge Acts as are not major bridge works within the definition of the Act of 1991, but are of a description which if executed under powers conferred by Part V of the Highways Act 1980 would be works for road purposes within the definition of the Act of 1991, as if they were executed under powers conferred by the said Part V.

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## PART II

### LANDS

#### 4 Acquisition and occupation of lands

- (1) The Authorities may acquire compulsorily so much of the land shown on the deposited plan and described in the deposited book of reference as may be required for the purposes of, or in connection with, the works or obtaining access to the works or otherwise for the purposes of the Tamar Bridge Acts.
- (2) Part I of the Act of 1965 (except section 4 and paragraph 3(3) of Schedule 3), in so far as it is not inconsistent with the provisions of this Act, shall apply to the acquisition of land under this section—
  - (a) as it applies to a compulsory purchase to which Part II of the Act of 1981 applies; and
  - (b) as if this Act were a compulsory purchase order under that Act.
- (3) A notice to treat under Part I of the Act of 1965 for the purpose of acquiring land under this section shall not be served after the end of the period of five years beginning with the day on which this Act is passed.
- (4) The Lands Clauses Consolidation Act 1845 shall not apply to the acquisition of land under this section.

#### 5 Acquisition of rights

- (1) The Authorities may under section 4 (Acquisition and occupation of lands) of this Act compulsorily acquire rights in, over or under land by creating them as well as by acquiring rights already in existence.
- (2) 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 by virtue of subsection (1) above as it applies to the compulsory purchase of lands 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.
- (3) Without prejudice to the generality of subsection (2) above, in relation to the purchase of new rights by virtue of subsection (1) above—
  - (a) Part I of the Act of 1965 shall have effect with the modifications specified in the Schedule 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.
- (4) In this Part of this Act “new rights” in relation to any land means easements or other rights in, over or under such land, which are to be created in favour of the Authorities.

#### 6 Purchase of part of certain properties

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

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- (2) Where the land subject to the notice is part only of a house, building or factory, or part only of land consisting of a house, together with any park or garden belonging thereto, then if the person on whom the notice is served, within 21 days after the day on which the notice is served on him serves on the Authorities a counter-notice objecting to the sale of the part and stating that he is willing and able to sell the whole (hereafter in this section referred to as “the land subject to the counter-notice”), the question whether he shall be required to sell the part shall, unless the Authorities agree to take the land subject to the counter-notice, be referred to the tribunal.
- (3) If the said person does not serve such a counter-notice as aforesaid within 21 days after the day on which the notice to treat is served on him, or if on such a reference to the tribunal the tribunal determine that the part subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, in the case of part of land consisting of a house, together with a park or garden belonging thereto, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the said person shall be required to sell the part.
- (4) If on such a reference to the tribunal the tribunal determine that part only of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the notice to treat shall be deemed to be a notice to treat for that part.
- (5) If on such a reference to the tribunal the tribunal determine that the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice but that the material detriment is confined to a part of the land subject to the counter-notice, the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the Authorities are authorised to purchase compulsorily under this Act.
- (6) If the Authorities 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 the land is land which the Authorities 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 Authorities 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 default of agreement by the tribunal.

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- (8) 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 Authorities 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.

## **7 Mines and minerals**

- (1) Parts II and III of Schedule 2 to the Act of 1981 (exemption of mines and minerals from compulsory purchase and regulation of the working of mines and minerals underlying an authorised undertaking) shall apply in relation to land which may be compulsorily acquired under section 4 (Acquisition and occupation of lands) of this Act as if it were comprised in a compulsory purchase order providing for the incorporation with the order of those Parts of that Schedule.
- (2) For the purposes of Part III of that Schedule as it applies by virtue of subsection (1) above, paragraph 1(3) of that Schedule (meaning of underlying) shall have effect as if the prescribed distance in relation to any mines or minerals lying under land near any of the works were the greater of—
- (a) such lateral distance from those works on every side as is equal at every point along those works to one-half of the depth of the mines or minerals below the natural surface of the ground at that point; and
  - (b) 40 metres.

## **8 Private rights of way**

- (1) All private rights of way over land which may be acquired compulsorily under section 4 (Acquisition and occupation of lands) of this Act shall be extinguished on the acquisition of the land, whether compulsorily or by agreement, or on the entry on the land in pursuance of section 11(1) of the Act of 1965, as applied by the said section 4, whichever is the sooner.
- (2) Any person who suffers loss by the extinguishment of any right under this section shall be entitled to compensation to be determined, in default of agreement, under and in accordance with the Act of 1961.

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

Section 4 of the Act of 1981 (assessment of compensation where unnecessary work undertaken to obtain compensation) shall have effect in relation to a compulsory acquisition under this Act as if it were a compulsory purchase to which that Act applies.

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

- (1) In this section “relevant land” means any land or new rights over any land acquired by the Authorities.
- (2) In assessing the compensation payable to any person on the acquisition by the Authorities from him of any relevant land, the tribunal shall—
- (a) have regard to the extent to which the remainder of the land or the remaining contiguous or adjacent lands belonging to the same person may be benefited by any of the works; and

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- (b) set off against the value of the relevant land any increase in value of the remainder of the land or the remaining contiguous or adjacent lands belonging to the same person which will accrue to him by reason of the construction of any of the works.
- (3) The Act of 1961 shall have effect subject to the provisions of this section.

## **11 Power to survey land**

Section 167 of the Local Government, Planning and Land Act 1980 (power to survey land proposed to be acquired compulsorily by an urban development corporation) shall apply in relation to any land which the Authorities are considering acquiring under section 4 (Acquisition and occupation of lands) of this Act as if they were—

- (a) an urban development corporation within the meaning of that Act; and
- (b) proposing to acquire the land compulsorily under that Act.

## **12 Correction of deposited plan and book of reference**

- (1) If the deposited plan 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 Authorities, after giving not less than 10 days' notice to the owner 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 of the plan or book of reference.
- (2) If on such an application it appears to the justices that the misstatement or wrong description arose from mistake or inadvertence, the justices shall certify accordingly and shall in their certificate state in what respect a matter is misstated or wrongly described.
- (3) The certificate shall be deposited in the office of the Clerk of the Parliaments and a copy of it in the Private Bill Office of the House of Commons and at the principal offices of the county council and the city council; and the deposited plan and the deposited book of reference shall be deemed to be corrected according to the certificate, and it shall be lawful for the Authorities to proceed under this Act as if the deposited plan or the deposited book of reference had always been in the corrected form.
- (4) Where a copy of the certificate is deposited under subsection (3) above, it shall be kept with the documents to which it relates.

## **13 Grant of new rights by person under disability**

- (1) Any person empowered by the Act of 1965, as applied by this Act, to sell and convey or release lands may, subject to the provisions of the Act of 1965, grant the Authorities rights in, over or under the lands required for the purposes of this Act.
- (2) The provisions of the Act of 1965 with respect to lands and rent-charges, so far as they are applicable, shall extend and apply to any such grant and to any such new right as aforesaid.

