

SCHEDULES

SCHEDULE 1

Article 2(1)

SCHEDULED WORKS

In the District of Sedgemoor, Somerset

Work No.1A — A barrier, with twin vertical lift gates, across the river Parrett, at a location adjacent to the western boundary of the existing business park known as Express Park, situated to the north of Bridgwater, Somerset. Work No.1A provides a retained channel width (total across the two gate openings) of 30 metres within the river Parrett. Work No.1A includes scour protection, ramped access to the barrier, a cross bridge providing operational access above the gates, and a separate foot and cycle bridge across the watercourse.

Work No.1B — A new surfaced access track, 690 metres in length, commencing at a location situated 390 metres along the unnamed road to the south of Saltlands former landfill site, measured from the junction of that road with the A39 Western Way, and terminating at a point 90 metres north of the junction between footpaths BW10/16 and BW10/12.

Work No.1C — A building for control and associated purposes in relation to Work No.1A, located on the southern boundary of the existing business park known as Express Park and adjacent to the barrier comprised within Work No.1A. Work No.1C includes a hard standing area surrounding the building to provide access and parking, perimeter fencing, and two storage buildings.

Work No.1D — A new surfaced access road, 200 metres in length and commencing at the mini roundabout to the south west of Bridgwater Police Centre car park and terminating at Work No.1C. Work No.1D includes ramped access to Work No.1C and perimeter fencing.

Work No.2A — Raising of an existing flood defence embankment running along the west bank of the river Parrett, 350 metres in length, commencing at a location situated to the immediate north of the barrier site and terminating at the commencement of Work No.2B. Work No.2A includes fencing and a new ramp to provide access to an existing public right of way.

Work No.2B — Works to upgrade the existing outfall structure at Pim's Clyce, which is located on the west bank of the river Parrett, where that river connects to Wildmarsh Rhyne, to raise the crest level, including new sheet piled retaining walls and infill. Work No.2B includes new fencing and raised access.

Work No.2C — Raising of an existing flood defence embankment running along the west bank of the river Parrett, 450 metres in length, commencing at a location situated 45 metres northwards of Pim's Clyce and terminating at a point 410 metres east south east of Lower Lakes. Work No.2C includes fencing and a new ramp to provide access to an existing public right of way.

Work No.2D — A new flood defence embankment, 310 metres in length, commencing at the termination of Work No.2C and terminating at a point 380 metres east north east of Lower Lakes. Work No.2D includes one new ramp providing access to adjacent fields and an existing access track.

Work No.2E — A new flood defence embankment, 650 metres in length, commencing at the termination of Work No.2D and terminating on the eastern boundary of the existing public highway known as Straight Drove, at a location 265 metres north west of its junction with Middle Drove. Work No.2E includes an access track, running alongside the new embankment, a field drainage ditch, four new ramps providing access to adjacent fields and one culvert with a flap valve.

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Work No.2F — Raising the surface level of the existing public highway known as Straight Drove, across a stretch of highway 40 metres in length and situated between Works Nos. 2E and 2G. Work No.2F includes diversions to existing field drainage ditches.

Work No.2G — A new flood defence embankment, 1645 metres in length, commencing on the western boundary of Straight Drove, at a location adjacent to Work No.2F and terminating at a point 270 metres north west of Perry Wood Farm. Work No.2G includes fencing, tree protection works, five culverts with flow control structures, and nine new ramps providing access to adjacent fields.

Work No.2H — A new flood defence embankment, 545 metres in length, including sheet pile cut-off on the crest centreline, commencing at the termination of Work No.2G and terminating at the unnamed road 80 metres south of Perry Wood Farm. Work No.2H includes lengths of toe drainage, two culverts with flap valves and four new ramps providing access to adjacent fields.

Work No.3A — Raising of an existing flood defence embankment running along the east bank of the river Parrett, 380 metres in length, commencing at a location 20 metres north west of Walpole Clyce and terminating at a point 155 metres south east of Brick Yard Clyce. Work No.3A includes fencing and a new ramp providing access to the existing flood defence situated upstream of Walpole Clyce.

Work No.3B — Raising of an existing flood defence embankment running along the east bank of the river Parrett, 70 metres in length, commencing at the termination of Work No.3A and terminating at a point 90 metres south east of Brick Yard Clyce. Work No.3B incorporates a 22 metre length of box gabion wall to the landward toe of the raised embankment. Work No.3B also includes new fencing and a new ramp providing access to the raised embankment.

Work No.3C — A replacement flood wall, comprised in reinforced concrete and glass panels, 85 metres in length, situated between Works Nos. 3B and 3D.

Work No.3D — Reinforcement of an existing flood defence embankment running along the east bank of the river Parrett, 430 metres in length, commencing at Brick Yard Clyce and terminating at a point 430 metres north west of Brick Yard Clyce. Work No.3D includes works to reinforce the existing embankment over the outfall structure known as Brick Yard Clyce, four new ramps providing access to adjacent fields, fencing, and the replacement of existing drainage.

Work No.3E — A new flood defence embankment, 300 metres in length, commencing at the termination of Work No.3D and terminating at a location situated 450 metres south west of Pawlett. Work No.3E includes fencing, two new ramps providing access to adjacent fields and works to infill an existing dry pond.

Work No.4A — Raising of an existing flood defence embankment running along the west bank of the river Parrett, 920 metres in length, commencing at a location situated 1,000 metres south east of Combwich and terminating at a point 120 metres south east of Combwich Wharf. Work No.4A includes works to extend an existing culvert beneath the embankment at Tuckett's Clyce, fencing and three new ramps providing access to adjacent fields.

Work No.4B — A new flood defence embankment, 800 metres in length, commencing at a location situated 200 metres south east of Putnell Farm and terminating at Work No.4A at a location situated 475 metres north west of the commencement point of Work No.4A. Work No.4B includes two culverts with manual penstocks.

Work No.4C — Reinforcement of existing flood defences, constructed along the alignment of the existing flood defence embankment, commencing at the termination of Work No.4A and terminating at Combwich Wharf.

Work No.5A — A borrow pit, not greater than 3900 square metres in area to provide fill material for the embankments, at a location situated 330 metres east of Sutton's Pond Nature Reserve.

Work No.5B — A borrow pit, not greater than 16000 square metres in area, providing fill material for the embankments, at a location situated 200 metres south east of Lower Lakes.

Work No.5C — A borrow pit, not greater than 75300 square metres in area, providing fill material for the embankments, at a location situated 330 metres east of Lower Lakes.

Work No.5D — A borrow pit, not greater than 1800 square metres in area, providing fill material for the embankments, at a location situated 230 metres east north east of Lower Lakes.

Work No.5E — A borrow pit, not greater than 60000 square metres in area, providing fill material for the embankments, at a location situated 600 metres north east of Perry Wood Farm.

Work No.5F — A borrow pit, not greater than 36000 square metres in area, providing fill material for the embankments, at a location situated 70 metres east of Walpole Clyce.

Work No.5G — A borrow pit, not greater than 68000 square metres in area, providing fill material for the embankments, at a location situated 130 metres east of Fenlyn's Clyce.

