Channel Tunnel Act 1987

CHAPTER 53

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Channel Tunnel Act 1987

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Channel Tunnel Act 1987

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An Act to provide for the construction and operation of a railway tunnel system under the English Channel, together with associated works; to provide for connected improvements in the road network near Ashford, in Kent, and in the rail network in South Eastern England; to incorporate part of the railway tunnel system into the United Kingdom and to provide for the application and enforcement of law in relation to, and otherwise for the regulation of, that system and matters connected with it; to provide for the construction of certain highways and associated works in the vicinity of Folkestone; and for connected purposes. [23rd July 1987]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

PRELIMINARY

Construction and operation of a tunnel rail link between the United Kingdom and France.

1.—(1) The primary purpose of this Act is to provide for the construction and operation of a tunnel rail link (together with associated works, facilities and installations) under the English Channel between the United Kingdom and France, in accordance with—

(a) the Treaty between the United Kingdom of Great Britain and Northern Ireland and the French Republic concerning the Construction and Operation by Private Concessionaires of a Channel Fixed Link, signed at Canterbury on 12th February 1986, together with its supplementary protocols and arrangements; and

(b) the Concession between Her Majesty's Government in the United Kingdom and the Government of the French Republic on the one hand and private Concessionaires on the other hand which, in accordance with Article 1 of that Treaty, regulates,

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together with that Treaty, the construction and operation of the Channel fixed link referred to in that Article.

(2) In connection with the primary purpose mentioned in subsection (1) above, Part II of this Act also makes provision for enabling—

(a) the road network in the vicinity of Ashford, in Kent; and

(b) the rail network in South Eastern England;

to be improved with a view to accommodating traffic using the tunnel rail link when it comes into operation.

(3) Subject to section 3 of this Act, the expressions defined below in this section have the meanings there given for the purposes of this Act.

(4) "The Treaty" means the Treaty mentioned in paragraph (a) of subsection (1) above, including its supplementary protocols and arrangements, and "the Concession" means the Concession mentioned in paragraph (b) of that subsection.

(5) "Concession agreement" means any agreement or arrangement which for the time being constitutes, or is included among the agreements or arrangements which together for the time being constitute, the Concession.

(6) "Concession lease" means any lease granted by the Secretary of State to the Concessionaires in pursuance of the Concession, and references to a Concession lease include any provisions of a Concession agreement providing for the grant of a lease of any land by the Secretary of State to the Concessionaires.

(7) "The tunnel system" means the tunnel rail link, together with its associated works, facilities and installations, to be constructed in pursuance of the Treaty, and incorporating—

(a) tunnels under the English Channel between Cheriton, Folkestone, in Kent and Fréthun in the Pas de Calais, comprising two main tunnels capable of carrying both road traffic on shuttle trains and rail traffic, and an associated service tunnel;

(b) two terminal areas, for controlling access to and egress from the tunnels, located at the portals of the tunnels in the vicinity of Cheriton, Folkestone and Fréthun respectively;

(c) a service and maintenance area at the Old Dover Colliery site;

(d) an inland clearance depot at Ashford, in Kent, for the accommodation, in connection with the application to them of customs and other controls, of freight vehicles which have been or are to be conveyed through the tunnels on shuttle services;

(e) necessary links with the road and rail networks of each country; and

(f) the fixed and movable equipment needed for the operation of the tunnels and the associated works, facilities and installations mentioned in paragraphs (b) to (e) above or for the operation of shuttle services using the tunnels.

(8) "The Concessionaires" means the person or persons who, under the Concession, have for the time being the function of constructing and operating or (as the case may be) of operating the tunnel system.

(9) "Shuttle train" means a train designed for the purpose of carrying road traffic between Cheriton, Folkestone and Fréthun by way of the

tunnels and "shuttle service" means a service operated by means of a shuttle train.

(10) Where the Concessionaires for the time being are two or more persons, any provision of this Act conferring or imposing upon them any right, power, liability or duty shall have effect (except where the context otherwise requires) so as to confer or impose it upon them jointly; but anything done by or in relation to any one of them which purports to be done by or in relation to both or all of them shall have effect for the purposes of this Act as if done by or in relation to them jointly.

No government funds or guarantees for the tunnel system.

2.—(1) Subject to subsection (2) below, no Minister of the Crown or Government department shall provide funds to the Concessionaires, or guarantees of a financial or commercial nature relating to the performance of any obligations of the Concessionaires, in respect of the construction or operation of the tunnel system or any part of it.

(2) Subject to subsection (3) below, subsection (1) above shall not preclude the provision of funds to the Concessionaires, or the provision of guarantees relating to the performance of any of their obligations, if they are provided under any enactment conferring a power or imposing a duty on any such Minister or department to provide such funds or guarantees—

(a) to or for the benefit of persons of any class or description which includes the Concessionaires; or

(b) in respect of expenditure of any class or description which includes expenditure on the construction or operation of the tunnel system or any part of it.

(3) Subsection (1) above shall preclude the making by the Secretary of State under section 56(1) of the Transport Act 1968 (grants towards capital expenditure on public passenger transport facilities) of grants towards expenditure incurred or to be incurred by the Concessionaires for the purpose of the provision, improvement or development of the tunnel system or any part of it. 1968 c. 73.

(4) Where anything in contravention of subsection (1) above is done or proposed by or on behalf of a Minister of the Crown or Government department, any person who has suffered, or may suffer, loss in consequence of it may bring an action against the Minister or department concerned.

(5) In such an action the court may—

(a) grant a declaration that the thing done or proposed is or would be in contravention of that subsection; or

(b) subject to subsection (6) below, make an award of damages.

(6) The court may only make an award of damages if the person bringing the action has suffered loss in consequence of something done and if, at the time when it was done, the Minister or Government department concerned knew—

(a) that it was in contravention of subsection (1) above; and

(b) that it would cause loss of the description suffered either to the person bringing the action or to persons of a class to which he belongs.

(7) The Crown Proceedings Act 1947 shall have effect as if anything done in contravention of subsection (1) above were a tort committed by 1947 c. 44.

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the Minister, or by the Minister in charge of the department, by whom or on whose behalf the thing was done.

(8) Where in any proceedings a question arises as to the construction of subsection (1) above, the court shall have regard in determining the question to any construction of the corresponding provision in Article 1(1) of the Treaty for the time being adopted by the arbitral tribunal which appears to the court to be relevant.

(9) The reference in subsection (8) above to the corresponding provision in Article 1(1) of the Treaty is a reference to the provision of Article 1(1) which requires the Channel fixed link referred to in that Article to be financed without recourse to government funds or to government guarantees of a financial or commercial nature.

(10) In this Act "the arbitral tribunal" means the arbitral tribunal constituted under the Treaty.

Provision for further definition of the tunnel system and for applying this Act to a new Concession.

3.—(1) The Secretary of State may, from time to time, by order define (by reference to its boundaries or situation, the area it occupies or any other characteristics of any kind whatsoever) any element of the tunnel system.

(2) The reference in subsection (1) above to an element of the tunnel system is a reference to any area, facility or work, and any description of equipment, incorporated in the tunnel system by virtue of section 1(7) of this Act.

(3) Where on or following the expiry or termination of the original Concession, as defined by section 1(4) above, there is agreement on a new Concession, references in this Act (other than section 1(1)(b) and (4)) to the Concession shall be read, in relation to any matter occurring after the new Concession comes into operation, as references to the new Concession.