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#### **14 Agreements with owners of property**

- (1) The Authorities may enter into and carry into effect agreements with any person being the owner of, or interested in, any land adjoining any portion of any of the works, or of the land which may be acquired by the Authorities under this Act, with respect to the sale by the Authorities to him (subject to such reservations, restrictions or other provisions as to the Authorities seem fit) of any land not required for the works.
- (2) The Authorities may accept as satisfaction for the whole or any part of the consideration for any such sale the grant by the purchaser of any land required by the Authorities for the purposes of this Act or any new right so required.
- (3) Subject to the provisions of this Act, and in connection with the powers granted to them thereby, the Authorities may enter into agreements with any owners of property or other persons interested in lands, houses or property with respect to the purchase by the Authorities of any such lands, houses or property or any rights in, over or affecting the same for such consideration, being a sum of money or a grant of land or partly money and partly land, as may be agreed upon between the Authorities and such owners or other persons.

#### **15 Power to reinstate owners or occupiers of property**

- (1) The Authorities may enter into and carry into effect an agreement or arrangement with the owner or occupier of any land acquired or to be acquired under this Act with respect to his reinstatement.
- (2) Any such agreement may provide for the exchange of land; and for that purpose the Authorities may pay or receive money for equality of exchange.

#### **16 Application of section 20 of Act of 1957**

Section 20 (Acquisition appropriation and disposal of land) of the Act of 1957 shall apply and have effect for the purposes of this Act as if the said section was in terms re-enacted in this Act.

### **PART III**

#### **WORKS**

#### **17 Power to construct works**

- (1) The Authorities may, in the lines or situations shown on the deposited plan and according to the levels shown on the deposited section, construct and maintain the work hereinafter described—

Partly in the district and partly in the city—

A strengthening of the existing bridge and a widening and improvement on both sides thereof and of the roads giving access thereto including provision for a new traffic lane on the north side and a footway and cycletrack on the south side; and provision of permanent maintenance runway rails on the underside of the bridge.

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- (2) In the construction of the work authorised by this section the Authorities shall erect a good and sufficient fence on each side of so much of the bridge as is an elevated structure.

### **18 Power to deviate**

The Authorities in constructing the specified work may deviate from the lines thereof shown on the deposited plan to any extent not exceeding the limits of deviation shown on that plan and may deviate from the levels shown on the deposited section to any extent not exceeding 10 metres upwards or three metres downwards or to such further extent upwards or downwards as may be approved by the Secretary of State.

### **19 Power to improve bridge**

The Authorities may within the limits of deviation shown on the deposited plan from time to time improve, alter, extend, renew, reconstruct or replace the bridge or any part thereof.

### **20 Supplementary works powers**

- (1) The Authorities shall have power, within the limits of deviation shown on the deposited plan, to construct all such works and conveniences and do all such things whether temporarily or permanently as may be incidental to or necessary or expedient for the purposes of, in connection with or in consequence of the specified work or any works authorised by section 19 (Power to improve bridge) of this Act or for the purposes of or in connection with the maintenance or use of the bridge, including, without prejudice to the generality of the foregoing, power to—
- (a) make and lay out new streets, make junctions and communications between a work and any existing street and divert, widen or alter the line or levels of, or stop up or otherwise interfere with, any existing street;
  - (b) stop up, remove, alter or otherwise interfere with means of access between any premises and any street which is diverted, widened or altered under this Act;
  - (c) execute work to provide new means of access to premises affected by the works;
  - (d) carry out landscaping and drainage works;
  - (e) remove, alter or divert any sewers, drains or other watercourses;
  - (f) alter or demolish any building, with the consent of the owner;
  - (g) replace, relay, remove, alter the position of, or instal any apparatus including mains, pipes, wires or other works, or apparatus for conveying or transmitting water, gas, electricity or petroleum (as defined in the Petroleum (Consolidation) Act 1928), or for telecommunication and any other pipes, machinery, works and appliances and any accommodation, facilities for access thereto, and supports provided for any works or apparatus;
  - (h) execute any works for the protection or improvement of any adjoining land or buildings;
  - (i) execute any works, or do any other thing necessary, for strengthening or supporting walls of adjoining buildings;
  - (j) fell, lop, cut or remove any hedge, tree, bush, shrub or other vegetation;
  - (k) raise, sink or otherwise alter the levels of any land or street and remove anything therefrom;



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- (l) make, provide, erect, alter, remove or maintain any steps, walls, retaining structures, embankments, subways, fences, channels, conduits, outfalls, manholes, cuttings, gateways, refuges, railings, street furniture, traffic signs, pavements or any other structures on or in any street or land;
  - (m) make, provide, alter, reconstruct, replace, remove, strengthen, underpin, widen or deepen any foundations, piers, towers, arches, cables and other supports or means of support;
  - (n) make or instal any works required for, or in connection with, the control or management of any vehicular and pedestrian traffic using the bridge; and
  - (o) alter the layout of any street, including so much of any street as is diverted, widened or altered, and alter the level or position or increase or reduce the width of any carriageway, kerb, footpath, footway, cycletrack or verge.
- (2) For the purposes of, in connection with, or in consequence of the works the Authorities may—
- (a) with the agreement of the owners and occupiers of any land abutting on land within the limits of deviation, exercise the powers conferred by subsection (1) (h) and (i) above on that abutting land; and
  - (b) carry out any works for providing or facilitating access to or from such land, or for preserving its amenities, in connection with the exercise of those powers on it.
- (3) (a) The Authorities shall make reasonable compensation for any damage done by them in exercise of the powers of paragraphs (h) and (i) of subsection (1) above.
- (b) Such compensation, in case of difference, shall be determined in accordance with the provisions of the Act of 1961.

## **21 Restriction on works over navigable waters**

Nothing in section 17 (Power to construct works), 18 (Power to deviate), 19 (Power to improve bridge) or 20 (Supplementary works powers) of this Act shall authorise the carrying out of any works either—

- (a) in navigable waters; or
- (b) over navigable waters at a level below the level of the soffit of the bridge constructed across the river under the powers of the Cornwall Railway Act 1846.

## **22 Discharge of water**

(1) In this section—

“public sewer or drain” means a sewer or drain which belongs to a relevant authority;

“relevant authority” means a sewerage undertaker, a local authority or the Environment Agency; and

“watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain.

(2) The Authorities may use any watercourse or any public sewer or drain for the drainage of water as may be found necessary or expedient for the purposes of, in connection

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with or in consequence of the works and for that purpose may lay down, take up and alter pipes and may, on any land within the limits of deviation shown on the deposited plan, make openings into, and connections with, the watercourse, sewer or drain.

