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## SCHEDULE 2

SUPPLEMENTARY PROVISIONS AS TO THE SCHEDULED  
WORKS AND OTHER AUTHORISED WORKS

## PART II

## HIGHWAYS TO BE STOPPED UP AND NEW HIGHWAYS SUBSTITUTED THEREFOR

## SECTION A

## IN CONNECTION WITH THE CONCESSIONAIRES' SCHEDULED WORKS

(1)	(2)	(3)
Area	Highway or part to be stopped up	New highway to be substituted therefor
District of Shepway, parish of Newington	Footpath from A2 to A3	New footpath from A1 to A3
	Road (A20) from CA1 to CA3	Works Nos. 9A and 9B
	Road (B2065) from CC3 to CC1	Work No. 10A
	Road (B2065) from CC1 to CC2	Work No. 11
	Road (A20) from CE1 to CE2	Works Nos. 9A and 9B
	Footpath and access road from F6 to F2	New footpath from F6 to CE1
	Bridleway from F5 to F7	New bridleway from CE1 to F4 to F5
parishes of Hythe and Newington	Bridleway from G1 to G2	New bridleway on embankment from G1 to G2
town of Folkestone and parish of Newington	Footpath from H1 to H2	
	Footpaths from J1 to J2	
	Track from J1 to J3	
	Road (Danton Lane) from J4 to J5	New footpath from H3 to L1 to J5
	Bridleway from J4 to L2	
	Footpath from K1 to K2	
	Bridleway from L1 to L2	
town of Folkestone	Footpath from M1 to M2	

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	Footpath from N1 to N2	New footpath from N3 to N4
	Footpath from P1 to P2	New footpath from P1 to P2
Borough of Ashford, parish of Sevington	Footpath from S1 to S2	New footpath from S1 to S3 to S4 to S2
	Footpath from U1 to Z2	New footpath from X1 to X2
	Footpath from Z1 to Z4	New footpath from Y1 to Y2

### SECTION B

*IN CONNECTION WITH THE COUNTY COUNCIL'S SCHEDULED WORKS*

(1) <i>Area</i>	(2) <i>Highway or part to be stopped up</i>	(3) <i>New highway to be substituted therefor</i>
Borough of Ashford, parish of Kingsnorth	Footpath from KC1 to KC2	New footpath from KC2 to KC3
town of Ashford and parishes of Kingsnorth and Sevington	Bridleway from KD2 to KD7	New bridleway from KD2 to KD4 to KD5 to KD7 to U1 to T1

### SECTION C

*IN CONNECTION WITH THE RAILWAYS BOARD'S SCHEDULED WORKS*

(1) <i>Area</i>	(2) <i>Highway or part to be stopped up</i>	(3) <i>New highway to be substituted therefor</i>
Borough of Maidstone, parish of Lenham	Footpath from C to D	New footpath from E to D
Borough of Ashford, town of Ashford	Footpath and track from B to C	New footpath from B to D

(5) No part of any highway shall be stopped up under this paragraph until the appropriate authority are in possession of all lands abutting on both sides of that part of the highway except so far as the owners, lessees and occupiers of those lands may otherwise agree.

(6) On the stopping up of any highway or part thereof under this paragraph, all rights of way over or along the highway or part so stopped up shall be extinguished.

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- (7) After the extinguishment of all rights of way over or along any highway or any part thereof under the foregoing provisions of this paragraph the land forming the site of the highway or part so stopped up may be appropriated without payment therefor and may be used by the appropriate authority for the purposes of Part II or III of this Act.
- (8) Any person who suffers loss by the extinguishment of any private right under this paragraph shall be entitled to compensation to be determined, in case of dispute, under and in accordance with Part I of the <sup>M1</sup>Land Compensation Act 1961.
- (9) Compensation in respect of the extinguishment of any private right payable under sub-paragraph (8) above shall be paid by that one of the Concessionaires, the County Council and the Railways Board by whose action the private right is extinguished.

**Marginal Citations****M1** 1961 c. 33.**Marginal Citations****M1** 1961 c. 33.

- 17 (1) The Concessionaires may, with the written consent of the Secretary of State, stop up in connection with the construction of any of the works authorised by this Act any part of the M20 within the limits of land to be acquired other than any part of its carriageways.
- (2) On the stopping up of any part of the M20 under sub-paragraph (1) above, all rights of way over or along that part shall be extinguished.

