



# British Railways (No. 2) Act 1992

## 1992 CHAPTER xi

### PART V

#### PROTECTIVE PROVISIONS

#### **38 Notice of interference with roads**

Before breaking up or otherwise interfering with any road to which the public has access in connection with the construction of any of the works under the powers of this Act, the Board shall (except in case of emergency) give 14 days' notice in writing to the chief officer of police.

#### **39 For protection of electricity, gas and water undertakers**

For the protection of the several undertakers referred to in this section, the following provisions shall, unless otherwise agreed in writing between the Board and the undertakers concerned, have effect:—

(1) In this section—

“adequate alternative apparatus” means alternative apparatus adequate to enable the undertakers to fulfil their statutory functions in a manner not less efficient than previously;

“apparatus” means—

- (a) in the case of electricity undertakers, electric lines or electrical plant (as defined in the Electricity Act 1989) belonging to or maintained by such undertakers; or
- (b) in the case of gas or water undertakers, any mains, pipes or other apparatus belonging to or maintained by such undertakers;

(not being in either case apparatus in respect of which the relations between the Board and the undertakers are regulated by, until the commencement of Part III of the New Roads and Street Works Act 1991, the provisions of Part II of the Public Utilities Street Works Act 1950 or, on the commencement of

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Part III of the said Act of 1991, by the provisions of that Part of that Act) and includes any building, structure or works for the lodging therein of apparatus;

“functions” includes powers and duties;

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

“the undertakers” means any person authorised to carry on, in any area within which the Board are by this Act authorised to purchase land or execute works, an undertaking for the supply of gas or water or for the generation, transmission or supply of electricity; and, in relation to any apparatus, means the undertakers to whom it belongs or by whom it is maintained:

- (2) Notwithstanding the temporary stopping up or diversion of any highway under the powers of section 20 (Temporary stoppage of highways) of this Act, the undertakers shall be at liberty at all times to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable them to inspect, repair, maintain, renew, remove or use any apparatus which at the time of the stopping up or diversion was in that highway:
- (3) The Board, in the case of the powers conferred by section 21 (Underpinning of buildings near works) of this Act, shall, so far as is reasonably practicable, so exercise those powers as not to obstruct or render less convenient the access to any apparatus and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of the undertakers or any interruption in the supply of electricity, gas or water, as the case may be, by the undertakers shall be caused, the Board shall bear and pay the cost reasonably incurred by the undertakers in making good such damage or restoring the supply; and shall—
- (a) make reasonable compensation to the undertakers for any loss sustained by them; and
  - (b) indemnify the undertakers against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the undertakers;

by reason or in consequence of any such damage or interruption:

Provided that—

- (i) nothing in this paragraph shall impose any liability on the Board with respect to any damage or interruption to the extent that such damage or interruption may be attributable to the act, neglect or default of the undertakers or their contractors or workmen;
  - (ii) the undertakers shall give to the Board reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Board:
- (4) Notwithstanding anything in section 22 (Use of sewers, etc., for removing water) of this Act, no use shall be made by the Board in the construction of the works of pumping or other like modes of removing water except where reasonably necessary or in case of emergency or unforeseen accident or for the purpose of removing rainwater or other small amounts of water, and until the commencement of Part III of the New Roads and Street Works Act 1991 the provisions of section 26 of the Public Utilities Street Works Act 1950 shall apply to, and in relation to, the laying down, taking up or altering of conduits, pipes or other works under the said section 22 as if executed by the Board

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as operating undertakers within the meaning of the said section 26 for purposes other than the purposes of a railway undertaking:

- (5) Notwithstanding anything in this Act or shown on the deposited plans the Board shall not acquire any apparatus under the powers of this Act otherwise than by agreement.
- (6) If the Board, in the exercise of the powers of this Act, acquire any interest in any land in which any apparatus is placed, that apparatus shall not be removed under this section and any right of the undertakers to maintain, repair, renew or inspect that apparatus in that land shall not be extinguished until adequate alternative apparatus shall have been constructed and be in operation to the reasonable satisfaction of the undertakers:
- (7) If the Board, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Act, require the removal of any apparatus placed in that land, and shall give to the undertakers written notice of such requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed so as to provide adequate alternative apparatus in lieu of the apparatus to be removed, or, if in consequence of the exercise of any of the powers of this Act the undertakers shall reasonably require to remove any apparatus, the Board shall afford to the undertakers the necessary facilities and rights for the construction of such alternative apparatus in other land of the Board and thereafter for the maintenance, repair, renewal and inspection of such apparatus:

Provided that, if the alternative apparatus or any part thereof is to be constructed elsewhere than in other land of the Board, or the Board are unable to afford such facilities and rights as aforesaid in the land in which the alternative apparatus or such part thereof is to be constructed, the undertakers shall, on receipt of a written notice to that effect from the Board, forthwith use their best endeavours to obtain the necessary facilities and rights in such last-mentioned land:

- (8)
  - (a) Any alternative apparatus to be constructed in land of the Board under this section shall be constructed in such manner and in such line or situation as may be agreed between the undertakers and the Board or in default of agreement settled by arbitration;
  - (b) The undertakers shall, after the alternative apparatus to be provided or constructed shall have been agreed or settled by arbitration as aforesaid and after the grant to the undertakers of any such facilities and rights as are referred to in paragraph (7) above, proceed with all reasonable dispatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the Board to be removed under the provisions of this section:
- (9) Notwithstanding anything in paragraph (8) above, if the Board give notice in writing to the undertakers that they desire themselves to execute any part of so much of the work necessary in connection with the construction of the alternative apparatus, or the removal of the apparatus required to be removed, as will be situate in any land of the Board, such work, in lieu of being executed by the undertakers, shall be executed by the Board with all reasonable dispatch under the superintendence, if given, and to the reasonable satisfaction of the undertakers:

Provided that nothing in this paragraph shall authorise the Board to execute the actual 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 300 millimetres of the apparatus:

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- (10) Where, in accordance with the provisions of this section, the Board afford to the undertakers facilities and rights for the construction, maintenance, repair, renewal and inspection in land of the Board of alternative apparatus in substitution for apparatus to be removed as aforesaid, those facilities and rights shall be granted upon such terms and conditions as may be agreed between the Board and the undertakers or in default of agreement settled by arbitration:

Provided that—

- (a) in settling such terms and conditions as aforesaid in respect of alternative apparatus to be constructed in or along any railway of the Board, the arbitrator shall—
- (i) give effect to all reasonable requirements of the Board for ensuring the safety and efficient operation of the railway 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 Board or the traffic on the railway; and
  - (ii) 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 applicable to the apparatus, if any, constructed in or along the railway for which the alternative apparatus is to be substituted;
- (b) if the facilities and rights to be afforded by the Board in respect of any alternative apparatus and the terms and conditions subject to which the same are to be granted are in the opinion of the arbitrator less favourable on the whole to the undertakers than the facilities and rights enjoyed by them in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator shall make such provision for the payment of compensation by the Board to the undertakers in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the particular case:
- (11) (a) Not less than 28 days before commencing to execute any such works as are referred to in paragraph (7) above and are near to or will or may affect any apparatus the removal of which has not been required by the Board under the said paragraph (7), the Board shall submit to the undertakers a plan, section and description of the works to be executed;
- (b) Such works shall be executed only in accordance with the plan, section and description submitted as aforesaid and in accordance with such reasonable requirements as may be made by the undertakers for the alteration or otherwise for the protection of the apparatus or for securing access thereto and the undertakers shall be entitled by their officer to watch and inspect the execution of such works:

Provided that—

- (i) if the undertakers within 14 days after the submission to them of any such plan, section and description shall, in consequence of the works proposed by the Board, reasonably require the removal of any apparatus and give written notice to the Board of such requirement, the foregoing provisions of this section shall apply and have effect as if the removal of such apparatus had been required by the Board under the said paragraph (7);
- (ii) nothing in this sub-paragraph shall preclude the Board from submitting at any time or from time to time, but in no case less than

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28 days before commencing the execution of any such works, a new plan, section and description thereof in lieu of the plan, section and description previously submitted, and thereupon the provisions of this paragraph shall apply to and in respect of such new plan, section and description;

- (c) The Board shall not be required to comply with sub-paragraph (a) above in a case of emergency but in such a case they shall give to the undertakers notice as soon as reasonably practicable and a plan, section and description of the works as soon as reasonably practicable thereafter and shall comply with sub-paragraph (b) above so far as reasonably practicable in the circumstances:
- (12) Where, in consequence of this Act, any part of any highway in which any apparatus is situate ceases to be part of a highway the undertakers may exercise the same rights of access to such apparatus as they enjoyed immediately before the passing of this Act, but nothing in this paragraph shall affect any right of the Board or of the undertakers to require removal of such apparatus under this section or the power of the Board to execute works in accordance with paragraph (11) above:
- (13) Subject to paragraph (14) below, the Board shall pay to the undertakers the costs, charges and expenses reasonably incurred by the undertakers in or in connection with the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph (7) above, less the value of any apparatus removed under the provisions of this section (such value being calculated after removal) and shall also make compensation to the undertakers—
- (a) for any damage caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal in accordance with the provisions of this section); and
  - (b) for any other expenses, loss, damages, penalty or costs incurred by the undertakers;

by reason or in consequence of the execution, maintenance, user or failure of any such works or otherwise by reason or in consequence of the exercise by the Board of the powers of this Act:

- (14) If the cost of maintaining, using, repairing or renewing any apparatus is reduced in consequence of any of the works, including the provision of alternative apparatus under this section, a capitalised sum representing such saving shall be paid by the relevant undertakers to the Board or set off against any sums payable by the Board to the relevant undertakers under this section:
- (15) Where, by reason of the stopping up of any highway under the powers of this Act, any apparatus belonging to the undertakers and laid or placed in such highway or elsewhere is rendered derelict or unnecessary, the Board shall pay to the undertakers the then value of such apparatus (which shall thereupon become the property of the Board) and the reasonable cost of and incidental to the cutting off of such apparatus from any other apparatus, and of and incidental to the execution or doing of any works or things rendered necessary or expedient by reason of such apparatus being so rendered derelict or unnecessary:

Provided that the Board shall not under the provisions of this paragraph be required to pay to the undertakers the value of any apparatus rendered derelict or unnecessary if, to the reasonable satisfaction of the undertakers, other apparatus shall at the expense

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of the Board have been provided and laid and made ready for use in substitution for the apparatus so rendered derelict or unnecessary:

- (16) Any difference arising between the Board and the undertakers under this section shall be referred to and settled by arbitration:
- (17) Nothing in this section shall affect the provisions of any enactment or agreement regulating the relations between the Board and the undertakers in respect of any apparatus laid or erected in land belonging to the Board at the date of the passing of this Act.

#### **40 For protection of sewerage undertakers**

For the protection of sewerage undertakers the following provisions shall, unless otherwise agreed in writing between the Board and the sewerage undertaker concerned, have effect:—

- (1) In this section—
  - “the company” means the sewerage undertaker for the area of the works or whose sewers are affected;
  - “construction” includes placing or altering; and “constructed” shall be construed accordingly;
  - “sewer” means a public sewer within the meaning of the Water Industry Act 1991 and includes a disposal main within the meaning of that Act; and
  - “specified work” means so much of the works as will or may be situated over or within 15 metres measured in any direction of, or (wherever situated) impose any load directly upon, any sewer:
- (2) (a) Before commencing the construction or renewal of any specified work or, in the case of any temporary work, its removal the Board shall submit to the company plans thereof as described in paragraph (3) below (in this section referred to as “the said plans”) and shall not commence that work until the company has signified in writing its approval of the said plans;
- (b) Any approval of the company required under this paragraph—
  - (i) may be given subject to reasonable conditions;
  - (ii) shall not be unreasonably withheld;
  - (iii) shall be deemed to have been given if it is neither given nor refused within 56 days of the submission of plans for approval:
- (3) (a) The plans to be submitted to the company shall be detailed plans, drawings, sections and specifications describing the position and manner in which, and the level at which, any specified work is proposed to be constructed and the position of all sewers of the company within 15 metres of that work or upon which the specified work will impose a load and shall include detailed drawings of every alteration which the Board may propose to any such sewers;
- (b) For the purpose of the preparation of the said plans the company shall permit the Board to have access to plans in its possession and to any of its sewers:
- (4) The company may require such modifications to be made to the said plans as may be reasonably necessary to secure the sewerage system of the company against interference or risk of damage and to provide and secure proper and convenient means of access to any sewer:

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- (5) The specified work shall be constructed, or (in the case of any temporary work) removed, in accordance with the plans approved, or deemed to have been approved, as aforesaid or settled by arbitration, as the same may be amended from time to time by agreement between the Board and the company, and in the construction or removal of the specified work the Board shall comply with all reasonable requirements of the company and shall provide new, altered or substituted sewers or works for the protection of any sewers of the company, in such manner as the company may reasonably require by way of replacement provision for or for the proper protection of, and for preventing injury or impediment to, any such sewer by reason of any specified work:
- (6) All works under paragraph (5) above for the provision of new, altered or substituted sewers or the protection of any sewers of the company shall, where so required by the company, be constructed by the company or under the supervision (if given) of an officer of the company duly appointed for the purpose, and all costs, charges and expenses reasonably incurred by the company in the construction of such works, or in the preparation or examination of plans or designs therefor, or in such supervision, shall be paid to the company by the Board:
- (7) When works for the provision of any such new, altered or substituted sewer, or any such protective work forming part of any such new, altered or substituted sewer or any existing sewer of the company, have been completed under this section to the reasonable satisfaction of the company, they shall be vested in and become maintainable by the company:
- (8) (a) The Board shall be liable to make good, or, if the company so decide, to repay to the company any expense reasonably incurred by the company in making good, all injury or damage to any sewers, drains or works vested in the company (except in so far as such sewer, drain or work is intended for alteration or removal for the purposes of the specified work) caused by or resulting from the construction of any specified work or any investigation undertaken therefor and the provision of any new, altered or substituted sewer or any protective work under this section and shall pay to the company any additional expense to which it may be put in the maintenance, management or renewal of any new, altered or substituted sewer which may be necessary in consequence of the construction of any specified work;
- (b) The Board shall indemnify the company against all actions, claims, demands, costs, expenses, damages or loss which may be made on or against the company which the company may incur or have to pay or which it may sustain in consequence of the construction of a specified work or of the failure or want of repair thereof or any subsidence caused by the construction of any specified work or in consequence of any act or omission of the Board, their contractors, agents, workmen or servants, whilst engaged upon the specified work and any new, altered or substituted sewer or any protective work:
- Provided that the company shall give to the Board reasonable notice of any such claim or demand as aforesaid and no settlement or compromise thereof shall be made without the agreement in writing of the Board;
- (c) Nothing in sub-paragraph (a) or (b) above shall impose any liability on the Board in respect of any damage to the extent that it is attributable to the act, neglect or default of the company, its officers, servants, or, if not the Board, its contractors or agents:

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- (9) An officer of the company duly appointed for the purpose may, at any reasonable time and, if required by the Board, under their supervision and control, enter upon and inspect any specified work or any other works constructed under this section:
- (10) The approval by the company of any plans, drawings, sections or specifications or the supervision by it of any work under this section shall not (if it was done without negligence on the part of the company, its officers, servants, or, if not the Board, its contractors or agents) exonerate the Board from any liability or affect any claim for damages by the company:
- (11) Notwithstanding the temporary stopping up or diversion of any highway under the powers of section 20 (Temporary stoppage of highways) of this Act, the company shall be at liberty at all times to construct and do all such works and things in, upon or under any such highway as may be reasonably necessary to enable it to inspect, repair, maintain, renew, alter, protect, remove or use any sewer which at the time of the stopping up or diversion was in that highway:
- (12) Where, in consequence of this Act, any part of any street, bridleway or footpath in which any sewer is situate ceases to be part of the street, bridleway or footpath, the company may exercise the same rights of access to such sewer as it enjoyed immediately before the passing of this Act, but nothing in this paragraph shall affect any right of the Board or of the company to require alteration of such sewer under this section:
- (13) The Board shall, so far as is reasonably practicable, so exercise the powers conferred by section 21 (Underpinning of buildings near works) of this Act as not to obstruct or render less convenient the access to any sewer:
- (14) As soon as reasonably practicable after the completion of the construction of the specified works the Board shall deliver to the company a plan and section showing the position and level of those works as constructed and all new, altered or substituted works provided under this section:
- (15) Nothing in this section shall affect the provisions of any enactment or agreement regulating the relations between the Board and the company in respect of any sewer or other apparatus constructed, laid or erected in land belonging to the Board before the passing of this Act:
- (16) Any difference arising between the Board and the company under this section shall be referred to and settled by arbitration.

#### **41 For protection of telecommunications operators**

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

- (1) In this section expressions defined in the Telecommunications Act 1984 have the same meanings as in that Act:
- (2) The temporary stopping up or diversion of any highway under section 20 (Temporary stoppage of highways) of this Act shall not affect any right of a telecommunications operator under paragraph 9 of the telecommunications code to inspect, maintain, adjust, repair or alter any apparatus which, at the time of the stopping up or diversion, is in that highway.