(4) Subsection (3) above shall apply in relation to the expiry or termination of any such new Concession as it applies in relation to the expiry or termination of the original Concession.

(5) In this Act—

(a) references to agreement on a new Concession are references to the conclusion of any agreements or arrangements between Her Majesty's Government in the United Kingdom and the Government of the French Republic on the one hand and any other persons on the other hand for the operation (and, where it has not yet been completed, the construction) by those persons of the tunnel system; and

(b) references to a new Concession are references to any such agreements or arrangements.

(6) The power to make an order under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Notice with respect to operation, expiry or termination of the Concession.

4.—(1) The Secretary of State shall as soon as practicable after the coming into operation or (as the case may be) the expiry or termination of the Concession publish notice of that fact and of the date on which it came into operation or (as the case may be) expired or terminated; and

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any such notice shall specify in such manner as the Secretary of State thinks fit any Concession agreements.

(2) A notice required by this section shall be published—

(a) in the London Gazette; and

(b) in such newspapers circulating in the City of Canterbury, the borough of Ashford and the districts of Dover, Shepway and Thanet, in the county of Kent, as the Secretary of State thinks fit.

(3) For the purposes of this Act, the Concession shall be taken to have come into operation or (as the case may be) to have expired or terminated on the relevant date specified in any notice published under this section in relation to the Concession.

PART II

WORKS AND LAND FOR THE TUNNEL SYSTEM AND CONNECTED ROAD AND RAIL WORKS

Construction of the scheduled works.

5.—(1) The Concessionaires may, subject to and in accordance with the provisions of this Act, construct and maintain in the borough of Ashford and in the districts of Dover and Shepway in the county of Kent and under the English Channel the works specified in Part I of Schedule 1 to this Act.

(2) The Kent County Council may, subject to and in accordance with the provisions of this Act, construct and maintain in the borough of Ashford the works specified in Part II of that Schedule.

(3) The British Railways Board (referred to below in this Act as the Railways Board) may, subject to and in accordance with the provisions of this Act, construct and (in so far as they do not have power to do so apart from this Act) maintain and operate the works specified in Part III of that Schedule.

(4) The works specified in Parts I, II and III of that Schedule are referred to below in this Act, where no distinction is drawn between them, as the scheduled works, and otherwise as the Concessionaires' scheduled works, the County Council's scheduled works or the Railways Board's scheduled works, as the case may require.

(5) Subject to Part IV of that Schedule (which gives the limits of deviation for the works and also permits deviation from the levels shown on the deposited sections), the scheduled works shall be constructed in the lines or situations shown on the deposited plans and in accordance with the levels shown on the deposited sections.

Supplementary provisions as to the scheduled works and other authorised works.
1950 c. 39.
1845 c. 20.
1863 c. 92.

6.—(1) Part I of Schedule 2 to this Act shall have effect—

(a) for applying Part II of the Public Utilities Street Works Act 1950 to works for the construction or maintenance of certain of the Concessionaires' scheduled works; and

(b) for incorporating with this Act the Railways Clauses Consolidation Act 1845 and Part I of the Railways Clauses Act 1863, subject to modifications there specified.

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(2) Part II of that Schedule shall have effect—

(a) for regulating the manner in which the scheduled works and any installations connected with the scheduled works are to be constructed and maintained;

(b) for authorising or regulating the carrying out of subsidiary works; and

(c) for conferring or imposing, in connection with the construction or maintenance of those works and installations, certain supplementary powers and certain incidental duties.

(3) Part III of that Schedule shall have effect—

(a) for making in connection with the scheduled works and other works authorised by this Act provision in relation to highways and roads; and

(b) for making provision as to compensation for, and mitigation of, adverse effects of such works.

(4) Any activities carried on by the Concessionaires for or in connection with the construction or maintenance of their scheduled works or any other works of theirs authorised by this Act shall be treated (if they would not be so treated apart from this subsection) as the carrying on by the Concessionaires of the railway undertaking they are authorised by virtue of section 19 of this Act to carry on.

Vesting of seaward section of tunnel system in Secretary of State, subject to Concession lease.

7.—(1) The land comprising the seaward section of the tunnel system shall, as it becomes occupied by or on behalf of the Concessionaires working from England, vest in the Secretary of State, together with so much of the surrounding subsoil as is necessary for the security of the part of the system so occupied.

(2) Where the land agreed to be granted under a Concession lease consists of or includes the land and subsoil mentioned in subsection (1) above, the interest in that land and subsoil shall vest in the Concessionaires under the lease as that land becomes so occupied, as if granted by the Secretary of State immediately on the vesting in him of that land and subsoil by virtue of subsection (1) above.

(3) The Secretary of State shall, at such time or times as may be agreed by him and the Crown Estate Commissioners, pay to those Commissioners, in respect of the vesting in him by virtue of subsection (1) above of any land of the Crown Estate, such an amount as those Commissioners would have obtained for it on a sale in accordance with section 3(1) of the Crown Estate Act 1961 (duty as to consideration).

1961 c. 55.

(4) In subsection (3) above "land of the Crown Estate" means land which, immediately before the vesting of that land in the Secretary of State by virtue of subsection (1) above, was vested in Her Majesty in right of the Crown.

(5) References in this section to the seaward section of the tunnel system are references to that system, so far as lying under the foreshore and the bed of the sea as far as the frontier.

Acquisition of land for the scheduled works and other authorised works.

8.—(1) The Secretary of State is authorised by this section to acquire compulsorily—

(a) so much of the land shown on the deposited plans within the limits of deviation for the Concessionaires' scheduled works as may be required for the construction and maintenance of those

works and other works in connection with those works, or otherwise for any purposes of the construction or operation by the Concessionaires of the tunnel system; and

(b) so much of the land so shown within the limits of land to be acquired as may be so required;

being in neither case land which falls to be vested in the Secretary of State by virtue of section 7 of this Act.

(2) The Secretary of State is authorised by this section to acquire by agreement any land which he is not otherwise authorised to acquire and which is required for the construction and maintenance of the Concessionaires' scheduled works and other works in connection with those works, or otherwise for any purposes of the construction or operation by the Concessionaires of the tunnel system.

(3) The Kent County Council are authorised by this section to acquire compulsorily—

(a) so much of the land shown on the deposited plans within the limits of deviation for their scheduled works as may be required for the construction of those works and other works in connection with those works; and

(b) so much of the land so shown within the limits of land to be acquired as may be so required.

(4) The Railways Board are authorised by this section to acquire compulsorily—

(a) so much of the land shown on the deposited plans within the limits of deviation for their scheduled works as may be required for the construction and maintenance of those works and other works in connection with those works, or otherwise for the purposes of their undertaking; and

(b) so much of the land so shown within the limits of land to be acquired as may be so required.

(5) The preceding provisions of this section are subject to section 37 of this Act.

Planning permission, etc.

9.—(1) Planning permission shall be deemed to have been granted under Part III of the Act of 1971 for the carrying out by the Concessionaires of such development as may be necessary or expedient for—

(a) the construction of their scheduled works within the limits of deviation for those works; and

(b) the construction of the works, the provision of the facilities and the carrying out of the operations mentioned in section A of Part I of Schedule 5 to this Act within the limits of the land to be acquired for those purposes;

except to the extent that it consists of or includes the erection, construction, alteration or extension of any hotel or any building which is not required for or in connection with the movement through the tunnel system of passengers or of vehicles or other goods (including their handling, control or accommodation).

S.I. 1977/289.