*Construction and completion of new or substituted highways*

- 18 (1) None of the following parts of highways to which sub-paragraph (4) of paragraph 16 above applies, namely—
- the parts of the A20 road from Ashford to Folkestone for which parts of Work No. 9A and Work No. 9B are to be substituted; and
  - the parts of the B2065 road from Hythe to Bishopsbourne for which Works Nos. 10A and 11 are to be substituted;
- shall be stopped up under that paragraph until the County Council have certified the date on which the new highway concerned has been completed and is open for public use or, on application made to the Secretary of State by the Concessionaires after refusal by the County Council so to certify, he has so certified.
- (2) If within 28 days after an application has been made to the County Council for them to certify a date under sub-paragraph (1) above they have neither done so nor refused to do so, they shall be deemed for the purposes of that sub-paragraph to have refused to do so.
- (3) The part of the A20 road from Ashford to Folkestone for which Work No. 9A is to be substituted shall not be stopped up under paragraph 16 above until, in addition, the County Council have certified that—
- the new bridleway between CE1 and F5; or
  - an alternative approved highway;

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has been completed in accordance with their reasonable requirements and is open for public use or, in case of a difference between the Concessionaires and the County Council as to whether a certificate has been unreasonably withheld or as to the reasonableness of their requirements, until the difference has been determined by the Secretary of State, on application made to him by the Concessionaires after not less than 28 days' notice to the County Council, and he has certified that the new bridleway or alternative approved highway has been completed in accordance with his determination and is open for public use.

- (4) No part of any highway specified in Section A of Part II of the table in paragraph 16 above, other than one mentioned in sub-paragraph (1) above, and no part of the highways specified in Section C of Part II of that table shall be stopped up under that paragraph until the County Council have certified that—

- (a) the new highway to be substituted therefor; or
- (b) an alternative approved highway;

has been completed in accordance with their reasonable requirements and is open for public use or, in case of a difference between the Concessionaires or the Railways Board and the County Council as to whether a certificate has been unreasonably withheld or as to the reasonableness of their requirements, until the difference has been determined by the Secretary of State, on application made to him by the Concessionaires or the Railways Board after not less than 7 days' notice to the County Council, and he has certified that the new highway or alternative approved highway has been completed in accordance with his determination and is open for public use.

- (5) No part of any highway specified in Section B of Part II of the table in paragraph 16 above shall be stopped up under that paragraph until the County Council are satisfied that—

- (a) the new highway to be substituted therefor; or
- (b) an alternative approved highway;

has been completed and is open for public use.

- 19 (1) Before commencing the construction of any of Works Nos. 9A, 9B, 10A, 11 or 17 the Concessionaires shall submit to the County Council for their approval plans, sections and specifications (below in this paragraph referred to as “plans”) of the work and, unless the Concessionaires and the County Council otherwise agree, it shall not be constructed except in accordance with the plans submitted to the County Council and approved by them or, on application made to the Secretary of State by the Concessionaires after disapproval of the plans by the County Council, approved by him.
- (2) If within 28 days after the plans have been submitted the County Council have not approved or disapproved them, they shall be deemed to have approved the plans as submitted.
- 20 (1) If it appears to the County Council that the construction of Work No. 17 will not be completed on or before the date on which their scheduled works will be completed and open for public use, they may by notice require the Concessionaires to complete the construction of that work by such reasonable date as they may specify in the notice.
- (2) Any difference about the reasonableness of any date specified in a notice under sub-paragraph (1) above shall be determined by the Secretary of State.

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- (3) The Secretary of State shall certify the date on which the construction of Work No. 17 has been completed.

*Repair of highways and agreements with highway authorities*

- 21 (1) Notwithstanding anything in section 46 of the <sup>M2</sup>Railways Clauses Consolidation Act 1845, as incorporated with this Act, the appropriate authority shall not be liable to maintain the surface of any highway under or over which the scheduled works shall be constructed or the immediate approaches thereto.
- (2) Except as provided in sub-paragraph (3) below, any new highway constructed by the Concessionaires or the Railways Board under this Act in substitution for an existing highway or part thereof shall, unless otherwise agreed between the Concessionaires or the Railways Board and the County Council, be maintained by and at the expense of the Concessionaires or the Railways Board for a period of twelve months from the date certified as the date on which it has been completed and is open for public use and, at the end of that period, shall be maintained by and at the expense of the County Council.
- (3) The new bridleway between the points G1 and G2 shown on the deposited plans to be substituted for the part of the existing bridleway in the district of Shepway (parishes of Hythe and Newington) between those points shall, when completed, be maintained by and at the expense of the Concessionaires.
- (4) Sections 116 and 117 of the <sup>M3</sup>Transport Act 1968 (responsibility for the maintenance of highway bridges over railways) shall apply to the Concessionaires as if they were one of the boards mentioned in those sections.
- (5) Where under this Act the appropriate authority are authorised to stop up or interfere with an existing highway or part thereof, they may enter into agreements with the persons having the charge, management or control of the highway concerning the construction, or a contribution towards the expense of the construction, of any new highway to be provided in substitution therefor or of any alteration of the existing highway and any other related matters.
- (6) The appropriate authority may, by agreement with any such persons, delegate to them the power of constructing any such new highway or any such alteration of an existing highway, including any bridge over any railway, and, where the appropriate authority are responsible for maintaining the new or altered highway (or bridge), the power to maintain it.