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## 42 For protection of National Rivers Authority

For the protection of the National Rivers Authority (in this section referred to as “the authority”) the following provisions shall, unless otherwise agreed in writing between the Board and the authority, have effect:—

(1) In this section—

“construction” includes execution, placing and altering and, in relation to temporary works, includes removal; and “construct” and “constructed” have corresponding meanings;

“drainage work” means any watercourse and includes any land regularly used for providing flood storage capacity for any such watercourse and any other structure or appliance under the control of the authority constructed or used for defence against water;

“the fishery” means fish in, or migrating to or from, the river Eye or the river Trent and the spawn, spawning grounds or food of such fish in either of those rivers;

“plans” includes sections, drawings, specifications, method statements and other such particulars;

“specified work” means so much of any work or operation authorised by this Act as is in, on, under or over a watercourse or is likely to—

- (a) interfere with or affect (either directly or indirectly) any drainage work; or
- (b) cause obstruction to the free passage of water or fish in any watercourse; and

“watercourse” has the meaning given in section 72 of the Land Drainage Act 1991:

- (2) (a) Not less than 56 days before beginning to construct any specified work, the Board shall submit to the authority plans of the work and the work shall not be constructed except in accordance with plans approved by the authority, or settled by arbitration, and in accordance with any reasonable requirements made by the authority for the protection of any drainage work or the fishery or for the prevention of flooding or pollution;
- (b) The requirements which the authority may make under sub-paragraph (a) above include conditions requiring the construction of such protective works by, and at the expense of, the Board during the construction of the specified work as are reasonably necessary to safeguard a drainage work against damage or to secure that the efficiency of a drainage work for flood defence purposes is not impaired;
- (3) If within a period of 56 days after the submission of any plans under sub-paragraph (2) (a) above the authority do not inform the Board in writing that they disapprove of those plans, stating the grounds of their disapproval, they shall be treated for the purposes of this section as having approved them;
- (4) Any specified work, and all protective works required by the authority under paragraph (2) above, shall be constructed to the reasonable satisfaction of the authority and the authority shall be entitled by their officer to watch and inspect the construction of such works;
- (5) If by reason of the construction of any specified work the efficiency of any flood defence work for drainage purposes is impaired or that work is damaged, such

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impairment or damage shall be made good by the Board to the reasonable satisfaction of the authority and, if the Board fail to do so, the authority may make good the same and recover from the Board the expense reasonably incurred by them in so doing:

- (6) (a) The Board shall indemnify the authority from all claims, demands, proceedings, costs, damages, expenses or loss which may be made or taken against, or recovered from or incurred by, the authority in consequence of—
- (i) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence; or
  - (ii) any damage to the fishery; or
  - (iii) any raising of the water table in land adjoining any of the works or adjoining any sewers, drains and watercourses; or
  - (iv) any flooding or increased flooding of any such land;
- which may be caused by, or result from, the construction of any specified work or any act or omission of the Board, their contractors, agents, workmen or servants whilst engaged upon the work;
- (b) The authority shall give to the Board reasonable notice of any such claim or demand and no settlement or compromise thereof shall be made without the agreement of the Board:
- (7) 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 authority, or to their satisfaction, or in accordance with any directions or award of an arbitrator, shall not relieve the Board from any liability under the provisions of this section:
- (8) For the purposes of section 109 of the Water Resources Act 1991 (as to structures in, over or under a main river) as applying to the construction of any specified work, any consent or approval given or deemed to be given by the authority under this section with respect to the erection of any structure shall be deemed also to constitute a consent or approval under the said section 109 as respects the erection of that structure:
- (9) Any difference arising between the Board and the authority under this section (other than a difference as to its meaning or construction) shall be referred to and settled by arbitration.

### **43 For protection of Berkshire County Council**

For the protection of the Berkshire County Council (in this section referred to as “the council”) the following provisions shall, unless otherwise agreed in writing between the Board and the council, have effect:—

- (1) In this section—
- “highway” means any highway vested in or repairable or maintainable by the council;
  - “new highway” means any new or widened highway to be provided by the Board under the provisions of this Act and the expression “new highways” shall be construed accordingly;
  - “plans” includes sections and particulars; and
  - “specified works” means Works Nos. 2A, 2B and 2C, the new highways and so much of the works as may in any way affect any highway in the county of Berkshire:

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- (2) The Board shall not exercise the powers of section 20 (Temporary stoppage of highways) of this Act with respect to any highway unless they have given to the council not less than 21 days' notice in writing of their intention so to do, except in case of emergency when such notice as is practicable shall be given:
- (3) Before commencing the construction of any of the specified works, the Board shall submit to the council for their approval, which shall not be unreasonably withheld, plans thereof and, notwithstanding anything shown on the deposited plans and the deposited sections, the work to which such plans relate shall not be constructed otherwise than in accordance with such plans as may be approved by the council as aforesaid, or, if such approval be refused, as may be settled by arbitration, and any part of the construction of the specified works which may involve interference with a highway shall be carried out under the supervision (if given) and to the reasonable satisfaction of the council:

Provided that, if within 56 days after the submission to them of plans in accordance with the provisions of this paragraph the council do not signify their approval or disapproval thereof and the grounds for such disapproval, they shall be deemed to have approved thereof:

- (4) Notwithstanding anything in this Act or shown on the deposited plans Work No. 2A shall be designed, constructed and maintained so as to provide for loadings to be agreed in advance by the council (provided that nothing in this paragraph shall enable the council to require loadings to be provided in excess of those for which the existing Wexham Road Bridge is capable of bearing when properly maintained) and the Board shall indemnify the council against and make good to the council all expenses which the council may reasonably incur or be put to in the maintenance or repair of any highway, drain or apparatus therein by reason of any non-compliance by the Board with the provisions of this paragraph:
- (5)
  - (a) Before commencing to construct any part of the specified works which will involve interference with a highway the Board shall consult the council as to the time when such part shall be commenced, as to the extent of the surface of the highway which it may be reasonably necessary for the Board to occupy in the construction of such part and as to the conditions under which such part shall be constructed so as to reduce so far as possible inconvenience to the public and to ensure the safety of the public, and such part shall not be constructed and the surface of the highway shall not be occupied by the Board except at the time, to the extent and in accordance with such reasonable conditions as may be agreed between the Board and the council or, in default of agreement, settled by arbitration;
  - (b) Any such highway shall be reinstated by the Board in a manner approved by the council and to their reasonable satisfaction but approval by the council shall not be unreasonably withheld:
- (6) The Board shall, at all reasonable times during the construction of any part of the specified works, afford to the surveyor of the council or his duly authorised representatives access to that part of the specified works for the purposes of inspection:
- (7) The structure of Works Nos. 2A, 2B and 2C, the embankments on which the approaches to those works are constructed and any fencing on either side of those approaches shall be maintained by the Board:

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- (8) (a) The surface of the carriageway and footways of Work No. 2A shall be vested in and maintained by the council which shall have all such rights in relation to the subsoil and undersurface thereof as are necessary for the performance of their functions as highway authority:

Provided that the Board shall be liable to the council for the maintenance of any new highway and the surface of the new bridge for a period of 12 months after the date of completion;

- (b) In this paragraph “date of completion” means the date upon which the new highway or, as the case may be, Work No. 2A is completed in accordance with the requirements of this section and open for public use or, in the case of a difference between the Board and the council as to whether the said requirements have been complied with, until the matter in dispute has been referred to and settled by arbitration and the arbitrator has certified that the new highway or, as the case may be, Work No. 2A has been completed in accordance with his decision:
- (9) The Board shall keep the council indemnified against all actions, costs, claims and demands whatsoever brought or made against the council by any person in respect of loss or damage caused by, or in consequence of, the construction of any of the specified works and the fact that any act or thing may have been done in accordance with plans approved by the council or in accordance with any requirement of the council or under their supervision shall not (if it was done without negligence on the part of the council) excuse the Board from liability under the provisions of this section:
- Provided that the council shall give to the Board reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Board:
- (10) The Board shall repay to the council all costs, charges and expenses reasonably incurred by the council in the examination of the plans submitted to the council under this section in relation to any of the specified works:
- (11) Any difference arising between the Board and the council under this section shall be referred to and settled by arbitration.

#### **44 For protection of National Carriers Limited**

For the protection of National Carriers Limited (which expression shall include successors in title) (in this section referred to as “the company”) the following provisions shall have effect:—

- (1) In this section “the Slough land” means the land numbered on the deposited plans 2 in the borough of Slough:
- (2) Notwithstanding anything in sections 26 (Purchase of land) and 32 (Extinction or suspension of private rights of way) of this Act, the Board shall not purchase compulsorily, nor shall there be extinguished, varied or suspended, the right of way enjoyed by or vested in the company over the Slough land by virtue of an Agreement dated 5th May 1972 and made between the Board (1), the company (2) and National Freight Corporation (3).

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

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## **45 Crown rights**

- (1) Nothing in this Act affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing in this Act authorises the Board to take, use, enter upon or in any manner interfere with, any land or hereditaments or any rights of whatsoever description (including any river)—
  - (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those commissioners; or
  - (b) belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.
- (2) A consent under subsection (1) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.