



British Railways Act 1992

1992 CHAPTER i

PART II

WORKS, ETC.

Works

5 Power to make works

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

In the borough of Ashford, town of Ashford, Kent—

Work No. 1A A railway (1,690 metres in length), commencing by a junction with the Tonbridge and Ashford Railway at a point 354 metres west of the western side of the bridge carrying Beaver Road over that railway, passing eastwards under Beaver Road, then over the Great Stour and East Stour rivers, then in tunnel under the Ashford and Canterbury Railway, and terminating by a junction with the Ashford and Folkestone Railway at a point 105 metres south-west of Aylesford Road level crossing on that railway;

Work No. 1B A railway (744 metres in length), commencing by a junction with Work No. 1A at a point 45 metres north-west of the bridge carrying Beaver Road over the Tonbridge and Ashford Railway, passing eastwards on the south-western side of Work No. 1A under Beaver Road, then over the Great Stour and East Stour rivers, and terminating by a junction with Work No. 1A at a point 350 metres east of the bridge carrying the Ashford and Folkestone Railway over the East Stour river;

In the London borough of Camden—

Work No. 2 A railway (645 metres in length), commencing by a junction with the North London Line at a point 115 metres south-west of the bridge carrying that railway over the London and Bedford Railway and terminating by a junction with that railway in Belsize Tunnel beneath a point on Finchley

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Road 102 metres south-east of the junction of Rosemont Road with Finchley Road;

In the borough of Maidstone, parish of Headcorn, Kent—

Work No. 3 A railway (948 metres in length) adjoining, and on the southern side of, the Tonbridge and Ashford Railway, commencing by a junction with the up line of that railway at a point 88 metres east of the bridge carrying that railway over the river Beult and terminating by a junction with that line of that railway at a point 157 metres west of the bridge carrying Biddenden Road over that railway;

In the borough of Tonbridge and Malling, parish of Ightham, Kent—

Work No. 4 A railway (584 metres in length) adjoining, and on the northern side of, the Otford Junction and Maidstone Railway, commencing by a junction with the down line of that railway at a point 125 metres east of the bridge carrying Fen Pond Road over that railway and terminating by a junction with the down passing loop line of that railway at a point 250 metres north-east of the centre of the roundabout at the intersection of Ightham bypass (A.25) and Borough Green Road (A.25);

In the district of Sevenoaks, parishes of Kemsing, Otford, Seal and Sevenoaks, Kent—

Work No. 5 A railway (933 metres in length) adjoining, and on the southern side of, the Otford Junction and Maidstone Railway, commencing in the parish of Otford by a junction with the up line of that railway at a point 211 metres west of Nash level crossing on that railway and terminating in the parish of Seal by a junction with that line of that railway at a point 19 metres west of the bridge carrying Childsbridge Road over that railway;

In the London borough of Bromley—

Work No. 6 A railway (113 metres in length), commencing by a junction with the down Tonbridge loop line and the up Chatham loop line at Bickley Junction at a point 33 metres north-west of the bridge carrying the Chislehurst and Petts Wood Railway over those lines and terminating by a junction with those lines at a point 35 metres south-east of that bridge.

Provisions relating to Works Nos. 1A and 1B

6 Stopping up, etc., footpath at Ashford

The Board may stop up and discontinue the footpath and passageway under Beaver Road in the borough of Ashford between points A1 and A2, substituting therefor a new footpath and passageway beneath that road between points A3 and A4.

Provisions relating to Work No. 2

7 Diversion of footpaths at West Hampstead

The Board may stop up and discontinue—

- (a) so much of the footpath from West End Lane to Finchley Road as lies between points A1 and A2; and
- (b) so much of the footpath from Broadhurst Gardens to the footpath mentioned in paragraph (a) above as lies between points A3 and A4;

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substituting for both such parts of those footpaths a new footpath between points A1, A3, A5, A6, A7, A8 and A2, passing in subway under Work No. 2 between points A5 and A6.