(2) For the purposes of the Town and Country Planning General Development Order 1977 or any order replacing that order—

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(a) any development for which planning permission is deemed by subsection (1) above to have been granted shall be treated as not being development of a class for which planning permission is granted by the order; and

(b) any land which is the subject of a Concession lease shall be treated as operational land of the Concessionaires unless it is land required—

(i) for the purposes of or in connection with the inland clearance depot to be constructed at Ashford, in Kent; or

(ii) for purposes which do not include the Concessionaires' operation of the tunnel system.

(3) Planning permission shall be deemed to have been granted under Part III of the Act of 1971 for the carrying out by the Kent County Council of such development as may be necessary or expedient for the construction of their scheduled works within the limits of deviation for those works.

S.I. 1977/289.

(4) The provisions of the Town and Country Planning General Development Order 1977 regarding development permitted by the order, or the equivalent provisions of any order replacing that order, shall apply in relation to the Railways Board's works as if this Act were a local or private Act.

(5) Schedule 3 to this Act shall have effect in relation to planning permission deemed by subsection (1) or (3) above to have been granted or granted by virtue of subsection (4) above and, in particular, the requirements there set out with respect to any development to which such permission relates shall be conditions to which the permission is subject.

(6) Nothing in section 41 of the Act of 1971 (limit on duration of planning permissions) shall apply to the planning permission deemed by subsection (1) or (3) above to have been granted under Part III of that Act.

1981 c. 69.

(7) Sections 28(5) and 29(3) of the Wildlife and Countryside Act 1981 (prohibitions of operations likely to be injurious to the flora, fauna or features of areas of special scientific interest) shall not apply in relation to any operation which is connected with the carrying out of any works authorised to be carried out by this Act and which is carried out within the limits of land to be acquired for any of those works.

(8) In this section and in Schedule 3 to this Act—

1971 c. 78.

"the Act of 1971" means the Town and Country Planning Act 1971;

"building" includes any bridge, aqueduct, pier, mast or dam or fence, wall or other means of enclosure; and

"the Railways Board's works" means their scheduled works and any other works or operations which they are authorised to carry out by this Act.

PART III

STATUS, OPERATION AND REGULATION OF THE TUNNEL SYSTEM

Status of the tunnel system

Incorporation of part of the tunnel system into the United Kingdom and general application of law.

10.—(1) The land comprising the tunnel system as far as the frontier, so far as not forming part of the United Kingdom before the passing of this Act, shall, as it becomes occupied by or on behalf of the Concessionaires working from England, together with so much of the surrounding subsoil as is necessary for the security of the part of the system so occupied, be incorporated into England and form part of the district of Dover in the county of Kent, and the law of England shall apply accordingly.

(2) Subsections (3) and (4) below apply if any part of the tunnel system constructed by or on behalf of the Concessionaires working from England ("the English section") extends beyond the frontier before it effectively joins the part of the tunnel system constructed by or on behalf of the Concessionaires working from France ("the French section") and subsections (5) to (7) below apply if the converse case occurs.

Any land comprising any such part of the English or (as the case may be) of the French section is referred to in those subsections as a cross-frontier extension of that section.

(3) Until the English section effectively joins the French section, any cross-frontier extension of the English section shall be treated as being in England and, except for rating purposes, as forming part of the county of Kent and the law of England shall apply there.

(4) When the English section effectively joins the French section, the law of England shall continue to apply in relation to things done or omitted while the cross-frontier extension was treated by virtue of subsection (3) above as being in England and any proceedings may be brought or continued, any punishment may be imposed and carried out and any remedy may be granted and enforced in respect of such things accordingly.

(5) Subject to subsection (6) below, until the English section effectively joins the French section, no part of the law of England that would otherwise apply in relation to things done or omitted in, over or under the bed of the sea above any cross-frontier extension of the French section shall apply in relation to anything done or omitted in that extension or in so much of the surrounding subsoil as is necessary for the security of that extension.

(6) Subsection (5) above shall not exclude the application of any enactment or rule of law that applies irrespective of the country or territory in which any acts or omissions with which it is concerned take place.

(7) On the date on which the English section effectively joins the French section, section 7 of this Act and subsection (1) above shall apply to the cross-frontier extension of the French section as if it had become occupied on that date by or on behalf of the Concessionaires working from England.

(8) For the purposes of this section, the date on which the English section effectively joins the French section shall be taken to be such date as the Secretary of State may by order certify as being that date.

PART III *Application and enforcement of law*

Regulation of the tunnel system: application and enforcement of law, etc.

11.—(1) The appropriate Minister may by order make such provision as appears to him to be necessary or expedient—

(a) for the purpose of implementing the international arrangements, or enabling those arrangements to be implemented;

(b) for the transfer to, and the vesting by virtue of the order in, any person or persons specified in the order (referred to below in this section as the transferee), on such terms (if any) as may be provided by the order—

(i) on any substitution of Concessionaires under the Concession or on the expiry or termination of the Concession, of the interest of the former Concessionaires in all movable property and intellectual property rights necessary for the construction or operation of the tunnel system;

(ii) on any such substitution, of all rights and liabilities of the former Concessionaires under the Concession or any Concession lease; and

(iii) on any such substitution which takes place in such circumstances as may be specified in the order, of liabilities of the former Concessionaires (other than liabilities within sub-paragraph (ii) above) of such description as may be so specified;

and for securing effective possession or control by the transferee of any movable property or rights in which any interest transferred by the order subsists;

(c) in relation to the construction, operation or use of the tunnel system or any part of the tunnel system, so far as relates to activities carried on, persons employed or engaged in work, things done or omitted or other matters arising anywhere within the system (whether in England or in France), including in particular (without prejudice to the generality of the preceding provision) provision with respect to controls in relation to persons or goods within the system;

(d) for the purpose of applying any provisions of the law of England (with or without modifications), or excluding or modifying any of those provisions, in relation to things done or omitted or other matters arising anywhere within the tunnel system (whether in England or in France);

(e) with respect to controls in relation to persons or goods—

(i) on trains engaged on international services; or

(ii) at authorised terminal control points for such services;

outside the tunnel system (whether in the United Kingdom or elsewhere);

(f) in relation to persons employed or engaged in work outside the tunnel system (whether in the United Kingdom or elsewhere)—

(i) on any train engaged on an international service, in or for the purposes of or in connection with the operation of that service; or

(ii) in or for the purposes of or in connection with the exercise, on any such train or at any authorised terminal

control point for such services, of any controls in relation to persons or goods such as are mentioned in paragraph (e) above;

(g) for the purpose of dealing with any matters arising out of or connected with any provision within the powers conferred by any of paragraphs (a) to (f) above (whether or not those matters arise within the tunnel system, on any such train or at any such control point); or

(h) otherwise in relation to, or for regulating any matters arising out of or connected with, the tunnel system.

(2) Subject to subsection (5) below—

(a) the provision authorised by any of paragraphs (a) to (c) and (e) to (h) of subsection (1) above includes provision applying any provisions of the law of England (with or without modifications) or excluding or modifying the application of any of those provisions; and

(b) for the purposes of paragraph (a) above and paragraph (d) of that subsection—

(i) "modification" includes, in relation to an enactment, any amendment of it; and

(ii) provision excluding or modifying the application of any provision of the law of England includes, in relation to an enactment, provision amending or repealing it (in either case with or without savings).