Work No.6A — Repairs to an existing masonry wall, 15 metres in length, commencing opposite the junction between Harbour View and Riverside and terminating at 30 metres north west of Combwich Pill Sluice. Work No.6A includes the erection of two spiked barriers.

Work No.6B — Raising of low spots, along an 85 metre length of existing flood defence embankment commencing at Combwich Pill Sluice and terminating at a point 55 metres south west of Combwich Wharf.

Work No.6C — Raising of low spots, along a 55 metre length of existing flood defence embankment commencing at a point 45 metres north east of the junction between Riverside and Martyn Close and terminating at a point 70 metres south west of the junction between Riverview and Riverside.

Work No.6D — Raising of low spots, along a 160 metre length of existing flood defence embankment commencing at a point 50 metres east south east of the junction between Riverview and Riverside and terminating at a point 50 metres north east of the junction between Ship Lane and Riverside.

Work No.7A — Installation of new navigation signage and associated infrastructure at a location on the east bank of the river Parrett at a location situated immediately to the south west of Dunball Sluice.

Work No.7B — Installation of new navigation signage and associated infrastructure at a location on the west bank of the river Parrett at a location situated immediately northwards of Bridgwater Docks.

In the District of South Somerset, Somerset

Work No.8A — Eel passage improvements at Ablake Weir to provide mitigation for the operation of the barrier forming part of Work No.1A. Work No.8A includes replacement of the existing side wall of the existing Weir with a reinforced concrete structure incorporating a gravity eel pass in the river Yeo.

Work No.8B — Eel passage improvements at Ham Weir to provide mitigation for the operation of the barrier forming part of Work No.1A. Work No.8B includes the addition of eel stud tiles to the existing weir face and minor modifications to the weir in the river Parrett.

Work No.8C — Eel passage improvement at Long Load Sluice to provide mitigation for the operation of the barrier forming part of Work No.1A. Work No.8C includes replacement of a section of the existing river wall with a reinforced concrete structure incorporating a gravity eel pass in the river Yeo.

Work No.8D — Eel passage improvements at Monk's Leaze Clyse to provide mitigation for the operation of the barrier forming part of Work No.1A. Work No.8D includes installation of a pumped eel pass installed within the existing sluice structure between the river Parrett and the river Sowey.

Work No.8E — Eel passage improvements at Midelney Pumping Station to provide mitigation for the operation of the barrier forming part of Work No.1A. Work No.8E includes replacement of the existing side wall with a reinforced concrete structure incorporating a gravity eel pass in the River Isle.

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Work No.8F — Eel passage improvements at Thorney Mill Sluices to provide mitigation for the operation of the barrier forming part of Work No.1A. Work No.8F includes installation of an eel bristle trough fixed to the existing channel side wall and minor modifications to the weir crest to allow installation of the trough within the river Parrett.

Work No.8G — Eel passage improvements at Witcombe Bottom Tilting Weir to provide mitigation for the operation of the barrier forming part of Work No.1A. Work No.8G includes the installation of an eel bristle trough on the existing weir between the river Yeo and the Witcombe Bottom Main Drain.

In the District of Somerset West and Taunton, Somerset

Work No.8H — Fish passage improvements at Bishop’s Hull Gauging Station to provide mitigation for the operation of the barrier forming part of Work No.1A. Work No.8H includes lowering the right third of the weir crest to improve fish passage and installation of gravity feed eel tiles on the existing river wall of the River Tone.

Work No.8I — Fish passage improvements at Bradford-on-Tone Weir to provide mitigation for the operation of the barrier forming part of Work No.1A. Work No.8I includes installation of a rock ramp fish pass in land adjacent to the bank of the River Tone.

Work No.8J — Fish passage improvements at Firepool Weir to provide mitigation for the operation of the barrier forming part of Work No.1A. Work No.8J includes replacement of timber stop boards in the existing fish pass with new boards with curved notches and installation of a new gravity eel pass in the side wall of the existing fish pass on the River Tone.

Work No.8K — Fish passage improvements at French Weir to provide mitigation for the operation of the barrier forming part of Work No.1A. Work No.8K includes replacement of timber stop boards in the existing fish pass with new boards with curved notches, installation of a new gravity eel pass in the side wall of the existing fish pass and installation of a debris deflector at the fish pass exit within the River Tone.

Work No.8L — Fish passage improvements at Longaller Weir to provide mitigation for the operation of the barrier forming part of Work No.1A. Work No.8L includes the installation of an eel board onto the weir face, construction of a rock pre-barrage around the base of the existing fish pass and modifications to the weir crest and face within the River Tone.

SCHEDULE 2

Article 11

STREETS TO BE TEMPORARILY STOPPED UP

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of temporary stopping up</i>
In the District of Sedgemoor, Somerset	Public Footpath B/W 10/16	Footpath stopped up to all traffic between points marked ‘D’ and ‘I’ on sheet 1 of the public rights of way plans.
	Public Footpath B/W 10/7	Footpath stopped up to all traffic between points marked ‘B’ and ‘C’ on sheet 1 of the public rights of way plans.

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of temporary stopping up</i>
	Coastal Footpath ECP	Coastal Footpath stopped up to all traffic between points marked 'F' and 'G' on sheet 1 of the public rights of way plans.
	Public Footpath B/W 10/12	Footpath stopped up to all traffic between points marked 'B' on sheet 1 of the public rights of way plans and 'B' on sheet 2 of the public rights of way plans.
	Coastal Footpath ECP	Coastal Footpath stopped up to all traffic between points marked 'B' on sheet 1 of the public rights of way plans and 'B' on sheet 2 of the public rights of way plans.
	Public Footpath B/W 10/9	Footpath stopped up to all traffic between points marked 'A' and 'G' on sheet 2 of the public rights of way plans.
	Public Footpath B/W 10/10	Footpath stopped up to all traffic between points marked 'C' and 'D' on sheet 2 of the public rights of way plans.
	Straight Drove (in part)	Street stopped up to all traffic between points marked 'F' and 'E' on sheet 2 of the public rights of way plans.
	Public Footpath B/W 34/36	Footpath stopped up to all traffic between points marked 'A' and 'C' and points marked 'D' and 'B' on sheet 3 of the public rights of way plans.
	Public Footpath B/W 27/12	Footpath stopped up to all traffic between points marked 'A' and 'B' on sheet 4 of the public rights of way plans.
	Coastal Footpath ECP	Coastal Footpath stopped up to all traffic between points marked 'A' and 'B' on sheet 4 of the public rights of way plans.
	Public Footpath B/W 27/4	Footpath stopped up to all traffic between points marked 'D' and 'E' and 'F' and 'C' on sheet 4 of the public rights of way plans.