- (3) The Authorities shall not—
- (a) directly or indirectly discharge any water into any watercourse, sewer or drain vested in or under the control of a relevant authority except with the consent of the relevant authority which consent shall not be unreasonably withheld and subject to such terms and conditions as the relevant authority may reasonably impose; or
  - (b) make any opening into any such sewer or drain save in accordance with plans approved by, and under the superintendence (if given) of, the relevant authority in whom the sewer or drain is vested, but approval of those plans by the relevant authority shall not be unreasonably withheld.
- (4) (a) Section 85 of the Water Resources Act 1991 shall apply to, or to the consequence of, a discharge under the powers of this section into any controlled waters within the meaning given by section 104 of that Act as if—
- (i) this section were excluded from the reference to any local statutory provision mentioned in section 88(1)(f) of that Act; and
  - (ii) no matter so discharged were trade or sewage effluent.
- (b) In the exercise of their powers under this section the Authorities shall not damage or interfere with the bed of any watercourse forming part of the main river or the banks thereof, within the meaning of section 113 of the Water Resources Act 1991.
- (5) The Authorities shall take all such steps as are reasonably practicable to secure that any water discharged by them under this section is as free as may be reasonably practicable from any gravel, soil or other solid substance or oil or matter in suspension.
- (6) Any difference arising between the Authorities and a relevant authority under this section shall be determined by arbitration.

## **23 Maintenance of certain highways**

- (1) Any street or cycletrack or part thereof constructed under this Act when completed shall be maintained by and at the expense of the highway authority unless it has been agreed in writing between the Authorities and the highway authority that it is to be part of the bridge.
- (2) Where a street is widened, altered or diverted under this Act, such part of the street as has been widened, altered or diverted shall when completed be maintained by and at the expense of the highway authority unless it has been agreed in writing between the Authorities and the highway authority that it is to be part of the bridge.
- (3) This section shall not apply to any street or part thereof which is part of the bridge.

## **24 Temporary interference with highways**

- (1) The Authorities may, for the purpose of the execution of the works, temporarily stop up, open, break up or interfere with, or alter or divert, the whole or a part of a street within the limits of deviation and may carry out all necessary works for, or in connection with, doing so, and may for any reasonable time divert the traffic from

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any such street and, subject to subsection (2) below, prevent all persons from passing along the street.

- (2) The Authorities shall provide reasonable access for all persons on foot going to or returning from premises abutting on a street affected by the exercise of the powers conferred by this section if there would otherwise be no such access.

## **25 Work affecting certain highways**

- (1) In so far as they authorise the execution of any works on, over, under or to, or the exercise of any powers in relation to, any highway not forming part of the bridge, the powers conferred on the Authorities by this Act shall not be exercised without the consent of the highway authority.
- (2) Any consent requested for the purposes of subsection (1) above shall not be unreasonably withheld but may be given subject to such reasonable conditions (other than a condition requiring a monetary payment for the grant of the consent) as the highway authority may impose.
- (3) Any question whether such consent is or is not unreasonably withheld, or any conditions so imposed are or are not reasonable, shall be determined by arbitration.

## **26 Agreements between Authorities and highway authorities**

- (1) When a street or portion thereof will be diverted, widened, altered or interfered with, or a new street will be made, under this Act, the Authorities may enter into and carry into effect agreements with the highway authority in reference to the construction or contribution towards the costs of such diversion, widening or alteration or of any such new street and in reference to any other matters relating thereto.
- (2) The Authorities may by agreement delegate to the highway authority the power of constructing and maintaining all or any of such diversions, widenings, alterations or new street in which they may be interested.

## **27 Delivery and removal of materials**

- (1) The Authorities may, with the prior written consent of the Queen's Harbour Master, from time to time, for the purposes of or in connection with the works, deliver materials to or remove materials from the bridge by means of a barge or similar vessel and may raise materials to or lower materials from any part of the bridge from or to any such barge or vessel.
- (2) The Authorities shall not in exercise of the powers of this section interfere with rights of navigation.

## **28 Vesting and disposal of materials**

- (1) All materials removed by the Authorities under the powers conferred on them by this Act and all materials (other than any apparatus belonging to statutory undertakers or any telecommunications apparatus belonging to or used by the operator of a telecommunications code system) removed by the Authorities from any street or other way or other place or otherwise obtained by them in the construction and maintenance of the works shall vest in the Authorities.

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- (2) The Authorities may use all or any of the said materials for the purposes of the construction or maintenance of the works, or they may sell or otherwise dispose of the said materials as they think fit.

## **29 Obstruction of works**

Any person who intentionally obstructs any person acting under the authority of the Authorities in setting out the lines of the works, or who moves or removes any pole, stake, station point or bench mark established for the purpose of such setting out shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## **PART IV**

### **FINANCE**

## **30 Application of revenue for purposes of Act**

The Authorities may apply money received by them on account of the revenue of the undertaking including money held in any reserve fund—

- (a) for the purposes of this Act; and
- (b) in the repayment of monies borrowed by them for the purposes of this Act; and
- (c) in the payment of interest on such monies.

## **31 Application of money for certain purposes**

- (1) If the Authorities consider it will be conducive to or will facilitate—
- (a) the efficient operation and management of the bridge or the ferry; or
  - (b) improved management or control of traffic using the bridge or the ferry; or
  - (c) relief or prevention of congestion of traffic on or in the vicinity of the bridge or the ferry; or
  - (d) passage on the bridge or the ferry of traffic of any class; or
  - (e) preservation or improvement of the amenity of the area in which the bridge or the ferry is situated so far as it is related to or affected by traffic using the bridge or the ferry;

the Authorities may apply money received by them on account of the revenue of the undertaking and, notwithstanding section 60(4) of the Act of 1957, surplus revenue of the undertaking for the following purposes:—

- (i) to reimburse, in part or whole, revenue or capital monies expended by the relevant councils pursuant to section 63 of the Transport Act 1985 in securing the provision of public passenger transport services within the district or the city; or
- (ii) to reimburse, in whole or part, revenue or capital monies expended by the relevant councils under any enactment in connection with the provision of highways and transportation infrastructure works, vehicles and rolling stock, traffic systems or other improvements of highways and transportation services within the district or the city.

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- (2) The Authorities shall not apply money under this section for the purposes referred to in subsection (1) above without a resolution approving the proposed application of money first being passed by each of the Authorities.
- (3) For the purposes of this section “the relevant councils” means the county council, Devon County Council, the city council and Caradon District Council, or any of them.

## PART V

### MISCELLANEOUS

#### **32 Power to promote bridge and ferry and encourage visitors**

- (1) The Authorities may, by advertisement or otherwise, promote the bridge and the ferry and promote or encourage visits to the bridge and to the ferry by persons for recreation, for health purposes or for the purposes of informing themselves about the bridge and the ferry and their operation.
- (2) The Authorities may do anything incidental to their power under subsection (1) above including, without prejudice to the generality of the foregoing, providing or encouraging any other person to provide meals, refreshments and entertainment and facilities therefor and facilities for recreation, conferences and exhibitions.

#### **33 Application of order and byelaws**

- (1) Any Order made under or by virtue of section 43 (Tolls) of the Act of 1957 or section 6 of the Transport Charges &c. (Miscellaneous Provisions) Act 1954 in relation to the existing bridge and in force at the passing of this Act shall apply to the bridge as it applies to the existing bridge.
- (2) Any byelaws made under section 71 (Byelaws) of the Act of 1957 and in force at the passing of this Act shall have effect as if references therein to “the bridge” were references to the bridge (as defined by this Act).
- (3) Byelaw 30 of the Tamar Bridge Byelaws 1965 is hereby repealed.