(3) Without prejudice to the generality of subsection (1) above, the kind of provision that may be made by an order under this section includes the following—

(a) provision creating new criminal offences punishable as may be provided by the order or imposing penalties otherwise than in respect of criminal offences;

(b) provision imposing, or providing for the imposition of, fees or charges;

(c) provision conferring power on any Minister of the Crown or Government department to make orders, rules, regulations or other subordinate instruments of a legislative character;

(d) provision for, or authorising any such order, rule, regulation or other subordinate instrument to provide for, the delegation of any functions conferred or imposed by or in pursuance of any order under this section or by any enactment;

(e) provision, subject to subsection (4) below, for or in connection with the enforcement or execution outside the United Kingdom of any provision of the law of England or within the United Kingdom of any provision of the law of any other country, including in particular—

(i) provision conferring powers on any officer belonging to the United Kingdom to arrest and detain outside the United Kingdom persons suspected of having committed offences under the law of England and bring them to lawful custody in England;

(ii) provision conferring powers on any such officer to arrest and detain within the United Kingdom persons suspected of having committed offences under the law of any

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other country and surrender them to the custody of officers belonging to that country without the authority of any order of a court in any part of the United Kingdom; and

(iii) provision for or in connection with the exercise in the United Kingdom by officers belonging to any other country of powers corresponding to those mentioned in sub-paragraph (i) above; and

(f) provision conferring jurisdiction on courts or tribunals in any part of the United Kingdom or limiting the jurisdiction otherwise exercisable by any such courts or tribunals.

(4) An order under this section may not make provision for or in connection with the exercise of powers by officers belonging to one country in any other country except—

(a) within the tunnel system;

(b) on trains engaged on international services; or

(c) at authorised terminal control points for such services.

(5) So far as relates to enactments contained in this Act, only the following may be amended or repealed by an order under this section, that is to say, sections 12, 14 to 18, 20 to 22, 31 and 43 and Schedule 6.

(6) An order made by virtue of subsection (1)(b) above may provide for any interest or right transferred by the order—

(a) to vest in the transferee free of any security to which it is subject immediately before the order comes into force, other than one created in accordance with the Concession; or

(b) to be treated on vesting in the transferee as subject to a security of such a description, held by such person or persons, as may be provided by or specified in the order.

(7) An order so made may provide for applying any provisions of the order relating to the interest of the former Concessionaires in any movable property or intellectual property rights necessary for the construction or operation of the tunnel system, subject to any modifications specified in the order, in relation to—

(a) any interest in any such property or rights of a liquidator of any company which is, or is included among, the former Concessionaires; or

(b) any interest of any such liquidator of any description specified in the order.

(8) No liquidator of, or other person exercising functions under insolvency law in relation to, any company which is, or is included among, the Concessionaires shall sell or otherwise dispose of any interest of the company in any such property or rights without the consent of the Secretary of State; and any sale or other disposal in contravention of this subsection shall be void.

(9) Where in any proceedings a question arises as to what constitutes for the purposes of this section an interest in movable property or intellectual property rights necessary for the construction or operation of the tunnel system, the court shall have regard in determining the question to any construction of the corresponding references in the Concession for the time being adopted by the arbitral tribunal.

(10) For the purposes of subsection (9) above, the corresponding references in the Concession are the references to the interest of the

Concessionaires in all movable property and intellectual property rights necessary for the construction or operation of the Fixed Link.

(11) For the purposes of this section—

(a) a substitution of Concessionaires under the Concession occurs at any time when any person or persons become the Concessionaires in substitution for any person or persons who were the Concessionaires immediately before that time;

(b) "the former Concessionaires" means, in relation to any such substitution or in relation to the expiry or termination of the Concession, the person or persons who cease to be the Concessionaires on that substitution or on that expiry or termination;

(c) "liabilities" includes duties and obligations;

(d) "company" means a British company or a French company;

(e) "British company" means a company formed and registered under the Companies Act 1985; 1985 c. 6.

(f) "French company" means a body corporate incorporated under the law of France;

(g) "liquidator" means, in relation to a company, a person appointed as liquidator or provisional liquidator of the company under any provision of the Insolvency Act 1986 or exercising in relation to the company functions under the law of France corresponding to those of a person so appointed, and the reference in subsection (8) above to any person other than a liquidator exercising functions under insolvency law in relation to a company is a reference to— 1986 c. 45.

(i) any person appointed as the administrator of the company under any provision of that Act;

(ii) an administrative receiver of the company within the meaning of Chapter I of Part III of that Act;

(iii) any person acting as supervisor of any voluntary arrangement (within the meaning of section 7 of that Act) relating to the company's affairs; or

(iv) any person exercising in relation to the company functions under the law of France corresponding to those exercisable by any person of a description within any of sub-paragraphs (i) to (iii) above; and

(h) "security" means any mortgage, charge, lien or other security.

Controls on board trains engaged on international services.

12.—(1) It shall be the duty of the appropriate Minister to secure that, where this subsection applies, controls exercisable in relation to—

(a) passengers carried on a train engaged on an international service on a journey beginning or intended to end at a place in Great Britain other than London or Cheriton, Folkestone or any place between those places; or

(b) things contained in the baggage of such passengers;

shall be exercised on the train.

(2) Subject to subsection (3) below, subsection (1) above applies where—

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(a) the person operating the service has made a request to the appropriate Minister that the controls in question should be exercised on trains engaged on the service in question;

(b) the appropriate Minister has approved as satisfactory arrangements made by that person for the provision of facilities to enable the controls in question to be exercised on such trains;

(c) facilities enabling the exercise of the controls in question are provided on the train in question in accordance with such approved arrangements; and

(d) the controls are exercised by customs officers or immigration officers.

(3) Subsection (1) above does not apply—

(a) in the case of passengers carried on a particular train or part of a particular train, or things contained in the baggage of such passengers, if in the opinion of a customs officer or immigration officer exercising the controls it is not reasonably practicable effectively to exercise the controls in question on the train or part of a train; and

(b) in the case of any particular passenger or things contained in the baggage of any particular passenger, if in the opinion of any such officer it is not reasonably practicable effectively to exercise the controls in question in relation to the passenger or his baggage on the train.

(4) An order under section 11 of this Act may include provision imposing, or providing for the imposition of, fees or charges on persons operating international services in respect of the exercise of controls in relation to passengers or things such as are mentioned in subsection (1) above on trains engaged on the services.

(5) In this section—

"customs officer" means an officer or other person acting under the authority of the Commissioners of Customs and Excise; and

"immigration officer" means an immigration officer appointed for the purposes of the Immigration Act 1971.

1971 c. 77.

Provisions supplementary to sections 11 and 12.

13.—(1) Subject to subsection (2) below, in sections 11 and 12 of this Act "the appropriate Minister" means, in relation to any matter, the Minister in charge of any Government department concerned with that matter or, where more than one such department is concerned with that matter, the Ministers in charge of those departments, acting jointly.

(2) Where the Commissioners of Customs and Excise or the Forestry Commissioners are concerned with any matter (whether alone or together with any other Government department) subsection (1) above shall apply as if the references to the Minister or Ministers in charge of any Government department or departments concerned with that matter were or included references to those Commissioners.

(3) The validity of any order purporting to be made under section 11 of this Act shall not be affected by any question whether or not the order fell by virtue of subsection (1) above to be made by the Minister or department (or any of the Ministers or departments) purporting to make it.

(4) In sections 11 and 12 of this Act "controls" means prohibitions, restrictions or requirements of any description, and any reference to the exercise of controls is a reference to the exercise or performance of any functions conferred or imposed by any enactment, or otherwise under any lawful authority, for or in connection with the enforcement of prohibitions, restrictions or requirements of any description.