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of temporary stopping up</i>
	Public Footpath B/W 5/4	Footpath stopped up to all traffic between points marked 'A' on sheet 5 of the public rights of way plans and 'C' on sheet 6 of the public rights of way plans.
	Coastal Footpath ECP	Coastal Footpath stopped up to all traffic between points marked 'A' on sheet 5 and 'B' on sheet 6 of the public rights of way plans.
	Public Footpath B/W 25/31	Footpath stopped up to all traffic between points marked 'C' and 'B' on sheet 6 of the public rights of way plans.
In the District of South Somerset, Somerset	Public Footpath L13/6	Footpath stopped up to all traffic between points marked 'A' and 'B' on sheet 7 of the public rights of way plans.
	Public Footpath Y13/2	Footpath stopped up to all traffic between points marked 'A' and 'C' on sheet 8 of the public rights of way plans.
	Public Footpath L21/4	Footpath stopped up to all traffic between points marked 'C' and 'B' on sheet 8 of the public rights of way plans.
	Public Footpath L1/3	Footpath stopped up to all traffic between points marked 'A' and 'B' on sheet 9 of the public rights of way plans.
	Public Footpath L10/19	Footpath stopped up to all traffic between points marked 'A' and 'C' on sheet 10 of the public rights of way plans.
	Public Footpath L17/10	Footpath stopped up to all traffic between points marked 'D' and 'B' on sheet 10 of the public rights of way plans.
	Public Footpath L17/38	Footpath stopped up to all traffic between points marked 'A' and 'B' on sheet 11 of the public rights of way plans.
	Public Footpath Y13/3	Footpath stopped up to all traffic between points marked 'A' and 'B'

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of temporary stopping up</i>
		on sheet 12 of the public rights of way plans.
In the District of Somerset West and Taunton, Somerset	Public Footpath WG3/17	Footpath stopped up to all traffic between points marked 'A' and 'B' on sheet 13 of the public rights of way plans.
	Public Bridleway T33/21	Footpath stopped up to all traffic between points marked 'A' and 'B' on sheet 14 of the public rights of way plans.
	Public Footpath T33/22	Footpath stopped up to all traffic between points marked 'B' and 'C' on sheet 14 of the public rights of way plans.
	Public Bridleway T33/28	Footpath stopped up to all traffic between points marked 'A' and 'B' on sheet 15 of the public rights of way plans.
	Public Footpath T33/28/1	Footpath stopped up to all traffic between points marked 'C' and 'D' on sheet 15 of the public rights of way plans.

SCHEDULE 3

Article 12

STREETS TO BE PERMANENTLY STOPPED UP

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street affected</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
In the District of Sedgemoor, Somerset	B/W 10/12	Footpath stopped up to all traffic between points marked 'A' and 'B' via point 'H' on sheet 1 of the public rights of way plans.	Temporary footpath during construction of the works, open to foot traffic only between points marked 'A' on sheet 1 and 'B' on sheet 2 via point 'C' on sheet 1 of the public rights of way plans.

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(1) <i>Area</i>	(2) <i>Street affected</i>	(3) <i>Extent of stopping up</i>	(4) <i>New street to be substituted</i>
			Permanent footpath open to foot traffic only following completion of the works between points marked 'A' and 'B' via points 'K', 'D' and 'E' on sheet 1 of the public rights of way plans.
	Coastal Footpath ECP	Footpath stopped up to all traffic between points marked 'A' and 'B' via point 'H' on sheet 1 of the public rights of way plans.	<p>Temporary footpath during construction of the works, open to foot traffic only between points marked 'A' on sheet 1 and 'B' on sheet 2 via point 'C' on sheet 1 of the public rights of way plans.</p> <p>Permanent footpath open to foot traffic only following completion of the works between points marked 'A' and 'B' via points 'K', 'D' and 'E' on sheet 1 of the public rights of way plans.</p>
	B/W 10/16	Footpath stopped up to all traffic between points marked 'A' and 'D' on sheet 1 of the public rights of way plans.	<p>Temporary footpath during construction of the works, open to foot traffic only between points marked 'A' and 'C' on sheet 1 of the public rights of way plans.</p> <p>Permanent footpath open to foot traffic only following completion of the works between points marked 'A' and 'D' via point 'K' on sheet</p>

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(1) <i>Area</i>	(2) <i>Street affected</i>	(3) <i>Extent of stopping up</i>	(4) <i>New street to be substituted</i>
			1 of the public rights of way plans.
	B/W 34/36	Footpath stopped up to all traffic between points marked 'C' and 'D' on sheet 3 of the public rights of way plans.	Permanent footpath open to foot traffic only between points marked 'C' and 'D' via point 'E' on sheet 3 of the public rights of way plans.

SCHEDULE 4

Article 31

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right and in the case of a restrictive covenant, as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the following modification.

(2) For section 5A(5A) of the 1961 Act(1) (relevant valuation date), substitute—

“(5A) If—

- (a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act;
- (b) the acquiring authority is subsequently required by a determination under paragraph 13 of Schedule 2A to the 1965 Act (as substituted by paragraph 10 of Schedule 4 (modification of compensation and compulsory purchase enactments for creation of new rights) to the Bridgwater Tidal Barrier Order 2022) to acquire an interest in the land; and
- (c) the acquiring authority enters on and takes possession of that land, the authority is deemed for the purposes of subsection (3)(a) to have entered on that land where it entered on that land for the purpose of exercising that right.”.

3.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(2) has effect subject to the modifications set out in sub-paragraph (2).

(1) Section 5A was inserted by section 103 of the Planning and Compulsory Purchase Act 2004 (c. 5). Subsection (5A) was inserted by paragraph 4 of Part 2 of Schedule 17 to the Housing and Planning Act 2016 (c. 22).

(2) 1973 c. 26.

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(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act (measure of compensation in case of severance) as substituted by paragraph 4—

- (a) for “land is acquired or taken” substitute “a right or restrictive covenant over land is purchased”;
- (b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable”.

Application of the 1965 Act

4.—(1) The 1965 Act has effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right, or to the imposition under this Order of a restrictive covenant, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are to be read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired or the restrictive covenant imposed or to be imposed, or
- (b) the land over which the right is or is to be exercisable or the restrictive covenant is or is to be enforceable.

(2) Without limitation on the scope of sub-paragraph (1), Part 1 of the 1965 Act (compulsory purchase under Acquisition of Land Act of 1946) applies in relation to the compulsory acquisition under this Order of a right by the creation of a new right, or in relation to the imposition of a restrictive covenant, with the modifications specified in paragraphs 5 to 10.

5. For section 7 of the 1965 Act (measure of compensation in case of severance), substitute—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant to be imposed is depreciated by the acquisition of the right or the imposition of the restrictive covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land)—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners);
- (d) paragraph 2(3) and 7(2) of Schedule 4 (common land),

are modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

7. Section 11 of the 1965 Act (powers of entry) is modified so as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right or restrictive covenant, it has power, exercisable in the like circumstances and subject to the equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is to be deemed for this purpose to have been created on the date of service of the notice); and section 12

of the 1965 Act⁽³⁾ (penalty for unauthorised entry) and section 13 of that Act (entry on warrant in the event of obstruction) are modified correspondingly.

8. Section 20 of the 1965 Act⁽⁴⁾ (protection for interests of tenants at will etc.) applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

9. Section 22 of the 1965 Act (interests omitted from purchase) is modified so as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

10. For Schedule 2A of the 1965 Act substitute—

“SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1. This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and has not executed a general vesting declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981⁽⁵⁾ as applied by article 34 of the Bridgwater Tidal Barrier Order 2022 (application of the Compulsory Purchase (Vesting Declarations) Act 1981) in respect of the land to which the notice to treat relates.