#### **34 Amendments to Act of 1957**

- (1) In section 4 (Interpretation) of the Act of 1957—
  - (a) there are hereby inserted the following definitions:—
    - ““the Act of 1998” means the Tamar Bridge Act 1998;
    - “tidal work” means so much of any work authorised by this Act or the Act of 1998 as is on, under or over tidal waters or tidal lands below the level of mean high-water springs;
    - “Trinity House” means the Corporation of Trinity House of Deptford Strond;”;
  - (b) for the definition of “the bridge” there is hereby substituted the following definition:—
    - ““the bridge” has the meaning given by section 2 (Interpretation) of the Act of 1998”.

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- (2) For section 27 (Laying out and repair of carriageways and footways) of the Act of 1957 there is hereby substituted—

**“27 Laying out of bridge and works to carriageways, cycleways and footways**

- (1) The Authorities may from time to time lay out the bridge or any part thereof, for carriageways, cycletracks and footways or alter the layout of the bridge, as they think fit.
- (2) The Authorities may by any such layout or alteration of layout vary the class of traffic which may use any part of the bridge.
- (3) The Authorities may sewer, level, pave, metal, flag and channel any carriageways, cycletracks and footways on the bridge and may from time to time execute all such works and do all such acts in, under or on any such carriageways, cycletracks and footways as they may think fit in exercise of their powers and in performance of their functions under this Act or the Act of 1998 including breaking open the soil and pavement of such carriageways, cycletracks and footways and any sewers, drains or tunnels within or under the same.
- (4) In the exercise of their powers under this section the Authorities shall cause as little inconvenience as circumstances allow.”

- (3) In section 33 (As to closing of bridge) of the Act of 1957—

- (a) for subsection (1) there is hereby substituted the following subsection:—

“(1) The Authorities may whenever in their opinion it is necessary so to do for the purposes of the maintenance, repair, strengthening, widening, improvement, alteration, extension, renewal, reconstruction or replacement of the bridge, or because of the likelihood of danger to the public or of serious damage to the bridge or in case of emergency, wholly or partially close the bridge or any portion thereof to traffic, or to traffic of any class, or divert traffic from one part of the bridge to any other part of the bridge:

Provided that (except in cases of emergency or when the likelihood of danger to the public or serious damage to the bridge is imminent) the Authorities shall not less than 7 days before closing the bridge publish a notice stating the day and time when the bridge will be closed and the period during which it is estimated it will remain closed in—

- (a) a newspaper circulating in the city;
  - (b) a newspaper circulating in the county; and
  - (c) a conspicuous place at or near to the approaches to the bridge;
- and in such other manner (if any) as the Authorities consider desirable.”; and

- (b) the following subsection is hereby added after subsection (2):—

“(3) A person who uses any part of the bridge for the time being closed, or from which traffic has been diverted, under this section, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.”

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(4) In section 36 (Works below high-water mark to be subject to approval of Secretary of State) of the Act of 1957—

- (a) in subsection (1) for the words “Subject to the provisions of this Act any work authorised by this Act so far as the same shall be on under or over tidal waters or tidal lands below high-water mark of ordinary spring tides” there are hereby substituted the words “A tidal work”;
- (b) in subsection (2) for the words “or extension of any such” there are hereby substituted the words “extension, reconstruction or replacement of a tidal”;  
and
- (c) for subsection (3) there is hereby substituted the following subsection:—

“(3) If a tidal work is constructed, altered, extended, reconstructed or replaced in contravention of this section—

- (a) the Secretary of State may by notice in writing require the Authorities at their own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition or so near to its former condition as is acceptable to him, and if, on the expiration of 30 days beginning with the date when the notice is served upon the Authorities, they have failed to comply with the requirements of the notice the Secretary of State may execute the works specified in the notice; or
- (b) if it appears to the Secretary of State urgently necessary to do so, he may himself remove the tidal work or part of it and restore the site to its former condition or so near to its former condition as is acceptable to him;

and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the Authorities.”.

(5) For section 37 (Provision against danger to navigation) of the Act of 1957 there is hereby substituted—

**“37 Provision against danger to navigation**

- (1) In case of injury to or destruction or decay of a tidal work, or any part thereof, the Authorities shall as soon as reasonably practicable notify Trinity House and the Queen’s Harbour Master and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House, after consulting the Queen’s Harbour Master, shall from time to time direct.
- (2) If the Authorities fail to notify Trinity House as required by this section or to comply in any respect with a direction given under this section they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine. ”.

(6) For section 38 (Abatement of work abandoned or decayed) of the Act of 1957 there is hereby substituted—

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### **“38 Abatement of work abandoned or decayed**

- (1) Where a tidal work is abandoned, or allowed to fall into decay, the Secretary of State may by notice in writing require the Authorities at their own expense either to repair and restore the work, or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.
  - (2) Where a work authorised by this Act or the Act of 1998 and consisting partly of a tidal work and partly of works on or over land above the level of mean high-water springs is abandoned or allowed to fall into decay and that part of the work on or over land above the level of mean high-water springs is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Secretary of State may include that part of the work, or any portion thereof, in any notice under this section.
  - (3) If, on the expiration of 30 days from the date when a notice under this section is served upon the Authorities, they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice and any expenditure incurred by him in so doing shall be recoverable from the Authorities.”.
- (7) For section 39 (Survey of works by Secretary of State) of the Act of 1957 there is hereby substituted—

### **“39 Survey of tidal works**

The Secretary of State may at any time if he deems it expedient order a survey and examination of a tidal work or of the site upon which it is proposed to construct a tidal work and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable from the Authorities.”.

- (8) In section 40 (Permanent lights on works) of the Act of 1957—
- (a) in subsection (1) for the words “the corporation of Trinity House of Deptford Strond” there are hereby inserted the words “Trinity House, after consulting the Queen's' Harbour Master,”; and
  - (b) for subsection (2) there is hereby substituted the following subsection:—
    - “(2) If the Authorities fail to comply in any respect with a direction given under this section they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.”.
- (9) For section 41 (Lights on works during construction) of the Act of 1957 there is hereby substituted—

### **“41 Lights on works during construction**

- (1) The Authorities shall at or near a tidal work during the whole time of the construction, alteration, extension, reconstruction or replacement of the same exhibit every night from sunset to sunrise such lights, if any, and take such



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other steps for the prevention of danger to navigation, as the Secretary of State, after consulting the Queen’s Harbour Master, shall from time to time direct.

(2) If the Authorities fail to comply in any respect with a direction given under this section they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.”.

(10) After section 46 (Regulations as to payment of tolls and charges) of the Act of 1957 there is hereby added the following section:—

**“46A Offences**

(1) A person who, without reasonable excuse, refuses to pay any toll for which he is liable or attempts to evade payment of any such toll shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Any person who contravenes or fails to comply with a provision of regulations under section 46 (Regulations as to payment of tolls and charges) of this Act shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.”.

(11) In section 60 (Accounts and deficiencies) of the Act of 1957, at the end of paragraph (e) of subsection (1) there are hereby inserted the words “and for the purposes of the Act of 1998”.