**Marginal Citations**

**M2** 1845 c. 20.

**M3** 1968 c. 73.

*Temporary interference with highways*

- 22 (1) The appropriate authority may, for the purpose of constructing or maintaining works which they are authorised to construct under this Act, temporarily stop up, break up or interfere with, or alter or divert, the whole or any part of any highway within the limits of land to be acquired or used and may carry out and do all necessary works and

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things for, or in connection with, the stopping up, opening, breaking up, interference, alteration or diversion and for keeping the highway open for traffic.

- (2) The appropriate authority shall provide reasonable access for all persons, with or without vehicles, going to or returning from premises abutting on any highway affected by the exercise of the powers conferred by this paragraph.

*Power to use subsoil of highways*

- 23 Subject to the provisions of this Act the appropriate authority may enter upon, take and use for the purposes of this Act so much of the subsoil and under-surface of any highway within the limits of deviation for their scheduled works as shall be required for the purpose of the construction or maintenance of those works, without being required to acquire that subsoil and under-surface or any interest therein.

*Status of certain highways constructed by the Concessionaires*

- 24 (1) The Secretary of State shall certify points on Works Nos. 9E and 9F to which each of those works from their commencement shall be special roads.
- (2) On the date certified by the Secretary of State as the date on which the roads forming the parts of those works from their commencement to those points have been completed and are open for public use, those roads shall become trunk roads and special roads for the exclusive use of traffic of Classes I and II of the classes of traffic specified in Schedule 4 to the <sup>M4</sup>Highways Act 1980 as if they had been provided by the Secretary of State in pursuance of a scheme made by him under section 16 of that Act—
- (a) prescribing the route of those roads as the route for the special roads to be provided under the scheme;
  - (b) prescribing both those classes of traffic; and
  - (c) specifying that date as the date on which those special roads were to become trunk roads.
- (3) The provisions of sub-paragraph (2) above shall be treated for the purposes of that Act as provisions of a scheme under that section.
- (4) On the date certified in relation to any new highway under paragraph 18(1) above the road which is the highway shall be transferred to the Kent County Council.
- (5) Where the construction of any part of the road forming Work No. 17 has been completed the Secretary of State may, if the part concerned was not a highway at the passing of this Act, certify a date on which it is to be transferred to that Council.
- (6) In the case of any new road constructed by the Concessionaires in pursuance of this Schedule, other than one to which sub-paragraph (2), (4) or (5) above applies, the Secretary of State may certify a date on which that road is to be transferred to that Council.
- (7) On the date certified in relation to any road or part of a road under sub-paragraph (5) or (6) above, that road or part of a road shall be transferred to that Council.
- (8) Subject to paragraph 27(4)(b) below, following a transfer under sub-paragraph (4) or (7) above the road or part of a road transferred shall be treated as if it had been constructed by that Council in exercise of their powers under section 24(2) of the Highways Act 1980.

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- (9) The Secretary of State may classify any road proposed to be constructed which may be transferred to that Council under this paragraph in any manner in which, and for any purposes for which, he could under section 12(3) of that Act classify a proposed highway for which that Council are the highway authority.
- (10) On the date of its transfer to that Council any road classified under sub-paragraph (9) above shall become a highway classified in the manner and for the purposes in question as if so classified under section 12(3) of that Act.

**Marginal Citations****M4** 1980 c. 66.*Status of the County Council's works*

- 25 The construction by the Kent County Council of a highway in pursuance of this Act shall be treated as the construction of a highway in pursuance of section 24(2) of the Highways Act 1980.

*Regulation of traffic on new roads*

- 26 (1) Subject to sub-paragraph (2) below, any power under the <sup>M5</sup>Road Traffic Regulation Act 1984 to make an order or to give a direction with respect to any road shall be exercisable in relation to any road forming or forming part of any of the Concessionaires' or the County Council's scheduled works before that road is open for public use, in any case where it appears to the Secretary of State to be expedient that the order or (as the case may be) the direction should have effect immediately on the road's becoming open for public use.
- (2) The procedure otherwise applicable under that Act in relation to the making of any such order or the giving of any such direction shall apply in any such case with such modifications as the Secretary of State may determine; and he shall publish notice of those modifications in such manner as appears to him to be appropriate for bringing them to the notice of persons likely to be affected by the provisions of any such order or (as the case may be) by any such direction.