2. In this Schedule, “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the acquiring authority to purchase the owner’s interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or
- (c) refer the counter-notice to the Upper Tribunal.

6. The acquiring authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

(3) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23), and paragraphs 2 and 4 of Schedule 16 to the Housing and Planning Act 2016 (c. 22).

(4) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

(5) 1981 c. 66, as amended by Part 7 of the Housing and Planning Act 2016 (c. 22).

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7. If the acquiring authority decides to refer the counter-notice to the Upper Tribunal it must do so within the decision period.

8. If the acquiring authority does not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the acquiring authority serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Determination by Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant,
- (b) the use to be made of the right or covenant proposed to be acquired or imposed, and
- (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.

13. If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the acquiring authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph it must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

15. Any dispute as to the compensation is to be determined by the Upper Tribunal.”.

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

SCHEDULE 5

Article 32

LAND WHICH MAY BE COMPULSORILY ACQUIRED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Plot number of land shown on the land plans</i>
In the District of Sedgemoor, Somerset	239, 245, 246, 248, 252, 256, 257, 258, 259, 267, 268, 269, 270, 273, 274, 275

SCHEDULE 6

Article 37

LAND OF WHICH TEMPORARY POSSESSION ONLY MAY BE TAKEN

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the Order plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>
In the District of Sedgemoor, Somerset	1	Construction of Work No.6D
	2	Construction of Work No.6C
	3	Construction access (Work No.6D)
	4, 14	Construction of Work No.6B
	5, 7, 16	Construction working area (Work No.4C)
	9	Construction working area (Work No.6A)
	10, 11, 18	Construction access and working area (Work Nos. 6A and 6B)
	12	Construction of Work No.6A
	13	Construction access and working area (Work No.6A)
	15	Construction access (Work Nos. 6A and 6B)
	20	Construction access and working area (Work Nos. 4A, 4B and 4C)
	21, 22	Construction working area (Work Nos. 4A, 4B and 4C)
	23	Construction working area (Work Nos. 4A and 4B)
	25, 32, 34	Construction access and working area (Work Nos. 4A and 4B)
27	Construction access and working area (Work No.4B)	

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

(1) Area	(2) Number of land shown on the Order plans	(3) Purpose for which temporary possession may be taken
	28	Construction access and working area (Work No.4B)
	29	Construction working area (Work Nos. 4A, 4B and 4C)
	44	Construction of Work No.5G
	67	Construction compound and access (Work Nos. 3A, 3B, 3C, 3D and 3E)
	69	Construction working area (Work Nos. 3D and 3E)
	73, 84, 85, 86, 87, 89	Construction access (Work No.3C) and protective works
	74, 88, 90, 91, 92, 93, 94	Protective works
	99, 101, 110	Construction access (Work Nos. 3A, 3B, 3C, 3D and 3E)
	104, 111	Construction access and working area (Work Nos. 3A and 3B)
	106	Construction access and working area (Work Nos. 3A, 3B, 3C, 3D and 3E)
	108	Construction of Work No.5F, associated haul road and construction access (Work Nos. 3A, 3B, 3C, 3D and 3E)
	114	Construction of Work No.5F and associated haul road
	119, 120, 122, 123, 125, 126, 128, 129, 130, 134, 135, 137, 140, 142, 151	Construction access and working area (Work No.2H)
	144, 146, 147, 149	Construction access and working area (Work Nos. 2G and 2H)
	152, 153, 162, 171, 173, 174, 176, 179, 181	Haul road serving Work No.5E
	155, 164	Working area (Work No.2G)
	156	Construction of Work No.5E
	158	Construction compound and access (Work Nos. 2G and 2H)
	166, 167, 170, 177	Construction access (Work Nos. 2G and 2H)

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(1) Area	(2) Number of land shown on the Order plans	(3) Purpose for which temporary possession may be taken
	182, 183	Construction access and working area (Work No.2G)
	185, 186, 187, 188, 190, 191, 194	Construction working area (Work No.2G)
	192	Construction working area (Work Nos. 2F and 2G)
	196	Construction access and working area (Work No.2E)
	197, 199	Construction working area (Work No.2F)
	201	Construction access (Work Nos. 2E and 2F)
	204	Construction working area (Work Nos. 2E and 2F)
	206	Construction working area (Work No.2E)
	209	Construction working area (Work No.5A)
	210	Construction of Work No.5B and associated haul road
	211	Construction access, working area and haul road serving Work No.5A
	214	Construction of Work No.5B
	215	Construction access (Work Nos. 2D, 2E and 5D)
	217	Construction of Work No.5A and associated haul road
	219	Construction of Work No.5A
	221	Construction access and haul road serving Work No.5A
	223	Construction working area and haul road serving Work No.5A
	225, 234	Construction access (Work Nos. 2A to 2H)
	229	Construction access (Work No.2D)
	231, 237	Construction working area (Work No.5C)
	232	Construction access (Work Nos. 2C and 2D)
	238, 241, 264	Construction access and working area (Work Nos. 1A and 1B)
	242, 247, 249, 262	Construction access and working area (Work No.1A)

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

(1) Area	(2) Number of land shown on the Order plans	(3) Purpose for which temporary possession may be taken
	243	Construction access and working area (Work Nos. 1A and 2A)
	244, 251, 253	Construction working area (Work No.1A)
	250, 276	Construction working area (Work No.1B)

SCHEDULE 7

Article 51

BRIDGWATER TIDAL BARRIER BYELAWS

PART 1

PRELIMINARY

Citation and Commencement

1.—(1) These byelaws may be cited as the Bridgwater Tidal Barrier Byelaws 2022 and are deemed to be made by the Environment Agency under article 51(1) (byelaws) of the Bridgwater Tidal Barrier Order 2022 and confirmed by the Secretary of State as provided for by article 51(5) of that Order.

(2) These byelaws come into force on practical completion of the Bridgwater Tidal Barrier.
Interpretation

2.—(1) In these byelaws unless the context otherwise requires—

“the Agency” means the Environment Agency;

“authorised person” means—

(a) a person acting in the course of that person’s duties who—

- (i) is an employee, agent, contractor or sub-contractor of the Agency; or
- (ii) is authorised by the Agency;

(b) a constable, Police Community Support Officer, an officer of the Health and Safety Executive, person authorised for the purposes of section 44 of the Fire and Rescue Services Act 2004⁽⁶⁾ (powers of fire-fighters etc in an emergency etc) or a person accredited by or under section 41 of the Police Reform Act 2002⁽⁷⁾ (accreditation under community safety accreditation schemes), acting in the execution of that person’s duties in the vicinity of the barrier;

“the barrier” means the Bridgwater Tidal Barrier;

“barrier infrastructure” means the barrier and infrastructure physically adjoining and surrounding the barrier including the platform, apron and cills;

⁽⁶⁾ 2004 c. 21. Section 44 was amended by section 6 of the Emergency Workers (Obstruction) Act 2006 (c. 39).

⁽⁷⁾ 2002 c. 30. Section 41 was amended by paragraph 42 of Schedule 14 to the Police and Justice Act 2006 (c. 48).