8 Access from Finchley Road

The Board may in the London borough of Camden form and lay out means of access to Work No. 2 from Finchley Road at point A.

Provisions relating to Work No. 4

9 Footpath, etc., lowering at Borough Green

- (1) In this section “the road” means the combined public footpath (MR 244) between Borough Green Road and Westlands Farm and private access road to the premises of Celcon Blocks Limited bridged by the Otford Junction and Maidstone Railway in the borough of Tonbridge and Malling, parish of Ightham.
- (2) The Board may in the construction of Work No. 4—
 - (a) lower so much of the road as lies between points A and B; and
 - (b) widen on the northern side thereof the bridge carrying the Otford Junction and Maidstone Railway over the road.

Provisions relating to Work No. 5

10 Nash level crossing, Otford

- (1) In this section “the road” means the combined public footpath (SR 66) between Farm Road and Long Lodge Oast House and private access road to Childsbridge Farm which is crossed on the level by the Otford Junction and Maidstone Railway at Nash level crossing in the district of Sevenoaks, parishes of Kemsing, Otford, Seal and Sevenoaks.
- (2) The Board may stop up and discontinue so much of the road as lies between points A and B, substituting for the public footpath in that road a new footpath between points A, C, D, E, F and B, to be carried over the said railway and Work No. 5 by means of a footbridge.
- (3) Any person who suffers loss by the extinguishment of any private right under this section shall be entitled to be paid by the Board compensation, to be determined in case of dispute by the tribunal.

General works provisions

11 Power to deviate

In the execution of the authorised works the Board may deviate from the lines or situations thereof shown on the deposited plans to the extent of the limits of deviation and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding 3 metres upwards or downwards or to such further extent as may be approved by the Secretary of State.

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12 Stopping up highways in case of substitution

- (1) Where this Act authorises the making of a new highway in substitution for an existing highway and the stopping up of the existing highway or part thereof, the stopping up of the existing highway shall not take place until—
 - (a) the highway authority are satisfied that the new highway has been completed in accordance with their reasonable requirements and is open for public use; or
 - (b) in the case of any difference between the Board and the highway authority as to whether the said requirements have been complied with or as to their reasonableness, the matter in dispute has been referred to and determined by arbitration.
- (2) Before referring a matter to arbitration under this section, the Board shall give to the highway authority seven days' notice in writing of their intention to do so.
- (3) As from the completion of the new highway to the satisfaction of the highway authority or, in case of dispute, in accordance with the decision of the arbitrator, all rights of way over or along the existing highway or part thereof authorised to be stopped up shall be extinguished.
- (4) Any person who suffers loss by the extinguishment of any private right under this section shall be entitled to be paid by the Board compensation, to be determined in case of dispute by the tribunal.

13 Appropriating sites of highways

After a highway or part thereof is permanently stopped up under this Act, the Board may, subject to the provisions of the Act of 1845 with respect to mines lying under or near the railway, so far as the said highway or part thereof is bounded on both sides by lands of the Board, appropriate the site thereof without making any payment therefor and use it for the purposes of their undertaking.

14 Repair of highways

Any highway or part thereof made, diverted or altered under this Act (except the structure carrying any such highway over any railway of the Board) shall when completed, unless otherwise agreed, be maintained by and at the expense of the highway authority.

15 Agreements with highway authorities

- (1) Where a highway or part thereof is altered or stopped up or interfered with under this Act, the Board may enter into and carry into effect agreements with the highway authority with respect to such alteration, stopping up or interference, or the construction of any new highway to be made under this Act, contributions to the costs thereof or any other matters relating thereto.
- (2) The Board may by agreement delegate to the highway authority the power of constructing and maintaining any such alterations or new highway, including the structure of any bridge over or under any railway.
- (3) The purposes of this section shall be deemed to be purposes for which a highway authority may incur expenditure and borrow money.