**Marginal Citations****M5** 1984 c. 27.*Compensation for, and mitigation of, adverse effects of certain authorised works*

- 27 (1) Subject to the following provisions of this paragraph, the Secretary of State is the responsible authority for the purposes of Parts I and II of the <sup>M6</sup>Land Compensation Act 1973 (compensation for, and mitigation of, injurious effects of public works) as respects the Concessionaires' scheduled works and any other works of the Concessionaires authorised by this Act (including the construction or alteration of any highway).
- (2) Where a claim under Part I of that Act relates to depreciation caused by use of the road forming Work No. 17—

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- (a) if and so far as it relates to depreciation that would not have been caused but for the opening to public traffic of Kent County Council's scheduled works, that Council shall be the responsible authority in relation to it; and
  - (b) if and so far as the Secretary of State is the responsible authority in relation to it, no account shall be taken in assessing compensation of any use or expected intensification of use of that road due to that opening.
- (3) If and so far as the Kent County Council are the responsible authority in relation to a claim under that Part of that Act by virtue of sub-paragraph (2)(a) above, that Part of that Act shall have effect in relation to the claim as if—
- (a) the relevant date were the date on which all of their scheduled works were first open to public traffic;
  - (b) the increase in value to be taken into account under section 6 were any increase that would not have been caused but for the opening to public traffic of those works; and
  - (c) subsection (1) of section 8 did not preclude the payment of compensation unless the previous claim was in respect of depreciation that would not have been caused but for that opening and subsection (2) of that section did not preclude the payment of compensation.
- (4) Subject to the following provisions of this paragraph, the <sup>M7</sup>Noise Insulation Regulations 1975 shall have effect as if—
- (a) the Secretary of State were the appropriate highway authority in relation to all of the Concessionaires' scheduled works and other works of the Concessionaires authorised by this Act which are highways, except the road forming Work No. 17;
  - (b) Work No. 17 were, as from the commencement of its construction, the construction of a highway by the Kent County Council; and
  - (c) the relevant noise level, in relation to the road forming that work, did not include any level of noise caused or expected to be caused by traffic using or expected to use it before the date on which all of Kent County Council's scheduled works are first open to public traffic.
- (5) Notwithstanding anything in sub-paragraph (1) or (4) above, the Secretary of State—
- (a) is not liable to satisfy any claim under Part I of the Land Compensation Act 1973 in connection with the use of any highway for which he is not the highway authority; and
  - (b) does not have any obligation or power under the Noise Insulation Regulations 1975 in connection with the use or alteration of any such highway;
- if and so far as the claim, obligation or power arises in connection with the alteration of the highway otherwise than in pursuance of this Act.
- (6) Subject to the following provisions of this paragraph, in the case of any of the Concessionaires' scheduled works and any other works of the Concessionaires authorised by this Act which involve the construction or alteration of a highway, the Secretary of State shall have the powers and duties of a highway authority under—
- (a) section 28 of that Act (power to pay expenses of persons moving temporarily during construction works); and
  - (b) sections 246, 253 and 282 of the <sup>M8</sup>Highways Act 1980 (which relate respectively to acquisition of land, agreements with respect to use of land



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and execution of works for the purpose of mitigating adverse effects of highways);

as if he were constructing or altering, or proposing to construct or alter, the highway, and references in those sections to a highway authority shall be construed accordingly.

(7) The Secretary of State may with the consent of the Kent County Council by order made by statutory instrument transfer to that Council, on such terms as may be provided in the order—

- (a) any land acquired by him under section 246 of the Highways Act 1980; and
- (b) any rights and liabilities acquired by or accrued to him under that section, section 253 or 282 of the Highways Act 1980 or the <sup>M9</sup>Noise Insulation Regulations 1975;

by virtue of this paragraph.

(8) For the purposes of section 26 of the <sup>M10</sup>Land Compensation Act 1973 (power of responsible authority to acquire land by agreement for the purpose of mitigating any adverse effects of public works) the Concessionaires' and the Railways Board's scheduled works and any other works of the Concessionaires or (as the case may be) of the Railways Board authorised by this Act shall be treated as public works notwithstanding that they form part of a statutory undertaking as defined by [<sup>F1</sup>section 336(1) of the Town and Country Planning Act 1990].

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#### Textual Amendments

- F1** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1\)](#), s. 4, [Sch. 2 para. 75](#)

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#### Marginal Citations

- M6** 1973 c. 26.  
**M7** S.I. 1975/1763.  
**M8** 1980 c. 66.  
**M9** S.I. 1975/1763.  
**M10** 1973 c. 26.

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