

SCHEDULES

SCHEDULE 1

Section 5.

SIGNS AND BARRIERS AT PRIVATE CROSSINGS

Placing of signs and barriers

1.—(1) Subject to any directions under sub-paragraph (2), the operator of a railway which is crossed in any place by a private road or path may cause or permit crossing signs or barriers of a character—

- (a) prescribed in regulations made by the Department, or
- (b) otherwise authorised by the Department,

to be placed on or near the road or path near the crossing.

(2) The Department may give directions to the operator of a railway which is crossed in any place by a private road or path for the placing of crossing signs or barriers of a character specified in the directions on or near the road or path near the crossing.

(3) For the purposes of this paragraph—

- (a) the size and colour of a crossing sign and whether or not it is illuminated (by lighting or the use of reflectors or reflecting material), and
- (b) the nature of the warnings, information, requirements, restrictions or prohibitions conveyed by it,

shall be regarded as part of the sign's character.

(4) Regulations under this paragraph shall be subject to negative resolution.

Rights to enter land

2.—(1) The operator of a railway shall not enter or do anything on any land for the purpose of exercising his powers under paragraph 1(1) except—

- (a) with the consent of every owner of the land, or
- (b) in accordance with an authorisation given by the Department under sub-paragraph (4).

(2) Where the operator of a railway proposes to enter or do anything on any land for the purpose of exercising his powers under paragraph 1(1) but has not obtained the consent of every owner of the land to his proposals (after making reasonable

efforts to do so), he shall serve on every owner whose consent he has not obtained a notice giving details of the proposals and stating that—

- (a) he is referring the proposals to the Department for a decision as to whether or not they should be carried out, and
- (b) in making that decision, the Department will consider any written representations made to it by the owner within the period of 6 weeks beginning with the date of the notice.

(3) Where sub-paragraph (2) applies, the operator shall—

- (a) submit a copy of every notice served by him under that sub-paragraph to the Department, and
- (b) provide the Department with such further information about the proposals as it may require.

(4) Where proposals are referred to the Department under this paragraph, it shall after the expiry of the period of 6 weeks beginning with the date of the latest notice served under sub-paragraph (2) and after considering any representations made to it in accordance with that sub-paragraph—

- (a) authorise the operator to carry out the proposals (either without modifications or with such modifications as the Department may specify),
or
- (b) direct him not to carry out the proposals,

and shall serve notice of its decision on every owner served with a notice under sub-paragraph (2).

(5) Any authorisation under sub-paragraph (4) may be given subject to such conditions as the Department may specify, including conditions that compensation shall be payable by the operator.

(6) Any dispute as to the amount of any compensation payable by virtue of sub-paragraph (5) shall be referred to and determined by the Lands Tribunal.

(7) The operator of a railway may enter any land and do anything necessary on it (without the consent of the owners of the land) for the purpose of—

- (a) complying with any directions given under paragraph 1(2), or
- (b) maintaining a crossing sign or barrier lawfully placed on or near a private road or path near a place where it crosses the railway.

(8) The Department may enter any land and do anything necessary on it (without the consent of the owners of the land) for the purpose of exercising the Department's powers under paragraph 3(1).

(9) In this paragraph "owner" means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple (whether in possession or reversion) and includes also a person holding, or entitled to the

rents and profits of, the land under a tenancy, other than a tenancy for a month or any period less than a month.

Default powers of Department

3.—(1) If the operator of a railway fails—

- (a) to comply with a direction given under paragraph 1(2) , or
- (b) to maintain a crossing sign or barrier lawfully placed on or near a private road or path near a place where it crosses the railway,

the Department may itself carry out the work required by the direction or necessary to maintain the crossing sign or barrier.

(2) Any expenses incurred by the Department in doing so shall be recoverable by the Department from the operator.

(3) A direction given under paragraph 1(2) shall be enforceable on the application of the Department by an order of mandamus.

Offence of failing to comply with sign

4.—(1) A person who fails to comply with any requirement, restriction or prohibition conveyed by a crossing sign lawfully placed on or near a private road or path near a place where it crosses a railway shall be guilty of an offence.

(2) In any proceedings for an offence under this paragraph, a crossing sign on or near a private road or path near a place where it crosses a railway shall be taken to have been lawfully placed there unless the contrary is proved.

(3) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Interpretation

5.—(1) In this Schedule—

“barrier” includes gate;

“cross” means cross otherwise than by tunnel or bridge;

“crossing sign”, in relation to a private road or path and any place where it crosses a railway, means—

- (a) any object or device (whether fixed or portable), or
- (b) any line or mark on the road or path,

for conveying to users of the road or path warnings, information, requirements, restrictions or prohibitions relating to the crossing;

“fail” includes refuse;

“lawfully placed” means placed in accordance with paragraphs 1 to 3;

“maintain” includes repair and replace;

“place” includes erect and (in relation to a sign) display;

“private road or path” means any length of road or path to which the public does not have access.

(2) In the case of a railway which has more than one operator, the powers conferred by paragraphs 1 to 3 shall only be exercisable by or in relation to the operator carrying on the undertaking which includes maintaining the permanent way.