(12) In section 67 (For further protection of certain statutory undertakers) of the Act of 1957—

(a) for subsection (1) there are hereby substituted the following subsections:—

“(1) Nothing in this section shall apply in relation to apparatus in respect of which the relations between the Authorities and the undertakers are regulated by the provisions of Part III of the Act of 1991 as having effect with the modifications made by section 3 (Application of Act of 1991) of the Act of 1998.

(1A) In this section unless the subject or context otherwise requires—

“apparatus” means—

- (a) in the case of electricity undertakers, electric lines or electrical plant (as defined in the Electricity Act 1989) belonging to or maintained by such undertakers; or
- (b) in the case of gas undertakers, mains, pipes or other apparatus belonging to, or maintained by, such undertakers for the purposes of the transportation of gas; or
- (c) in the case of water undertakers, mains, pipes or other apparatus belonging to, or maintained by, such undertakers for the purposes of water supply; or
- (d) in the case of sewerage undertakers, any sewer vested in a sewerage undertaker under the Water Industry Act 1991 including any manholes, ventilating shafts, pumps or other accessories belonging to or forming part of any such sewer;

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and includes any structure for the lodging therein of apparatus or for giving access to apparatus;

“adequate alternative apparatus” means alternative apparatus adequate to enable the undertakers to fulfil their statutory functions in a manner no less efficiently than previously;

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

“undertakers” means any of the following, namely, a licence holder within the meaning of Part I of the Electricity Act 1989, a public gas transporter within the meaning of section 7 of the Gas Act 1986, a water undertaker and a sewerage undertaker; and in relation to any apparatus, means the undertakers to whom it belongs or by whom it is maintained.”;

- (b) in paragraphs (3) and (4) after each reference to “this Act” there are hereby inserted the words “or the Act of 1998”;
- (c) in paragraph (7) after the words “made under section 71 (Byelaws) of this Act” there are hereby inserted the words “or the temporary stopping up or diversion of any street under section 24 (Temporary interference with highways) of the Act of 1998”;
- (d) for paragraph (8) there are hereby substituted the following paragraphs:—

“(8) Subject to paragraph (8A) below, the Authorities shall pay to the undertakers the costs 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 (4) above, less the value of any apparatus removed under the provisions of this section (that value being calculated after removal) and shall also make compensation to the undertakers—

- (a) for any damage caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal in accordance with the provisions of this 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, use or failure of any such works:

(8A) If in pursuance of the provisions of this section—

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

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may

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be, is not agreed by the Authorities, or, in default of agreement, is not determined by arbitration to be necessary, then—

- (i) if it involves cost in the execution of works under paragraph (5) above exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this paragraph would be payable to the undertakers by virtue of paragraph (8) above shall be reduced by the amount of that excess; and
- (ii) if it involves cost in the execution of the Authorities' works exceeding that which would have been involved in that case, the undertakers shall pay to the Authorities an amount equal to that excess:

(8B) For the purposes of paragraph (8A) above—

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

(8C) An amount which apart from this paragraph would be payable to the undertakers in respect of works by virtue of paragraph (8) above (and having regard, where relevant, to paragraph (8A) above) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7½ years earlier so as to confer on the undertakers any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit as calculated in accordance with the Code of Practice entitled “Measures Necessary Where Apparatus is Affected by Major Works (Diversionary Works)” and dated June 1992, and approved by the Secretary of State on 30th June 1992 as revised and reissued from time to time.”

(13) In section 70 (Appointment and powers of joint committee) of the Act of 1957 there are hereby inserted—

- (a) in subsection (1)(a) after the words “of this Act” the words “and under the Act of 1998”;
- (b) in subsection (1)(b) after the words “all the powers of this Act” the words “and of the Act of 1998”;
- (c) in subsection(1)(b)(iii) after the words “of this Act” the words “and those contained in Part IV (Finance) of the Act of 1998”;
- (d) after subsection (5) the following subsection:—

“(5A) (a) If a member appointed to the joint committee is not present at a meeting of the joint committee, and prior to the start of that meeting he has nominated a substitute member for that meeting in accordance with paragraph (b) below, the substitute member may attend and vote at that meeting in his

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place as if the substitute member were the member appointed to the joint committee.

- (b) A nomination of a substitute member shall be made—
    - (i) from the members of the relevant authority who are not appointed to the joint committee; and
    - (ii) to the clerk of the joint committee.
  - (c) For the purposes of this subsection “the relevant authority” means such one of the Authorities as appointed the member who is making the nomination.”.
- (14) In section 72 (Bridge to be exempt from rates) of the Act of 1957 for the words “local rate” there are hereby substituted the words “non-domestic rate”.
- (15) In section 73 (Settlement of questions between Authorities) of the Act of 1957 after the words “of this Act” there are hereby inserted the words “or the Act of 1998”.
- (16) In section 78 (Application of general provisions of Act of 1936) of the Act of 1957 for the words “a reference to this Act” there are hereby substituted the words “references to this Act and the Act of 1998”.

### **35 For protection of Environment Agency**

The following provisions of this section shall, unless otherwise agreed in writing between the Authorities and the Agency, have effect:—

- (1) In this section—
- “the Agency” means the Environment Agency;
  - “construction” includes execution, placing, altering, replacing, relaying and, in relation to temporary works, removal;
  - “drainage work” means any watercourse and includes any land used for providing flood storage capacity for any watercourse and any bank, wall, embankment or other structure, or any appliance, constructed or used for defence against water;
  - “plans” includes sections, drawings, specifications and method statements;
  - “relevant work” means so much of any permanent or temporary work or operation authorised by this Act (other than works required in an emergency) as is likely to—
    - (a) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work; or
    - (b) affect the purity or quality of water in any watercourse;
  - “watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer;
- (2) (a) Before beginning to construct any relevant work, the Authorities shall submit to the Agency plans of the work and such further particulars available to them as the Agency may within 14 days of the submission of the plans reasonably require;
- (b) Any such relevant work shall not be constructed except in accordance with such plans as may be approved in writing by the Agency, or determined under paragraph (14) below;
- (c) Any approval of the Agency required under this paragraph—