(5) For the purposes of those sections a train is engaged on an international service at any time when the whole or any part of the train is being used in the operation of such a service and a place is an authorised terminal control point for international services if it is designated as such in accordance with the international arrangements.

(6) In those sections and this section—

"the international arrangements" includes any agreements or arrangements between Her Majesty's Government in the United Kingdom and the Government of any country on the Continent of Europe other than France which for the time being apply for regulating any matters arising out of or connected with the operation of international services; and

"international service" means any service (including a shuttle service) for the carriage of passengers or goods by way of the tunnel system.

Arrangements for the policing of the tunnel system.

14.—(1) The policing of the tunnel system shall be undertaken by constables under the direction and control of the Chief Constable of the police force for the county of Kent.

(2) The Railways Board may, on the application of the Chief Constable of the police force for the county of Kent, provide constables or other assistance for the policing of the tunnel system.

(3) Any constable so provided shall, when he is engaged in the policing of the tunnel system, be under the direction and control of the Chief Constable of the police force for the county of Kent and have the same powers as a constable who is a member of that force.

(4) The Concessionaires shall—

(a) make to the police committee for the county of Kent such payments in respect of the policing of the tunnel system; and

(b) provide for use in connection with the policing of the system such accommodation and facilities;

as the Concessionaires and that committee may agree or as may, in default of agreement, be determined by the Secretary of State.

(5) The police committee for the county of Kent shall make to the Railways Board such payments in respect of any assistance provided under subsection (2) above as the committee and the Board may agree or as may, in default of agreement, be determined by the Secretary of State.

Application of English law to Concession agreements and leases to be subject to international arrangements

Contract law and arbitration law.

15.—(1) Subject to subsection (3)(a) below, English law shall not apply for the determination of any question with respect to the formation, discharge, validity or effect of any Concession agreement except to the extent and in the circumstances (if any) provided by or determined under any provision of the international arrangements.

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(2) For the purposes of all legal proceedings—

(a) any Concession agreement specified in any notice published under section 4 of this Act with respect to the coming into operation of the Concession shall be taken to be valid and effective at any time on or after the date specified in that notice; and

(b) any Concession agreement other than one so specified shall be taken to be valid and effective at any time on or after the date on which it is expressed to take effect;

until any date specified in a notice so published as being the date on which the Concession expired or terminated.

(3) Where any Concession agreement provides for the determination of a dispute by the arbitral tribunal—

1950 c. 27.
1979 c. 42.

(a) the provisions of Part I of the Arbitration Act 1950 and the Arbitration Act 1979 specified in subsection (4) below shall apply in relation to that agreement, or to the enforcement of an award on that agreement, subject to the modifications specified in that subsection and except so far as excluded by, and subject to any modifications contained in, the agreement or any provision of the international arrangements; but

(b) without prejudice to subsection (1) above, no other provision of Part I of the Act of 1950 or the Act of 1979 shall apply in relation to that agreement, or to the enforcement of an award on that agreement, except so far as applied by, and subject to any modifications contained in, that agreement or any provision of the international arrangements.

(4) The provisions are—

(a) section 4(1) of the Act of 1950 (staying court proceedings on matters subject to arbitration) with the substitution of the words "shall make an order staying the proceedings" for the words from "if satisfied" to the end;

(b) section 26 of that Act (enforcement of arbitration award by court); and

(c) section 2 of the Act of 1979 (determination by court of preliminary point of law arising on arbitration) with—

(i) the omission of the words "Subject to subsection (2) and section 3 below," in subsection (1) and of subsection (2); and

(ii) the substitution of the words "with the consent of the arbitral tribunal" for paragraphs (a) and (b) of subsection (1);

and any other provisions of Part I of the Act of 1950 or the Act of 1979 so far as affecting the operation of the provisions mentioned in any of paragraphs (a) to (c) of this subsection.

(5) Subject to subsection (3)(a) above and except to the extent and in the circumstances (if any) provided by or determined under the agreement in question or any provision of the international arrangements, no court in any part of the United Kingdom shall have jurisdiction (whether by virtue of any enactment or at common law)—

(a) to determine any matter over which the arbitral tribunal assumes jurisdiction;

(b) to set aside or remit an award made on any Concession agreement on the ground of errors of fact or law on the face of the award, excess of jurisdiction, procedural irregularities or on any other ground whatsoever; or

(c) to determine whether anything purporting to be such an award is a valid award;

and in all legal proceedings anything purporting to be such an award shall be taken to be a valid award and shall not be questioned on any ground whatsoever.

Landlord and tenant law.

16.—(1) The purpose of this section is to secure that the application of English law to any Concession lease does not have effect so as to prejudice the operation of the international arrangements, so far as relates to the provision for use by the Concessionaires of the land required in England for the construction and operation of the tunnel system by the grant to the Concessionaires of a Concession lease on terms determined in pursuance of those arrangements.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants shall apply in relation to the rights and obligations of the parties to a Concession lease—

(a) so as to exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;

(b) so as to confer or impose on either party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or

(c) so as to restrict the enforcement (whether by action for damages or otherwise) by either party to the lease of any obligation of the other party under the lease.

Intergovernmental supervision of construction and operation

Supervision by Intergovernmental Commission and Safety Authority.

17.—(1) Any person authorised by a supervisory body to exercise the powers under this section for the purpose of the performance by that body of any of their functions under the Treaty (referred to below in this section as an authorised person) shall have the powers conferred by subsection (3) below, subject to any conditions or limitations in the instrument by which he is so authorised.

(2) An authorised person shall, if so required when exercising or seeking to exercise any of the powers conferred by subsection (3) below, produce his instrument of authority or a duly authenticated copy of it.

(3) The powers of an authorised person under this subsection are the following—

(a) at any reasonable time (or, in a situation which in his opinion is or may be dangerous, at any time) to enter the tunnel system or any premises, place or vehicle in the tunnel system for the purpose of carrying out any inspection, examination or investigation with respect to any matter concerning the construction or operation of that system;

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(b) to take in connection with any such inspection, examination or investigation samples of any articles or substances found in any premises, place or vehicle in the tunnel system and of the atmosphere in or in the vicinity of any such premises, place or vehicle;

(c) in the case of any article or substance which is so found and which appears to him to have caused or be likely to cause danger to health or safety, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless this is in the circumstances necessary for the performance of any function under the Treaty of the supervisory body by whom he is authorised);

(d) in the case of any such article or substance, to take possession of it and detain it for so long as is necessary for all or any of the following purposes—

(i) to examine it and to do anything which he has the power to do under paragraph (c) above;

(ii) to ensure that it is not tampered with before his examination of it is completed;

(iii) to ensure that it is available for use as evidence in any legal proceedings;

(e) to require any person whom he has reasonable cause to believe to be able to give any information relevant to any inspection, examination or investigation with respect to any matter concerning the construction or operation of the tunnel system to answer such questions as the authorised person thinks fit to ask;

(f) to require the production of, inspect and take copies of any entry in, any books or documents which it is necessary for him to see for the purposes of any such inspection, examination or investigation; and

(g) to require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the authorised person to exercise any of the powers conferred on him by this section.

(4) Without prejudice to subsection (3)(g) above, it shall be the duty of the Concessionaires or, where the Concessionaires for the time being are two or more persons, of each of them, and of their servants and agents, to afford to an authorised person such facilities and assistance as are necessary to enable him to exercise any of those powers.