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“barrier equipment” includes plant and machinery, and any emergency, safety or communications equipment used in connection with the operation of the barrier;

“the Bridgwater Tidal Barrier” means the barrier constructed pursuant to the Bridgwater Tidal Barrier Order 2022 at a location adjacent to the western boundary of the existing business park known as Express Park situated to the north of Bridgwater, Somerset;

“the byelaws” means these byelaws;

“in the vicinity of the barrier” means the area shown edged red on The Bridgwater Tidal Barrier Byelaws Plan;

“the foot and cycle bridge” means the foot and cycle bridge located immediately downstream of the barrier;

“notice” includes a sign, signal and a digital or other display, and in appropriate circumstances, an audible announcement;

“practical completion” means the date on which the construction and commissioning of the Bridgwater Tidal Barrier is complete so that the barrier can be operated for flood risk management purposes; and

“vertical lift gate” means either one of the twin vertical lift gates comprised within the barrier.

(2) The Interpretation Act 1978⁽⁸⁾ applies to the interpretation of these byelaws as it applies to the interpretation of an Act of Parliament.

PART 2

CONDUCT AND BEHAVIOUR

Unacceptable behaviour

3. A person must not—
- (a) climb upon, remove or damage (whether deliberately or negligently) any barrier infrastructure or barrier equipment;
 - (b) remove, move or otherwise interfere with the barrier or any machinery, apparatus, tools or other things in use or intended for use in connection with the barrier;
 - (c) post a bill, placard or notice on any barrier infrastructure or barrier equipment;
 - (d) write, print, draw or paint on or cut, mark or stamp any barrier infrastructure or barrier equipment;
 - (e) fix anything to any barrier equipment or barrier infrastructure;
 - (f) move, alter, deface or otherwise interfere with any notice belonging to the Agency which is exhibited or placed in the vicinity of the barrier and which relates to navigation or to the use or operation of the barrier; or
 - (g) without prejudice to any other requirement of the byelaws, act in any way as to cause a nuisance in the vicinity of the barrier.

(8) 1978 c. 30.

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

PART 3

EQUIPMENT AND SAFETY

General safety

4.—(1) A person must not operate, obstruct, interfere with or stop any barrier equipment or barrier infrastructure except—

- (a) by means of any of the controls intended for use by that person, or
- (b) in an emergency and by means of equipment on or near which is a notice indicating that it is to be used in an emergency.

(2) A person must not place, throw, drop or trail anything which is capable of injuring or endangering any person or damaging any property in the vicinity of the barrier.

(3) A person must not, without reasonable cause, activate, use or interfere with any emergency, safety or communications equipment within the vicinity of the barrier.

PART 4

ACTIVITIES IN THE VICINITY OF THE BARRIER

Fishing

5. A person must not fish by rod and line or any other means, including (but not limited to) an elver dip net, within the vicinity of the barrier.

Swimming

6. A person may not swim in the vicinity of the barrier when either of the vertical lift gates are closing or opening.

PART 5

ACCESSING THE BARRIER

Unauthorised access and loitering

7.—(1) A person must not without reasonable excuse loiter on the foot and cycle bridge if asked to leave by an authorised person.

(2) A person must not enter or attempt to enter the access controlled area.

(3) In sub-paragraph (2), “the access controlled area” means all parts of the barrier infrastructure which do not form part of the foot and cycle bridge.

PART 6

ENFORCEMENT, ETC.

Name and address

8.—(1) A person reasonably suspected by an authorised person of breaching or attempting to contravene a byelaw must immediately give that person's name and address when requested to do so by an authorised person.

(2) The authorised person requesting details under sub-paragraph (1) must state the nature of the suspected breach of the byelaw in general terms at the time of the request.

Compliance with instructions and notices, etc.

9.—(1) A person in the vicinity of the barrier must carry out the reasonable instructions of an authorised person and the requirements of any notice displayed by the Agency.

(2) A person must not obstruct an authorised person acting in the course of the duties of the authorised person.

(3) A person is not liable for breach of a byelaw while acting in compliance with the express instructions of an authorised person.

(4) A person is not liable for breach of a byelaw by disobeying a notice unless it is proved to the satisfaction of the Court before whom the complaint is laid that the notice referred to in the particular byelaw was displayed.

Identification of authorised persons

10.—(1) An authorised person who is exercising any power conferred on an authorised person by any of the byelaws must produce a form of identification when requested to do so.

(2) The form of identification mentioned in sub-paragraph (1) must include the name of the authorised person's employer and a means of identifying the authorised person.

Offence and level of fines

11. Any person who contravenes or attempts to contravene a byelaw is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Contraventions by authorised persons

12. An authorised person acting in the course of the duties of the authorised person is not liable for a contravention of a byelaw.

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SCHEDULE 8

Article 52

STATUTORY UNDERTAKERS, ETC.

Apparatus of statutory undertakers etc. on land acquired

1.—(1) Sections 271 to 274 of the 1990 Act⁽⁹⁾ (extinguishment of rights of statutory undertakers etc. and power of statutory undertakers etc. to remove or re-site apparatus) apply in relation to any land acquired or appropriated by the Agency under this Order subject to the following provisions of this paragraph; and all such other provisions of that Act as apply for the purposes of those provisions, including sections 275 to 278, (which contain provisions consequential on the extinguishment of any rights under sections 271 and 272) and sections 279(2) to (4)⁽¹⁰⁾, 280 and 282, (which provide for the payment of compensation) have effect accordingly.

(2) In the provisions of the 1990 Act, as applied by sub-paragraph (1), references to the appropriate Minister are references to the Secretary of State.

(3) Where any apparatus of public utility undertakers or of a public communications provider is removed in pursuance of a notice or order given or made under section 271, 272 or 273 of the 1990 Act, as applied by sub-paragraph (1), any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the Agency compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(4) Sub-paragraph (3) does not apply in the case of the removal of a public sewer but where such a sewer is removed in pursuance of such a notice or order as is mentioned in that paragraph, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer, or
- (b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the Agency compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer communicate with any other public sewer or with a private sewage disposal plant.

(5) The provisions of the 1990 Act mentioned in sub-paragraph (1), as applied by that sub-paragraph, do not have effect in relation to apparatus as respects which Part 3 of the 1991 Act applies.

(6) In this Schedule—

“public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003 (interpretation of Chapter 1),

“public utility undertakers” has the same meaning as in section 329(1) the 1980 Act⁽¹¹⁾.

⁽⁹⁾ Sections 273 and 274 were amended by paragraph 103 of Schedule 17 to the Communication Act 2003 (c. 21).

⁽¹⁰⁾ Section 279(3) was amended by paragraph 103, and section 280 was amended by paragraph 104, of Schedule 17 to the Communications Act 2003. Sections 280 and 282 were amended by S.I. 2009/1307.

⁽¹¹⁾ Section 329(1) was amended by Part 1 of Schedule 27 to the Water Act 1989 (c. 15) and Schedule 18 to the Electricity Act 1989 (c. 29).

SCHEDULE 9

Article 53

PROTECTION FOR ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

Application and Interpretation

1. This Schedule has effect unless otherwise agreed in writing between the Agency and the specified undertaker concerned.