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- (i) shall not be unreasonably withheld;
  - (ii) shall be deemed to have been given if it is neither given nor refused within 56 days of the submission of the plans for approval; and
  - (iii) may be given subject to such reasonable requirements as the Agency may make for the protection of any drainage work or for the protection of water resources, or for the prevention of flooding or pollution:
- (3) The requirements which the Agency may make under paragraph (2) above include conditions requiring the Authorities at their own expense to construct such protective works (including any new works as well as alterations to existing works) as are reasonably necessary—
  - (a) to safeguard any drainage work against damage; or
  - (b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased by reason of any relevant work:
- (4) Any relevant work, and all protective works required by the Agency under paragraph (2) above, shall be constructed to the reasonable satisfaction of the Agency and the Agency shall be entitled by its officer to watch and inspect the construction of such works:
- (5) The Authorities shall give to the Agency not less than 14 days' notice in writing of their intention to commence construction of any relevant work and notice in writing of its completion not later than 7 days after the date on which it is brought into use:
- (6)
  - (a) If any part of the works comprising a structure in, over or under a watercourse is constructed otherwise than in accordance with the requirements of this section, the Agency may by notice in writing require the Authorities at the Authorities' own expense to comply with the requirements of this section or (if the Authorities so elect and the Agency in writing consents, such consent not to be unreasonably withheld) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the Agency reasonably requires;
  - (b) Subject to sub-paragraph (c) below, if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (a) above is served upon the Authorities, they have failed to begin taking steps to comply with the requirements of the notice and thereafter to make reasonably expeditious progress towards their implementation, the Agency may execute the works specified in the notice and any expenditure incurred by it in so doing shall be recoverable from the Authorities;
  - (c) In the event of any dispute as to whether sub-paragraph (a) above is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the Agency shall not except in an emergency exercise the powers conferred by sub-paragraph (b) above until the dispute has been finally determined:
- (7)
  - (a) Any work constructed under this Act for the purpose of providing a flood defence shall be maintained to the reasonable satisfaction of the Agency by the person who has control of the work;
  - (b) If any such work is not maintained to the reasonable satisfaction of the Agency, the Agency may by notice in writing require that person to repair and restore the work, or any part thereof, or (if the person having control of the work so elects and the Agency in writing consents, such consent not to be unreasonably withheld), to remove the work and restore the site to its former

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- condition, to such extent and within such limits as the Agency reasonably requires;
- (c) If, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any work is served under sub-paragraph (b) above on the person who has control of that work, that person has failed to begin taking steps to comply with the reasonable requirements of the notice and has not thereafter made reasonably expeditious progress towards their implementation, the Agency may do what is necessary for such compliance and may recover an expenditure reasonably incurred by it in so doing from that person;
- (d) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (b) above, the Agency shall not except in a case of immediate foreseeable need exercise the powers of sub-paragraph (c) above until the dispute has been finally determined:
- (8) If by reason of the construction of any relevant work or of the failure of any such work the efficiency of any drainage work for flood defence purposes is impaired, or that work is otherwise damaged, so as to require remedial action, such impairment or damage shall be made good by the Authorities to the reasonable satisfaction of the Agency and if the Authorities fail to do so, the Agency may make good the same and recover from the Authorities the expense reasonable incurred by it in so doing:
- (9) The Authorities shall indemnify the Agency in respect of all reasonable costs, charges and expenses which the Agency may reasonably incur or have to pay or which it may sustain—
- (a) in the examination or approval of plans under this section;
- (b) in the inspection of the construction of the relevant works or any protective works required by the Agency under this section:
- (10) (a) The Authorities shall indemnify the Agency from all claims, demands, proceedings or damages, which may be made or taken against, or recovered from the Agency by reason of—
- (i) any damage to any drainage work so as to impair its efficiency for flood defence purposes;
- (ii) any raising or lowering of the water table in land adjoining the works authorised by this Act or any sewers, drains and watercourses; or
- (iii) any flooding or increased flooding of any such lands;
- which is caused by the construction of any relevant work or any act or omission of the Authorities, their contractors, agents or employees whilst engaged upon the work;
- (b) The Agency shall give to the Authorities reasonable notice of any such claim or demand and no settlement or compromise thereof shall be made without the consent of the Authorities:
- (11) Nothing in paragraph (10) above shall require the Authorities to indemnify the Agency in respect of any claim, demand, proceedings or damages which the Agency could reasonably make, take against or recover from any other person:
- (12) The fact that any work or thing has been executed or done in accordance with a plan approved or deemed to be approved by the Agency, or to its satisfaction, or in accordance with any directions or award of an arbitrator, shall not relieve the Authorities from any liability under the provisions of this section:

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

- (13) For the purposes of section 109 of the Water Resources Act 1991 (as to structures in, over or under watercourses) as applying to the construction of the works, any consent or approval given or deemed to be given by the Agency under this section with respect to such construction shall be deemed also to constitute a consent or approval under that section:
- (14) Any dispute arising between the Authorities and the Agency under this section (other than a difference as to its meaning or construction) shall be determined by arbitration.

### **36 For protection of Railtrack**

For the protection of Railtrack the following provisions shall, unless otherwise agreed in writing between the Authorities and Railtrack PLC, have effect:—

- (1) In this section—

“associated company of Railtrack PLC” means any company which is (within the meaning of section 736 of the Companies Act 1985) the holding company of Railtrack PLC, a subsidiary of Railtrack PLC or another subsidiary of the holding company of Railtrack PLC;

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer to be appointed by Railtrack PLC;

“plans” includes sections, designs, drawings, specifications, soil reports, calculations and descriptions (including descriptions of methods of construction), staging proposals and programmes;

“Railtrack” means Railtrack PLC and any associated company of Railtrack PLC which holds property for railway purposes;

“railway property” means any railway of Railtrack and any works, apparatus and equipment of Railtrack connected therewith and includes any land held or used by Railtrack for the purposes of such railway or works, apparatus or equipment;

“the relevant works” means so much of the works, and, unless the context otherwise requires, so much of the bridge, as may be situated upon, across, under or over or within 15 metres of, or may in any way affect, railway property, and includes the maintenance, alteration, reconstruction and removal of such parts of such works and such part of the bridge:

- (2)
  - (a) The Authorities shall not under the powers of this Act acquire compulsorily any railway property but they may, with the consent of Railtrack PLC, which consent shall not be unreasonably withheld but may be given subject to reasonable conditions, acquire such easements or other rights over or use such railway property as they may reasonably require;
  - (b) The Authorities shall fence off on a temporary or permanent basis the relevant works from any railway of Railtrack to the reasonable satisfaction of the engineer where so required by him:
- (3) The Authorities shall not exercise the powers of section 11 (3) of the Act of 1965 in respect of any railway property except with the consent of Railtrack PLC which

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consent shall not be unreasonably withheld but may be given subject to reasonable conditions:

- (4) (a) Except with the consent of Railtrack PLC the Authorities shall not in the exercise of the powers of this Act prevent pedestrian or vehicular access to any railway property;
  - (b) The provisions of section 8 (Private rights of way) of this Act shall not apply to any right of access of Railtrack to railway property but such right of access may be diverted with the consent of Railtrack PLC;
  - (c) The consent of Railtrack PLC under this paragraph shall not be unreasonably withheld but may be given subject to reasonable conditions:
- (5) The Authorities shall not in exercise of the powers of this Act to improve, alter, extend, renew, reconstruct or replace the bridge or any part thereof deviate laterally southwards from the line of the specified work shown on the deposited plan so that there shall be a distance of less than 50 metres between the respective centre lines along the length of the bridge and of Railtrack's Royal Albert Bridge:
  - (6) The Authorities shall not in exercising any of the powers of this Act in relation to the easternmost abutment or anchorage of the works alter the footings thereof so that they are situate within a distance of less than three metres from the nearest rail of Railtrack's St. Budeaux Junction to Bere Alston and Gunnislake railway:
  - (7) The Authorities shall before commencing construction of the relevant works supply to Railtrack PLC proper and sufficient plans for the reasonable approval of the engineer and shall not commence such construction of the relevant works until plans thereof have been approved in writing by the engineer or settled by arbitration:
 