(5) For the purpose of the performance of any of their functions under the Treaty, a supervisory body may give directions to any person with respect to any matter concerning the construction or operation of the tunnel system.

(6) Directions given by a supervisory body under subsection (5) above shall be given in writing.

(7) It is an offence for any person, without reasonable excuse—

(a) to refuse or fail to comply with a requirement made by an authorised person under this section;

(b) to refuse or fail to afford to an authorised person any facilities or assistance that person is required to afford to the authorised person under subsection (4) above; or

(c) to refuse or fail to comply with a direction given by a supervisory body under subsection (5) above.

(8) It is an offence for any person intentionally to obstruct an authorised person in the exercise of his powers under this section.

(9) A person who commits an offence under this section shall be liable on summary conviction to a fine not exceeding the statutory maximum or, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

(10) Proceedings for an offence under this section shall not be brought in England and Wales except by or with the consent of the Director of Public Prosecutions or in Northern Ireland except by or with the consent of the Director of Public Prosecutions for Northern Ireland.

(11) References in this section to a supervisory body are references to the Intergovernmental Commission or the Safety Authority; but in relation to the powers of the Safety Authority and a person authorised by that authority references in this section to matters concerning the construction or operation of the tunnel system shall be read as limited to such matters so far as they affect health or safety.

Intergovernmental Commission and Safety Authority: supplementary.

18.—(1) For the purposes of all legal proceedings—

(a) any instrument of authority, direction or certificate purporting to be issued by the Intergovernmental Commission or by the Safety Authority; and

(b) any other thing purporting to be done by or on behalf of that Commission or Authority;

shall be taken as having been so issued or done without proof that the instrument, direction, certificate or other thing was validly issued or done in accordance with the Treaty or any procedure adopted by that Commission or Authority in pursuance of the Treaty.

(2) For the purposes of all legal proceedings, anything purporting to be done on behalf of that Commission or Authority by a person authorised to do it by that Commission or Authority shall be taken as having been so done without proof of the authorisation of the person by whom it purports to be done.

(3) Evidence of any direction or certificate issued by the Intergovernmental Commission or by the Safety Authority may be given in any legal proceedings by production of a copy—

(a) which purports to be a copy of a direction or certificate so issued; and

(b) on which is endorsed a statement purporting to be signed by a person authorised to do so by that Commission or Authority that it is a copy of a direction or certificate so issued and that the copy is a true copy of that direction or certificate.

(4) Any such statement, and any other document purporting to be signed by a person authorised to do so by that Commission or Authority, shall be taken for the purposes of all legal proceedings as having been

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signed by the person purporting to sign it without proof of that person's handwriting.

(5) Any legal proceedings may be brought by and against that Commission or Authority under the name by which it was established by the Treaty.

Regulation of operation of the system

Operation by the Concessionaires.

19.—(1) Subject to the provisions of this Act, the Concessionaires are authorised by this section to manage, operate, maintain and develop the tunnel system.

(2) The Concessionaires shall not be regarded as common carriers.

(3) The Concessionaires shall make provision for the conveyance by means of shuttle trains of pedal bicycles and of motorcycles of which the cylinder capacity of the engine is less than 50 cubic centimetres.

(4) The Concessionaires shall not convey any passengers by means of shuttle trains at any time when there is not in force a certificate issued by the Intergovernmental Commission stating—

(a) that the Commission are satisfied with a code of practice relating to the conveyance by means of shuttle trains of persons who are disabled which has for the time being been adopted by the Concessionaires; and

(b) that the code of practice has been published in a manner approved by the Commission.

(5) Such a code of practice must contain—

(a) a statement of any description of such persons not intended to be conveyed by means of shuttle trains, with reasons;

(b) details of provision for ensuring the safety of such persons in the tunnel system, in particular the safety in the event of an emergency of such persons being conveyed by means of shuttle trains; and

(c) information relating to such other matters affecting the conveyance by means of shuttle trains of persons who are disabled as the Commission may specify.

(6) Contravention of the restriction imposed by subsection (4) above may be restrained by an order of the High Court made on an application by the Intergovernmental Commission.

Byelaws of the Concessionaires.

20.—(1) The Concessionaires may make byelaws regulating the operation and use of the tunnel system (including the use of shuttle trains), the maintenance of order in the system and the conduct of all persons while using or otherwise in the system and, in particular, byelaws—

(a) with respect to interference with or obstruction of the operation of the tunnel system;

(b) with respect to the prevention of nuisances and of damage to property;

(c) prohibiting or restricting access to any premises, place or vehicle in the tunnel system;

(d) prohibiting the smoking of tobacco in any such premises, place or vehicle;

(e) prohibiting the admission of any description of vehicle specified in the byelaws to, or requiring the removal of any such description of vehicle from, the tunnel system or any premises, place or other vehicle in it;

(f) regulating the use or conveyance of vehicles and prohibiting or regulating the conveyance of goods other than vehicles, in particular dangerous goods;

(g) for requiring any person, if required by a constable or a person authorised for the purpose by the Concessionaires, to state his name and address and the purpose of his being in the tunnel system;

(h) for requiring any person, if required by a constable or a person so authorised, to leave the tunnel system or any premises, place or vehicle in it and to remove any goods which he has with him; and

(i) for securing the safe custody and redelivery of any property which, while not in proper custody, is found within the tunnel system, and in particular—

(i) for requiring charges to be paid in respect of any such property before it is redelivered; and

(ii) for authorising the disposal of any such property if it is not redelivered before the end of such period as may be specified in the byelaws.

(2) Byelaws under this section may provide—

(a) for the punishment on summary conviction of contraventions of any of the byelaws with a fine not exceeding a maximum fixed by the byelaws; and

(b) for any defence specified in the byelaws to be available in proceedings for a contravention of any byelaw, either generally or in circumstances so specified.

(3) Different provision may be made by virtue of subsection (2)(a) or (b) above in relation to different byelaws; but the greatest maximum fine that may be fixed for contravention of any byelaw shall not exceed level 4 on the standard scale.

(4) A constable or a person authorised for the purpose by the Concessionaires may remove from the tunnel system or any premises, place or vehicle in it any person whom he reasonably suspects to be contravening or to have contravened any byelaw made under this section and any goods which he has with him.

(5) A person so authorised may take steps to remove or obviate any danger being caused or likely to be caused by the contravention of any byelaw made under this section.

(6) Byelaws under this section shall not come into operation until they have been confirmed by the Secretary of State under section 21 of this Act.

(7) When any byelaws under this section have been so confirmed—

(a) a copy of the byelaws shall be printed and deposited at such place or places as may be specified in a direction given to the Concessionaires by the Secretary of State and shall at all reasonable hours be open to public inspection free of charge; and

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(b) a copy of the byelaws, or any part of them, shall be supplied to any person on request on payment of such reasonable fee as the Concessionaires may determine.

(8) The production of a printed copy of a byelaw purporting to be made by the Concessionaires on which is endorsed a certificate purporting to be signed by a person authorised to do so by the Concessionaires stating—

(a) that the byelaw is made by the Concessionaires;

(b) that the copy is a true copy of the byelaw;

(c) that on a specified date the byelaw was confirmed by the Secretary of State; and

(d) the date, if any, fixed by the Secretary of State for the coming into operation of the byelaw;

shall be evidence of the facts stated in the certificate, without proof of the handwriting or authorisation of the person by whom it purports to be signed.