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16 Temporary stoppage of highways

- (1) The Board, during and for the purpose of the execution of the authorised works, may temporarily stop up and divert and interfere with any highway and may for any reasonable time divert the traffic therefrom and prevent all persons other than those going bona fide to any land, house or building abutting on the highway from passing along and using the same.
- (2) The Board shall provide reasonable access for persons on foot going bona fide to any such land, house or building.
- (3)
 - (a) The Board shall not exercise the powers of this section without the consent of the highway authority.
 - (b) Any such consent may be given subject to such reasonable conditions as the highway authority may require but shall not be unreasonably withheld and any question whether such consent has been unreasonably withheld, or whether any such condition is reasonable, shall be referred to and settled by arbitration.

17 Underpinning of buildings near works

The Board may at their own expense, subject as hereinafter provided, underpin or otherwise strengthen any house or building within 35 metres of any of the works and the following provisions shall have effect:—

- (1) At least 14 days' notice shall (except in case of emergency) be given to the owner, lessee and occupier of the house or building intended to be so underpinned or otherwise strengthened:
- (2) Each such notice shall be served in manner prescribed by section 6 of the Acquisition of Land Act 1981 as if required to be served under that Act:
- (3) If any owner, lessee or occupier of any such house or building shall, within 10 days after the giving of such notice, give a counter-notice in writing that he disputes the necessity of such underpinning or strengthening, the question of the necessity shall be settled by arbitration and, if the arbitrator decides that such underpinning or strengthening is not necessary, the Board shall not proceed therewith:
- (4) In any case in which any house or building shall have been underpinned or strengthened under the powers of this section the Board may, from time to time after the completion of such underpinning or strengthening, and during the execution of the authorised work in connection with which such underpinning or strengthening was done, or within five years after the opening for traffic of that work, enter upon and survey such house or building and, after complying with the foregoing provisions of this section, do such further underpinning or strengthening as they may deem necessary or expedient:
- (5) The Board shall be liable to compensate the owner, lessee and occupier of every such house or building for any loss or damage which may result to them by reason of the exercise of the powers of this section:
- (6) Nothing in this section shall affect liability to compensate under section 6 of the Act of 1845, as incorporated with this Act, or section 10 (2) of the Act of 1965, as applied by this Act, or under any other enactment in respect of loss or damage arising from the execution of any works, except so far as compensation is payable under paragraph (5) above:

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- (7) Every case of compensation to be ascertained under this section shall be ascertained according to the provisions of the Land Compensation Act 1961.

18 Use of sewers, etc., for removing water

- (1) The Board may use for the discharge of any water pumped or found by them during the construction of the authorised works any available stream or watercourse, or any sewer or drain of a relevant authority, and for that purpose may lay down, take up and alter conduits, pipes and other works and may make any convenient connections with any such stream, watercourse, sewer or drain within the limits of deviation.
- (2) The Board shall not—
- (a) discharge any water into any sewer or drain vested in or under the control of a relevant authority except with the consent of that authority, which consent shall not be unreasonably withheld, and subject to such terms and conditions as that authority may reasonably impose; or
 - (b) make any opening into any such sewer or drain save in accordance with plans approved by, and under the superintendence (if given) of, the relevant authority in whom the sewer or drain shall be vested but approval of those plans by that authority shall not be unreasonably withheld.
- (3) (a) Section 85 of the Water Resources Act 1991 shall apply to, or to the consequence of, a discharge under the powers of this section into any controlled waters within the meaning given by section 104 of that Act as if this section were not a local statutory provision for the purposes of section 88 (1) (f) of that Act.
- (b) In the exercise of their powers under this section the Board shall not damage or interfere with the bed of any watercourse forming part of a main river or the banks thereof, within the meaning of section 113 of the Water Resources Act 1991.
- (4) The Board shall take all such steps as may reasonably be required to secure that any water discharged by them under this section shall be as free as may be reasonably practicable from any gravel, soil or other solid substance or matter in suspension.
- (5) Any difference arising between the Board and a relevant authority under this section shall be referred to and settled by arbitration.
- (6) In this section “relevant authority” means a sewerage undertaker, the National Rivers Authority, an internal drainage board or a local authority.