On-street apparatus

2. This Schedule does not apply to anything done or proposed to be done in relation to or affecting apparatus in respect of which the relations between the Agency and the specified undertaker are regulated by the provisions of Part 3 of the 1991 Act.

3. The provisions of Schedule 8 (statutory undertakers, etc.), in so far as they relate to the removal of apparatus, do not apply in relation to apparatus to which this Schedule applies.

4.—(1) In this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable the specified undertaker in question to fulfil its statutory functions in a manner not less efficient than previously;

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in section 64(1) the Electricity Act 1989⁽¹²⁾) belonging to or maintained by that specified undertaker;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply;
- (c) in the case of a water undertaker—
 - (i) mains, pipes or other apparatus belonging to or maintained by that specified undertaker for the purposes of water supply; and
 - (ii) mains, pipes or other apparatus that is the subject of an agreement to adopt made under section 51A of the Water Industry Act 1991⁽¹³⁾ (agreements to adopt water main or service pipe); and
- (d) in the case of a sewerage undertaker—
 - (i) any drain or works vested in the specified undertaker under the Water Industry Act 1991; and
 - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act⁽¹⁴⁾ (adoption of sewers and disposal works) or an agreement to adopt made under section 104 of that Act⁽¹⁵⁾ (agreement to adopt sewer, drain or sewage disposal works, at future date),

and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works,

⁽¹²⁾ Section 64(1) of the Electricity Act 1989 was amended by paragraph 38(4) of Schedule 6(11) of the Utilities Act 2000 (c. 27).

⁽¹³⁾ Section 51A was inserted by section 92(1) of the Water Act 2003 (c. 37), and amended by section 10(1) and (2) of the Water Act 2014 (c. 21).

⁽¹⁴⁾ Section 102(4) was amended by section 96(1)© of the Water Act 2003 and paragraphs 2 and 90 of Schedule 7 to the Water Act 2014.

⁽¹⁵⁾ Section 104 was amended by section 96(4) of the Water Act 2003, by section 42(3) of the Flood and Water Management Act 2010 (c. 29), and by section 11(1) and (2) of the Water Act 2014.

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and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

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

“plans” includes sections, specifications and method statements;

“specified undertaker” means—

- (a) Western Power Distribution (South West) plc, whose registered office is Avonbank, Feeder Road, Bristol, BS2 0TB; and
- (b) Wessex Water Services Limited, whose registered office is Operation Centre, Claverton Down Road, Claverton Down, Bath, Somerset, United Kingdom, BA2 7WW.

or any person succeeding any such company as a licence holder within the meaning of Part 1 of the Electricity Act 1989, a gas transporter within the meaning of Part 1 of the Gas Act 1986⁽¹⁶⁾, a water undertaker within the meaning of the Water Industry Act 1991, or as a sewerage undertaker, and “the specified undertaker” in relation to any apparatus means the specified undertaker to whom the apparatus belongs or by whom it is maintained.

- (2) In paragraph (1), “functions” includes powers and duties.

Acquisition of land

5.—(1) Regardless of any provision in this Order or anything shown on the deposited plans the Agency must not acquire any apparatus other than by agreement with the specified undertaker.

(2) The Agency may, in the exercise of the powers conferred by this Order, acquire or appropriate any interest in any land in which any apparatus is placed and, following the removal of such apparatus in accordance with the provisions of this Schedule, any rights in that land relating to that apparatus are extinguished, but that apparatus must not be removed under this Schedule and any right of a specified undertaker to use, maintain or renew that apparatus in that land must not be extinguished, until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the specified undertaker in question.

Removal of apparatus

6.—(1) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the Agency requires the removal of any apparatus placed in that land, it must give to the specified undertaker written notice of that requirement, together with plans of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a specified undertaker reasonably needs to remove any of its apparatus) the Agency must, subject to sub-paragraph (3), afford to the specified undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the Agency and for the subsequent use, maintenance and renewal of that apparatus.

(2) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the Agency, or the Agency is unable to afford such facilities and rights as are mentioned in sub-paragraph (1), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the specified undertaker in question must, on receipt of a written notice to that effect from the Agency, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(16) 1986 c. 44.

(3) The obligation imposed on the specified undertaker under sub-paragraph (2) does not extend to the exercise by the specified undertaker of any power to acquire any land or rights in land by compulsory purchase order.

(4) Any alternative apparatus to be constructed in land of the Agency under this Schedule is to be constructed in such manner and in such line or situation as may be agreed between the specified undertaker and the Agency or in default of agreement settled by arbitration in accordance with article 68 (arbitration).

(5) The specified undertaker must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 68 (arbitration), and after the grant to the specified undertaker of any such facilities and rights as are referred to in sub-paragraphs (1) or (2), proceed with all reasonable despatch to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the Agency to be removed under the provisions of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the Agency gives notice in writing to the specified undertaker in question that it desires itself to execute any work to which this sub-paragraph applies, that work, instead of being executed by the specified undertaker, may be executed by the Agency with the prior written consent of the specified undertaker (which must not be unreasonably withheld or delayed and is to be subject to any such conditions as are reasonable and proper to protect the apparatus) in accordance with plans and in a position agreed between the specified undertaker and the Agency or, in default of agreement, determined by arbitration, with all reasonable despatch under the superintendence, if given, and to the reasonable satisfaction of the specified undertaker.

(7) In carrying out any work under sub-paragraph (6) the Agency must comply with all statutory obligations which would have been applicable had the works been carried out by the specified undertaker.

(8) Sub-paragraph (6) applies to any part of any work necessary in connection with construction of alternative apparatus, or the removal of apparatus required to be removed, as will take place in any land of the Agency.

(9) Nothing in sub-paragraph (6) authorises the Agency to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 600 millimetres of the apparatus.

Facilities and rights for alternative apparatus

7.—(1) Where, in accordance with this Schedule, the Agency affords to a specified undertaker facilities and rights for the construction, use, maintenance and renewal in land of the Agency of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the Agency and the specified undertaker or in default of agreement settled by arbitration in accordance with article 68 (arbitration).

(2) In settling those terms and conditions in respect of the alternative apparatus to be constructed across or along the authorised works, the arbitrator must—

- (a) give effect to all reasonable requirements of the Agency for ensuring the safety and efficient operation of the authorised works and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of the Agency; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions if any applicable to the apparatus constructed across or along the authorised works for which the alternative apparatus is to be substituted and to any other reasonable requirements of the specified undertaker.

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(3) If the facilities and rights to be afforded by the Agency in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator more or less favourable on the whole to the specified undertaker than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation to or by the Agency by or to that specified undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection and plan approval

8.—(1) Not less than 28 days before starting the execution of any works of the type referred to in paragraph 6(1) that are near to, or will or may affect, any apparatus the removal of which has not been required by the Agency under paragraph 5(1), the Agency must submit to the specified undertaker in question plans of those works.

(2) Those works are to be executed only in accordance with the plans submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the specified undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and an officer of the specified undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by the specified undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which the plans under sub-paragraph (1) are submitted to it.

(4) If a specified undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the Agency, reasonably requires the removal of any apparatus and gives written notice to the Agency of that requirement, paragraphs 1 to 6 apply as if the removal of the apparatus had been required by the Agency under paragraph 5(1).