Confirmation of byelaws by Secretary of State.

21.—(1) At least one month before making an application for confirmation of any byelaws under section 20 of this Act the Concessionaires shall publish notice of their intention to apply for confirmation and of the place at which and the time during which a copy of the byelaws will be open for public inspection—

(a) in such newspapers circulating in the City of Canterbury, the borough of Ashford and the districts of Dover, Shepway and Thanet, in the county of Kent; and

(b) in such other manner;

as may be approved by the Secretary of State.

(2) Any person affected by any of the byelaws shall be entitled to make representations on the byelaws to the Secretary of State within a period of not less than one month which must be specified in the notice published under subsection (1) above.

(3) For at least one month before the making of any such application a copy of the byelaws in question shall be deposited at such place or places as may be specified in a direction given to the Concessionaires by the Secretary of State and shall at all reasonable hours be open to public inspection free of charge.

(4) A copy of those byelaws, or any part of them, shall be supplied to any person on request on payment of such reasonable fee as the Concessionaires may determine.

(5) Subject to the following provisions of this section, the Secretary of State may confirm with or without modification, or refuse to confirm, any byelaws submitted to him for confirmation, and may fix the date on which a byelaw confirmed by him is to come into operation; and if no such date is so fixed the byelaw shall come into operation at the expiration of one month beginning with the date of its confirmation.

(6) The Secretary of State shall not confirm any byelaw submitted to him for confirmation unless he has consulted the Kent County Council and the council of any district in which it appears to him that the byelaw would have effect.

(7) Where the Secretary of State proposes to make a modification of any byelaws submitted to him for confirmation which appears to him to be substantial—

(a) he shall inform the Concessionaires and require them to take any steps he considers necessary for informing persons likely to be concerned with the modification; and

(b) he shall not confirm the byelaws until such period has elapsed as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Concessionaires and by other persons who have been informed of it.

Application of Railways Board's byelaws to their services in the tunnel system. 1962 c. 46.

22. Byelaws made by the Railways Board under section 67 of the Transport Act 1962 (general power to make byelaws for their railways and premises) shall apply in relation to persons and goods being conveyed by the Railways Board on any railway of the Concessionaires as they apply in relation to persons and goods being conveyed on any railway of the Board.

Control of traffic within the tunnel system.

23.—(1) Subject to the following provisions of this section, the enactments relating to road traffic shall apply in relation to any tunnel system road to which the public does not have access as they apply in relation to a road to which the public does have access.

(2) Those enactments shall apply in relation to any tunnel system road subject to such exceptions and modifications as the Secretary of State may by order specify.

(3) An order under subsection (2) above may, in particular, confer on the Concessionaires functions exercisable under those enactments by a highway authority or a local authority.

(4) The Secretary of State may by order provide that those enactments shall not apply in relation to any tunnel system road specified in the order and may require the Concessionaires to indicate any such road in a manner so specified.

(5) Those enactments shall not, in the case of any tunnel system road, apply in relation to it until such date as the Secretary of State may by order specify.

(6) Before making an order under this section, the Secretary of State shall consult the Concessionaires.

(7) In this section, "tunnel system road" means any length of road comprised in the tunnel system.

Approval of trains.

24. Any train used for conveying passengers or goods through the tunnel system (including any shuttle train) shall be of such a description and conform to such specifications as may for the time being be approved by the Secretary of State.

Termination of construction or operation

Maintenance of the tunnel system on termination of construction by Concessionaires.

25.—(1) Subject to section 27 of this Act, on termination of the Concession at any time before the construction of the Concessionaires' scheduled works is completed, the Secretary of State is authorised by this section to take such steps as appear to him to be appropriate for maintaining the tunnel system, so far as already constructed, in a safe and satisfactory condition.

(2) During any period when this section has effect—

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(a) the Secretary of State is responsible, subject to subsection (1) above, for the exercise of any relevant functions of the Concessionaires under this Act in relation to the tunnel system; and

(b) references in provisions of this Act relating to those functions to the Concessionaires shall be read as references to the Secretary of State.

Operation of the tunnel system on a temporary basis where practicable on termination of the Concession.

26.—(1) Subject to section 27 of this Act and the following provisions of this section, if on the expiry or termination of the Concession the construction of the Concessionaires' scheduled works has been completed or has reached a stage so near completion that it is practicable to operate the tunnel system or any part of it, the Secretary of State is authorised by this section—

(a) in collaboration with any Minister or department of the Government of the French Republic; and

(b) in accordance with any arrangements made, in pursuance of Article 17 of the Treaty, between that Government and Her Majesty's Government in the United Kingdom with respect to the continued operation of the tunnel system by those Governments;

to manage, operate and maintain the tunnel system or (as the case may be) such part of it as it is practicable to operate.

(2) The Secretary of State may not by virtue of this section continue to participate in the management, operation or maintenance of the tunnel system after the end of the period of three months beginning with the date of the expiry or termination of the Concession.

(3) During any period when this section has effect—

(a) the Secretary of State is responsible for the exercise of any relevant functions of the Concessionaires under this Act in relation to the tunnel system or (as the case may be) in relation to any part of it to which the arrangements mentioned in subsection (1)(b) above apply; and

(b) references in provisions of this Act relating to those functions to the Concessionaires shall be read as references to the Secretary of State.

Limitations on exercise of Secretary of State's powers under sections 25 and 26.

27.—(1) Section 25 or (as the case may be) section 26 of this Act only has effect—

(a) if on the termination or (as the case may be) on the expiry or termination of the Concession the Secretary of State is satisfied that there is a reasonable prospect of agreement on a new Concession in the near future; and

(b) until either there is such agreement and the new Concession comes into operation or (as the case may be) he ceases to be so satisfied.

(2) Where either of those sections ceases to have effect on the coming into operation of a new Concession, this section is without prejudice to the subsequent operation of either of those sections on the expiry or termination of the new Concession.

Provisions supplementary to sections 25 to 27.

28.—(1) The Secretary of State may by order make such modifications of the provisions of this Act, as they apply during any period when section

25 or 26 of this Act has effect, as appear to him to be necessary or expedient for the purposes or in consequence of the exercise by him of any relevant functions of the Concessionaires under this Act.

(2) References in sections 25 and 26 and in subsection (1) above to relevant functions of the Concessionaires under this Act are references—

(a) in relation to the exercise by the Secretary of State of his powers under section 25(1), to functions of the Concessionaires under Part II or V of this Act; and

(b) in relation to the exercise by the Secretary of State of his powers under section 26(1), to functions of the Concessionaires under this Part of this Act or under Part V of this Act.

(3) Below in this section—

(a) references to an authority responsible for the tunnel system are references to the Secretary of State, in relation to any period during which section 25 or 26 of this Act has effect, and otherwise to the Concessionaires;

(b) "a transfer of responsibility" means the expiry or termination of the Concession or the coming into operation of a new Concession (as the case may be); and

(c) "relevant functions" means, in relation to any such transfer, functions conferred by or under this Act for the exercise of which by virtue of that transfer one such authority ceases to be, and another such authority becomes, responsible.

(4) On any transfer of responsibility—

(a) all subsisting rights and duties conferred or imposed by any provision of this Act relating to any relevant functions on the person who ceases on that transfer to be the authority responsible for the tunnel system shall become rights and duties of the person who on that transfer becomes the authority so responsible; and

(b) anything done by any person before that transfer in the exercise of any of those functions which is in force, valid or subsisting immediately before the transfer shall continue in force and have effect as if done by the person who on that transfer becomes the authority responsible for the tunnel system.