Provided that the approval of the engineer under this paragraph shall not be unreasonably withheld or delayed and if within 56 days after such plans have been supplied to Railtrack PLC the engineer has not intimated his disapproval thereof and the grounds of his disapproval he shall be deemed to have approved the same:
  - (8) Upon signifying his approval or disapproval of the plans the engineer may specify any protective works (whether temporary or permanent) which in his opinion should be carried out before the commencement of the relevant works to ensure the safety or stability of railway property, the continuation of safe and efficient operation of the railways of Railtrack or the services of operators using the same (including any relocation of works, apparatus and equipment necessitated by the relevant works) and such protective works as may be reasonably necessary for those purposes shall be constructed by Railtrack or by the Authorities, if Railtrack PLC so desires, with all reasonable dispatch and the Authorities shall not commence the construction of the relevant works until the engineer has notified the Authorities that the protective works have been completed to his reasonable satisfaction:
  - (9) Blasting operations in connection with the works shall not be carried out except at such times and in such manner as the engineer may approve, which approval shall not be unreasonably withheld:
  - (10) (a) The relevant works shall, when commenced, be constructed—
    - (i) with all reasonable dispatch in accordance with the plans approved or deemed to have been approved or settled as aforesaid;
    - (ii) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;



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- (iii) in such manner as to cause as little damage to railway property as may be; and
    - (iv) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Railtrack or the traffic thereon, the operation of any railway station and the use by passengers of railway property;
  - and, if any damage to railway property or any such interference or obstruction is caused or takes place in consequence of the construction of the relevant works, the Authorities shall, notwithstanding any such approval as aforesaid, make good such damage and shall pay to Railtrack PLC all reasonable expenses to which Railtrack may be put and compensation for any loss which Railtrack may sustain by reason of any such damage, interference or obstruction;
  - (b) Nothing in this paragraph shall impose any liability on the Authorities with respect to any damage, cost, expense or loss which is attributable to the neglect or default of Railtrack or its servants or agents:
- (11) The Authorities shall—
- (a) at all times afford reasonable facilities to the engineer for access to the relevant works during their construction; and
  - (b) supply the engineer with all such information as he may reasonably require with regard to the relevant works or the method of construction thereof:
- (12) Railtrack shall at all times afford reasonable facilities to the Authorities and their agents for access to any works carried out by Railtrack under this section during their construction and shall supply the Authorities with such information as they may reasonably require with regard to such works or the method of construction thereof:
- (13) (a) If any alterations or additions, either permanent or temporary, to railway property are reasonably necessary during the construction of the relevant works or during a period of 12 months after the completion thereof in consequence of the construction of the relevant works, and Railtrack PLC gives to the Authorities reasonable notice of Railtrack's intention to carry out such alterations or additions, specifying the alterations or additions to be carried out, the Authorities shall pay to Railtrack PLC the reasonable cost thereof including, in respect of permanent alterations and additions, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Railtrack in maintaining, working and, when necessary, renewing any such alterations or additions;
- (b) The engineer shall, in respect of the capitalised sums referred to in this paragraph and paragraph (14) (a) below, provide such details of the formula by which those sums have been calculated as the Authorities may reasonably require;
  - (c) 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 Authorities to Railtrack PLC under this paragraph:
- (14) The Authorities shall repay to Railtrack PLC all reasonable fees, costs, charges and expenses reasonably incurred by Railtrack—
- (a) in constructing any protective works under the provisions of paragraph (8) above including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;

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- (b) in respect of the employment of any inspectors, signalmen, watchmen and other persons whom it is reasonably necessary to appoint for inspecting, watching, lighting and signalling railway property and for preventing as far as may be reasonably practicable interference, obstruction, danger or accident arising from the construction, maintenance, or failure of the relevant works;
  - (c) in respect of any special traffic working resulting from any speed restrictions which are necessary as a result of the construction, maintenance, or failure of the relevant works and which may in the opinion of the engineer be required to be imposed or from the substitution, suspension or diversion of services which may be reasonably necessary for the same reason;
  - (d) in respect of any additional temporary lighting of railway property in the vicinity of the relevant works being lighting made reasonably necessary as a result of the relevant works or the failure thereof;
  - (e) in respect of the approval by the engineer of plans submitted by the Authorities and the supervision by him of the construction of the relevant works:
- (15) If at any time after the completion of the relevant works Railtrack PLC gives notice to the Authorities informing them that the state of maintenance of the relevant works appears to be such as adversely affects the operation of railway property, the Authorities shall, on receipt of such notice, take such steps as may be reasonably necessary to put the relevant works in such state of maintenance as not adversely to affect railway property:
- (16) All temporary structures, erections, works, apparatus and appliances erected or placed by the Authorities under the powers of this Act or the Act of 1957 upon, over or under any railway of Railtrack shall, as soon as reasonably practicable, be removed by the Authorities at times to be agreed with, and to the reasonable satisfaction of, the engineer and in such a way as to cause as little damage to railway property and as little interference with or delay or interruption to, the traffic on the railways of Railtrack as may be; and if any damage to railway property or such interference, delay or interruption is caused by any such failure to remove any such temporary structures, erections, works, apparatus or appliances, the Authorities shall forthwith make good such damage and pay to Railtrack PLC the reasonable costs and expenses to which Railtrack may be put and reasonable compensation for any loss which Railtrack may sustain by reason of such damage, interference, delay and interruption:
- (17) Before providing any illumination or illuminated traffic sign on or in connection with the relevant works the Authorities shall consult with Railtrack PLC and comply, save as otherwise directed by the Secretary of State or the Corporation of Trinity House of Deptford Strond, with its reasonable requirements in regard thereto with a view to ensuring that such illumination or illuminated sign could not be confused with any railway signal or other light for controlling, directing or securing the safety of traffic on the railway:
- (18) Any additional expenses which Railtrack may reasonably incur after giving 56 days' notice to the Authorities in altering, reconstructing or maintaining railway property under any powers existing at the passing of this Act by reason of the existence of the relevant works shall be repaid by the Authorities to Railtrack PLC:
- (19) (a) The Authorities shall be responsible for and make good to Railtrack PLC all reasonable costs, charges, damages and expenses not otherwise provided for in this section which may be occasioned to, or reasonably incurred by, Railtrack—