(5) Nothing in this paragraph precludes the Agency from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, new plans instead of the plans previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plans.

(6) The Agency is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the specified undertaker notice as soon as is reasonably practicable and plans of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

(7) Nothing in sub-paragraph (6) entitles the Agency to carry out works to any apparatus but, upon receipt of notice from the Agency, the specified undertaker must proceed to carry out such works as may be required without unreasonable delay.

Expenses

9.—(1) Subject to the following provisions of this paragraph, the Agency must repay to a specified undertaker the reasonable expenses incurred by that specified undertaker in, or in connection with—

- (a) the inspection, removal and relaying or replacing, alteration or protection of any apparatus or the construction of any alternative apparatus under any provision of this Schedule (including any costs reasonably incurred or compensation properly paid in connection with the acquisition of facilities and rights or exercise of statutory powers for such apparatus);

- (b) the cutting off of any apparatus from any other apparatus, or the making safe of any redundant apparatus in consequence of the exercise by the Agency of any power under this Order; and
- (c) the survey of any land, apparatus or works; the inspection, superintendence and monitoring of works; or the installation or removal of any temporary works reasonably necessary in consequence of the exercise by the Agency of any power under this Order; and any other work or thing rendered reasonably necessary in consequence of the exercise by the Agency of any such power,

within a reasonable time of being notified by the specified undertaker that it has incurred such expenses.

(2) The value of any apparatus removed under the provisions of this Schedule is to be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with the provisions of this Schedule—

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

and the placing of that apparatus is not agreed by the Agency or, in default of agreement, is not determined by arbitration in accordance with article 68 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Schedule 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 specified undertaker in question by virtue of sub-paragraph (1), is to be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus must not be treated as placing of apparatus of greater dimensions than those of the existing apparatus, except in a case where the apparatus as so extended serves a purpose (either additional to or instead of that served by the existing apparatus) which was not served by 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 must be treated as if it also had been agreed or so determined.

(5) An amount which apart from this sub-paragraph would be payable to a specified undertaker in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the specified undertaker any financial benefit by deferment of the time for renewal of the apparatus in the normal 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)”, approved by the Secretary of State on 30th June 1992 and as revised and re-issued from time to time.

(6) In any case where work is carried out by the Agency under paragraphs 5(6) to (8) and, if such work had been carried out by the specified undertaker, the repayment made to the specified undertaker under sub-paragraph (1) would fall to be reduced under sub-paragraphs (3) to (5), the specified undertaker must pay to the Agency such sum as represents the amount of that reduction.

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Indemnity

10.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction, maintenance or failure of any of the authorised works, any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a specified undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any specified undertaker, the Agency must bear and pay the cost reasonably incurred by that specified undertaker in making good such damage or restoring the supply, and must—

- (a) make reasonable compensation to that specified undertaker for any other expenses, loss, damages, penalty or costs incurred by the specified undertaker; and
- (b) indemnify the specified undertaker against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from, or incurred by, the specified undertaker,

by reason or in consequence of any such damage or interruption; and the fact that any act or thing may have been done by the specified undertaker on behalf of the Agency or in accordance with plans approved by the specified undertaker or in accordance with any requirement of the specified undertaker or under its supervision does not, subject to sub-paragraph (2), excuse the Agency from any liability under the provisions of this paragraph.

(2) Nothing in sub-paragraph (1) imposes any liability on the Agency with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a specified undertaker, its officers, servants, contractors or agents.

(3) A specified undertaker must give the Agency reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the Agency, which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Access

11. If in consequence of the exercise of the powers conferred by this Order the access to any apparatus is materially obstructed the Agency must provide such alternative means of access to that apparatus as will enable the specified undertaker to maintain or use the apparatus no less effectively than was possible before the obstruction.

Cooperation

12. Where in consequence of the proposed construction of any of the authorised works, the Agency or the specified undertaker requires the removal of apparatus under paragraph 6(1) or the specified undertaker makes requirements for the protection or alteration of apparatus under paragraph 8(2), the Agency must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and the specified undertaker must use all reasonable endeavours to co-operate with the Agency for that purpose.

Exercise of safeguarding and survey powers

13.—(1) The Agency must, so far as is reasonably practicable, exercise the powers conferred by article 21 (protective works) so as not to obstruct or render less convenient the access to any apparatus.

(2) The Agency must not, in the exercise of the powers conferred by section 11(3) of the 1965 Act (powers of entry), as applied by this Order, or by article 23 (power to survey and investigate land, etc.), make any trial holes which interfere with any apparatus without the consent of the specified undertaker (which must not be unreasonably delayed or withheld).

Arbitration

14.—(1) Any difference arising between the Agency and a specified undertaker under this Schedule (other than a difference as to its meaning or construction) must be determined by arbitration in the manner provided by article 68 (arbitration).

(2) In determining any difference under this Schedule the arbitrator may, if the arbitrator thinks fit, require the Agency to execute any temporary or other works so as to avoid, so far as may be reasonably possible, interference with the use of any apparatus.

SCHEDULE 10

Article 53

PROTECTION OF PORT OF BRIDGWATER

1. This Schedule has effect unless otherwise agreed in writing between the Agency and the Harbour Authority.

2. In this Schedule—

“accumulation” means any accumulation of silt or other material which constitutes an impediment to navigation;

“construction” includes execution and placing, maintenance, extension, enlargement, alteration, replacement, relaying, and removal, and “construct” and “constructed” are to be construed accordingly;

“erosion” means any erosion of the bed or banks of the river or any jetty or other structure of whatever nature owned or occupied by the Harbour Authority;

“harbour property” means any land or works owned or administered by the Harbour Authority as part of its harbour undertaking at the Port of Bridgwater;

“plans” includes sections, descriptions, drawings, specifications and method statements;

“specified work” means so much of any permanent or temporary work authorised by this Order (which includes any removal of gravel or other material, any dredging or similar work and any geotechnical investigations that may be undertaken) as is on, in, under or over—

- (a) the surface of land below the level of mean high water springs forming part of the river;
- (b) any other harbour property.

3.—(1) Before beginning any operations for the construction of any specified work (except minor works of maintenance or repair), the Agency must submit to the Harbour Authority plans of the work and such further particulars available to it as the Harbour Authority may within 14 days of the submission of the plans reasonably require.

(2) Any specified work must not be constructed except in accordance with such plans as may be approved in writing by the Harbour Authority or determined to be in accordance with article 68 (arbitration).

(3) Any approval of the Harbour Authority required under this paragraph must not be unreasonably withheld and—

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- (a) is deemed to be given if it is neither given or refused (with an indication of the grounds for refusal) within 28 days of the later of the submission of the plans or the submission of any further particulars under sub-paragraph (1), and
- (b) may be given subject to such reasonable requirements as the Harbour Authority may make for the protection of—
 - (i) navigation in, or the flow or regime of, the river; or
 - (ii) the use of its land other than such parts as are required for the specified works for the purposes of performing its statutory functions.

4. The Agency must give to the Harbour Authority—

- (a) not less than 14 days' written notice of its intention to commence the construction of a specified work (except minor works of maintenance or repair), and
- (b) not more than 14 days after completion written notice of the completion of such construction.

5. The Agency must carry out all operations for the construction of any specified works with all reasonable dispatch to the reasonable satisfaction of the Harbour Authority so that navigation in, or the flow or regime of, the river and the exercise of the Harbour Authority's statutory functions do not suffer more interference than is reasonably practicable and the Harbour Authority will be entitled by its officer at all reasonable times, on giving such notice as may be reasonable in the circumstances, to inspect and survey such operations.

6.—(1) After the purpose of any temporary works has been accomplished the Agency must with all reasonable dispatch, or after a reasonable period of notice in writing from the Harbour Authority requiring the Agency so to do, remove any such temporary works or any related materials which may have been placed below the level of high water by or on behalf of the Agency.

(2) Where the Agency fails to remove such works or materials within a reasonable period after receiving a notice described in sub-paragraph (1), the Harbour Authority may remove the same and may recover the reasonable costs of so doing from the Agency.

7.—(1) If—

- (a) during the construction of a tidal work or within 10 years after the completion of that work and wholly or partly in consequence of its construction, or
- (b) during the exercise of the powers conferred by article 6 (works and dredging etc. in the river) or within 10 years after and wholly or partly in consequence of the exercise of those powers,

there is caused or created an accumulation or erosion which results or is likely to result in interference with navigation or damage to harbour property, the Agency must, if so requested by the Harbour Authority acting reasonably and having regard in particular to its and the Agency's statutory functions, remedy such accumulation or erosion to the extent attributable to such construction or exercise of powers in the manner specified in sub-paragraph (3) and, if it refuses or fails to do so, the Harbour Authority may itself cause the work to be done and may recover the reasonable cost of doing so from the Agency.

(2) If any such accumulation or erosion is remedied in accordance with sub-paragraph (1), any recurrence of such accumulation or erosion must, from time to time, if reasonably so required to do by the Harbour Authority after notice in writing to it from the Agency and having regard in particular to its and the Agency's statutory functions, be so remedied by the Agency, save that the Agency's obligation under this paragraph will cease if, following the remedying of any accumulation or erosion, a period of 10 years elapses without any further accumulation or erosion being caused or created in consequence of such construction or exercise.

(3) For the purposes of sub-paragraph (1) and (2) above—

- (a) in the case of an accumulation, the remedy must be its removal;
- (b) in the case of erosion, the remedy must be the carrying out of such reconstruction works and other protective works or measures as may be necessary.

(4) In the event that any surveys, inspection, tests or sampling establish that such accumulation or erosion may have been caused in any event by factors other than the construction of a tidal work or the exercise of the powers conferred by article 6 (works and dredging etc. in the river), the Agency is liable to remedy such accumulation or erosion only to the extent that the same is attributable to such construction or exercise.

(5) For the purposes of sub-paragraph (1) the date of completion of a work is the date on which it is brought into use.

8. The Agency must pay to the Harbour Authority the reasonable costs of such alterations to the marking and lighting of the navigational channel of the river as may be necessary during or within five years of the completion of and in consequence of the construction of a tidal work and afford to the Harbour Authority such facilities as it may reasonably require for the placing and maintenance on any tidal work of signals, tide-boards, tide-gauges or other apparatus for the safety or benefit of navigation.

9. Without affecting the other provisions of this Schedule, the Agency must reimburse the Harbour Authority for all costs which may reasonably be incurred by or occasioned to the Harbour Authority by reason of or arising from or in connection with—

- (a) the carrying out of surveys, inspections, tests and sampling within and of the river (including the bed and banks of the river) where the Harbour Authority has reasonable cause to believe that the construction of any of the tidal works or the exercise of the powers conferred by article 6 (works and dredging etc. in the river) is causing or has caused any such accumulation or erosion;
- (b) the surveillance, co-ordination and regulation of traffic within the Port of Bridgwater which becomes reasonably necessary by reason of the exercise or the prospective exercise by the Agency of its powers to close the river or any part of the river to navigation under article 17 (temporary closing of river in connection with works).

10.—(1) The Agency must indemnify the Harbour Authority from all claims, demands, proceedings or damages, which may be made or given against, or recovered from the Harbour Authority and any costs or expense reasonably incurred by the Harbour Authority by reason of any damage to the bed or banks of the river or other harbour property which is caused by the construction, maintenance or failure of any specified work or any act or omission of the Agency, its contractors, agents or employees whilst engaged upon the work.

(2) The Harbour Authority must give to the Agency reasonable notice of any such claim or demand and no settlement or compromise of any such claim or demand must be made without the consent of the Agency, which, if it notifies the Harbour Authority that it desires to do so, may have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

11.—(1) Nothing in paragraph 10 imposes any liability on the Agency with respect to any damage to the extent that it is attributable to any prior defect, want of maintenance or want of repair to the beds or banks of the river or other harbour property or to the act, neglect or default of the Harbour Authority, its officers, servants, contractors or agents.

(2) 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 Harbour Authority, or to its satisfaction, or in accordance with a determination under article 68 (arbitration), does not (in the absence of negligence on the part of the

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Harbour Authority, its officers, servants, contractors or agents) relieve the Agency from any liability under the provisions of this Schedule.

12. Save to the extent expressly provided for nothing in this Order affects prejudicially any statutory or other rights, powers or privileges vested in, or enjoyed by, the Harbour Authority at the commencement of this Order.

SCHEDULE 11

Article 57

TEMPORARY TRAFFIC REGULATION

<i>(1)</i> <i>Road</i>	<i>(2)</i> <i>Extent</i>	<i>(3)</i> <i>Notes</i>
Straight Drove	From its junction with Middle Drove to its junction with Chinehorn Drove	To facilitate the construction of Work Nos. 2F, 2G and 2H.

SCHEDULE 12

Article 65

OF LOCAL LEGISLATION

PART 1

LOCAL ENACTMENTS

<i>Year</i>	<i>Chapter</i>	<i>Title</i>	<i>Section</i>
1801	c. xxii	Somerset Drainage Act	11 and 49
1811	c. lx	Bristol and Taunton Canal Navigation Act	1, 71 and 72
1825	c. cxcix	English and Bristol Channels Ship Canal Act	2
1832	c. xliiii	Bridgwater and Taunton Canal Navigation Act	15 and 16
1836	c. xxxvi	Bristol and Exeter Railway Act	8
1836	c. ci	Parrett Navigation and Canal Act	25
1837	c. xi	Bridgwater and Taunton Canal Navigation Act	1, 13 and 36
1845	c. lxxxix	Bridgwater Navigation and Quays Act	21
1860	c. cxci	Burnham [Somerset] Tidal Harbour Act	53
1865	c. clxxxv	Burnham [Somerset] Tidal Harbour Act	21 and 22
1877	c. xxxvi	Somersetshire Drainage Act	32, 36 and 69

PART 2
BYELAWS

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Byelaw to be disapplied</i>
Sedgemoor District Council Byelaws for Good Rule and Government	11
Administrative County of Somerset, Byelaws for Good Rule and Government 1935	Part 1 byelaws 9, 11 and 13, Part 2 byelaw 3
Administrative County of Somerset, Additional Byelaws for Good Rule and Government 1939	4
Administrative County of Somerset, Additional Byelaws for Good Rule and Government 1944	3