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- (i) by reason of the construction or maintenance of the relevant works or the failure thereof; or
    - (ii) by reason of any act or omission of the Authorities or of any person in their employ or of their contractors or others whilst engaged upon the relevant works;
  - and the Authorities shall indemnify Railtrack from and against all claims and demands arising out of or in connection with the relevant works or any such failure, act or omission as aforesaid and the fact that any act or thing may have been done 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 Railtrack or of any person in its employ or of its contractors or agents) excuse the Authorities from any liability under the provisions of this paragraph;
  - (b) Any liability of the Authorities under this paragraph shall be reduced proportionately to the extent to which any costs, charges, damages and expenses are attributable to the neglect or default of Railtrack or of any person in its employ, or of its contractors or agents;
  - (c) Railtrack PLC shall give to the Authorities reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Authorities:
- (20)
- (a) The compensation payable under paragraph (19) above shall include a sum equivalent to the relevant costs;
  - (b) Subject to the terms of any agreement made between Railtrack and the relevant train operators regarding the terms of payment of the relevant costs in respect of that train operator, Railtrack shall promptly pay to each train operator the amount of any compensation which Railtrack PLC receives under this paragraph which relates to the relevant costs of that train operator;
  - (c) In this paragraph “relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any restriction of use of Railtrack’s railway network as a result of the construction or maintenance or failure of the relevant works or any such failure, act or omission as mentioned in paragraph (19) above;
  - (d) The obligation under this paragraph to pay Railtrack PLC the relevant costs shall, in the event of default, be enforceable direct by the train operators concerned:
- (21) In the assessment of compensation payable under this section there shall not be taken into account any enhancement of that compensation attributable to any action taken by or any agreement entered into by Railtrack if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining compensation or increased compensation and for the avoidance of doubt any reference in this paragraph to compensation shall be deemed to relate to any payment due to Railtrack under this section:
- (22) The Authorities and Railtrack may enter into, and carry into effect, agreements for the transfer to the Authorities of—
- (a) any railway property shown on the deposited plan and described in the book of reference;
  - (b) any lands, works or other property held in connection with any such railway property; and

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- (c) any rights and obligations (whether or not statutory) of Railtrack relating to any railway property:
- (23) Any difference arising between the Authorities and Railtrack under this section (other than a difference as to its meaning or construction) shall be determined by arbitration:
- (24) As between the Authorities and Railtrack, section 65 (For protection of British Railways Board) of the Act of 1957 shall cease to have effect.

### **37 For protection of tele-communications operators**

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

- (1) In this section unless the contrary intention appears expressions defined in the Telecommunications Act 1984 have the same meanings as in that Act and—
  - “apparatus” has the same meaning as in Part III of the Act of 1991; and
  - “relocation works” means works executed, or apparatus provided, under paragraph (5) below:
- (2) The temporary stopping up or diversion of any street under section 24 (Temporary interference with highways) of this Act shall not affect any right of a telecommunications operator under paragraph 9 of the telecommunications code (contained in Schedule 2 to the Telecommunications Act 1984) to inspect, maintain, adjust, repair or alter any apparatus which, at the time of the stopping up or diversion, is in that street:
- (3) Where a street is stopped up or diverted under section 20 (Supplementary works powers) of this Act any telecommunications operator whose apparatus is under, in, upon, over, along or across the street shall have the same powers and rights in respect of that apparatus, subject to the provisions of this section, as if this Act had not been passed:
- (4) The Authorities shall give not less than 28 days' notice in writing of their intention to stop up or divert any street under section 20 (Supplementary works powers) of this Act to any telecommunications operator whose apparatus is under, in, upon, over, along or across the street:
- (5) Where a notice under paragraph (4) above has been given, the telecommunications operator may, and if reasonably requested so to do by the Authorities in the notice, shall, as soon as reasonably practicable from the service of the notice—
  - (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the telecommunications operator may reasonably determine and have power to place it; or
  - (b) provide other apparatus in substitution for the existing apparatus and place it in such position as aforesaid:
- (6) Subject to the following provisions of this section, the Authorities shall pay to any telecommunications operator an amount equal to the cost reasonably incurred by the telecommunications operator in or in connection with—
  - (a) the execution of relocation works required in consequence of the stopping up or diversion of the street; and

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- (b) the doing of any other work or thing rendered necessary by the execution of relocation works:
- (7) If in the course of the execution of relocation works under paragraph (5) above—
- (a) apparatus of better type, or greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, or smaller capacity or of smaller dimensions, except where this has been solely due to using the nearest currently available type, capacity or dimension; or
  - (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was;
- and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the Authorities, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this section would be payable to the telecommunications operator by virtue of paragraph (6) above shall be reduced by the amount of that excess:
- (8) For the purposes of paragraph (7) above—
- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as placing of apparatus of greater dimensions than those of the existing apparatus; and
  - (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined:
- (9) An amount which apart from this paragraph would be payable to a telecommunications operator in respect of works by virtue of paragraph (6) above (and having regard, where relevant, to paragraph (7) above) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7½ years earlier so as to confer on the telecommunications operator any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit as calculated in accordance with the Code of Practice entitled “Measures Necessary Where Apparatus is Affected by Major Works (Diversionary Works)” and dated June 1992, and approved by the Secretary of State on 30th June 1992 as revised and reissued from time to time:
- (10) Paragraphs (6) to (9) above shall not apply where—
- (a) the works constitute major bridge works for the purposes of Part III of the Act of 1991; or
  - (b) the works would if executed by the highway authority be major highway works within the definition of that Act;
- but instead—
- (i) the allowable costs of the relocation works shall be determined in accordance with section 85 of that Act (sharing of costs of necessary measures) and any regulations for the time being having effect under that section; and
  - (ii) the allowable costs shall be borne by the Authorities and the telecommunications operator in such proportions as may be prescribed by any such regulations:

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- (11) References in paragraph (10) above to section 85 of the Act of 1991 and regulations having effect thereunder are to that Act and any such regulations as having effect in accordance with section 3 (Application of the Act of 1991) of this Act.

## PART VI

### GENERAL

#### 38 Local inquiries

- (1) The Secretary of State may cause such local inquiries to be held as he may consider necessary for the purpose of any of his functions under this Act.
- (2) Subsections (2) to (5) of section 250 of the Local Government Act 1972 shall apply in relation to any such inquiry.

#### 39 Service of notices

Sections 231 (except subsection (2)) and 233 (except subsection (8)) of the Local Government Act 1972 (relating to service of notices on and by local authorities) shall, with necessary modifications, apply with respect to any notice or other document required, or authorised by this Act to be given to, or served on the Authorities or to be given to, or served on any person by or on behalf of the Authorities.

#### 40 Planning permission

- (1) Subject to subsection (2) below, in its application to development authorised by this Act, the planning permission specified in subsection (2) 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.
- (2) 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 Permitted Development) Order 1995 (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).

#### 41 Crown rights

- (1) Nothing in this Act affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown including (without prejudice to the general law concerning the applicability of statutes to the Duchy of Cornwall) the Duchy of Cornwall and, in particular and without prejudice to the generality of the foregoing, nothing in this Act authorises the Authorities to take, use, enter upon 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 the Duchy of Cornwall or enjoyed by the possessor for the time being of the Duchy of Cornwall, without the consent of the Duke of Cornwall testified in writing under the seal of the said Duchy or, as the case may be, the

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consent in writing of two or more of such of the regular officers of the said Duchy or of such other persons as may be authorised under section 39 of the Duchy of Cornwall Management Act 1863; 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 this section may be given unconditionally or subject to conditions.

#### **42 Arbitration**

Where under any provision of this Act any question or difference (other than a difference as to the meaning or construction of any such provision) is to be determined by arbitration, then such question or 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.

#### **43 Costs of Act**

The costs, charges and expenses preliminary to and of and incidental to the preparing, applying for, obtaining and passing of this Act shall be deemed to be expenses of the undertaking, properly chargeable to revenue.