(5) In particular, but without prejudice to the generality of paragraph (b) of subsection (4) above, any byelaws or other instrument made by one authority responsible for the tunnel system in exercise of any of the relevant functions may by virtue of that paragraph be varied or revoked by another authority so responsible, notwithstanding that the procedure applicable in relation to the making, variation or revocation of those byelaws or that instrument may, by virtue of any order made under this section with respect to the exercise of those functions by the Secretary of State, vary from one such authority to another.

Scheme for land on abandonment of construction or operation.

29.—(1) Where on or at any time after the expiry or termination of the Concession it appears to the Secretary of State that the construction or operation of the tunnel system will not be resumed in the near future, the Secretary of State shall notify the district planning authority of that fact and, after consultation with them, shall make in relation to any land on which work has been done under this Act a scheme for putting it into such a condition as the scheme may provide and shall put it into such a condition in accordance with the scheme.

PART III

(2) A scheme under this section may be revoked or varied by a subsequent scheme made under this section by the Secretary of State after consultation with the district planning authority.

Miscellaneous

Rating.
1974 c. 7.

30. In Schedule 3 to the Local Government Act 1974 (hereditaments in relation to which a method for fixing or determining rateable value may be specified by the Secretary of State under section 19 of that Act), there shall be inserted at the end—

"10.—(1) Any hereditament consisting of channel tunnel premises occupied by the Concessionaires or by any subsidiary of theirs.

(2) For the purposes of this paragraph—

(a) "channel tunnel premises" means premises comprised in the tunnel system within the meaning of the Channel Tunnel Act 1987;

(b) "Concessionaires" has the same meaning as in that Act; and

(c) "subsidiary", in relation to the Concessionaires—

(i) means a body corporate which is a subsidiary of theirs or, where the Concessionaires are for the time being two or more persons, of any of them, within the meaning of the Companies Act 1985; and

1985 c. 6.

(ii) where the Concessionaires are for the time being two or more persons, includes a body corporate which would be a subsidiary of theirs within the meaning of that Act if the Concessionaires were a single body corporate."

Building regulations.
1984 c. 55.

31.—(1) Nothing in Part I of the Building Act 1984 (building regulations), and nothing in any building regulations, shall apply in relation to any building comprised in the tunnel system unless the building is, within the meaning of that Act, a house or a hotel.

(2) Section 4 of that Act (exemption from building regulations of certain buildings, other than houses, which belong to statutory undertakers) shall not apply in relation to any building comprised in the tunnel system.

Exclusion of exercise of rights under telecommunications code in relation to tunnel system land under the sea.
1984 c. 12.

32. Notwithstanding anything in section 10 of the Telecommunications Act 1984 (the telecommunications code) or in any licence granted by the Secretary of State under section 7 of that Act (licensing of telecommunication systems), no rights shall be exercisable by any person by virtue of the telecommunications code in relation to any land comprised in the tunnel system and lying in or under the bed of the sea.

Competition, etc.

33.—(1) The Act of 1976 shall not apply to any Concession agreement and shall be deemed never to have applied to any such agreement.

(2) Where the Concessionaires are for the time being two or more persons, the Secretary of State may, after consultation with the Director General of Fair Trading, by order provide that—

(a) the Concessionaires and any body corporate which is a member of the same group as any of them shall be deemed to be members of one and the same group of interconnected bodies corporate for the purposes of section 6(1)(b) (monopoly situation in relation to the supply of goods by or to members of one and the same group of interconnected bodies corporate) and 7(1)(b) (corresponding provision in relation to the supply of services) of the Act of 1973;

(b) the Concessionaires and any body corporate which is a member of the same group as any of them shall be deemed to be interconnected bodies corporate for the purposes of the Act of 1976 in relation to any specified channel tunnel agreement, any specified class of channel tunnel agreements or all such agreements; and

(c) the Concessionaires and any body corporate which is a member of the same group as any of them shall be deemed to be persons who are to be treated as associated for the purposes of section 2 of the Act of 1980 (anti-competitive practices).

(3) In the case of any channel tunnel agreement—

(a) the Secretary of State shall consult the Director General of Fair Trading before approving the agreement under section 29 of the Act of 1976 (exemption from registration under that Act of agreements which are of importance to the national economy and approved by the Secretary of State for the purposes of that section); and

(b) that section shall apply as if for the condition set out in subsection (2)(b) there were substituted a condition that the object or main object of the agreement is the facilitation of the construction or operation of the tunnel system.

(4) In the case of any channel tunnel agreement made before, or within the period of six months beginning with, the date of passing of this Act, the Secretary of State may, before the expiration of that period, approve the agreement under section 29 by order made after it has been concluded; and, if he does so, the Act of 1976 shall be deemed not to have applied to the agreement at any time before that order comes into force.

(5) In connection with the approval of any channel tunnel agreement for the purposes of section 29, the Secretary of State may, after consultation with the Director General of Fair Trading, by order provide that—

(a) in relation to any specified description of goods or services supplied in connection with the construction or operation of the tunnel system, such of the parties to that agreement as he may specify and any body corporate which is a member of the same group as any of them shall be deemed to be members of one and the same group of interconnected bodies corporate for the purposes of sections 6(1)(b) and 7(1)(b) of the Act of 1973;

(b) in relation to any specified class of agreement which is made in pursuance or furtherance of that agreement, such of the parties to that agreement as he may specify and any body corporate which is a member of the same group as any of them shall be

PART III

deemed to be interconnected bodies corporate for the purposes of the Act of 1976; and

(c) in relation to any course of conduct engaged in in connection with the construction or operation of the tunnel system, such of the parties to that agreement as he may specify and any body corporate which is a member of the same group as any of them shall be deemed to be persons who are to be treated as associated for the purposes of section 2 of the Act of 1980.

(6) An order under subsection (2) or (5) above may impose, on any person to whom any provision made under that subsection relates, such requirements as the Secretary of State considers it expedient to impose in connection with that provision.

(7) Section 93(3) and (4) of the Act of 1973 (which enables the Secretary of State to apply to the court for an order to enforce certain directions given by him under that Act and makes provision with respect to the expenses of such an application) shall apply in relation to requirements imposed by an order under subsection (2) or (5) above as it applies in relation to directions given under section 90(7) of that Act.

(8) Where, before the expiration of the period mentioned in subsection (4) above, the Secretary of State makes such provision as is mentioned in subsection (5)(b) above in connection with the approval of any agreement for the purposes of section 29, the Act of 1976 shall be deemed not to have applied, at any time before the order making the provision comes into force, to any agreement made in pursuance or furtherance of that agreement if, by virtue of that provision, the agreement so made is one to which that Act does not apply on the coming into force of that order.

(9) Where an order under subsection (2) or (5) above is revoked, section 24 of the Act of 1976 (time for registering particulars of agreements subject to registration) shall apply in relation to any agreement which becomes subject to registration under that Act by virtue of the revocation of that order as it applies in relation to any agreement which becomes subject to registration under that Act by virtue of the expiry or revocation of an order under section 29 of that Act.

(10) In section 137(3) of the Act of 1973 (which defines "the supply of services" for the purposes of that Act and, by virtue of section 33(2) of the Act of 1980, for the purposes also of sections 2 to 24 of the latter Act) there shall be added after paragraph (d)—

"and

(e) includes the making of arrangements permitting use of the tunnel system (within the meaning of the Channel Tunnel Act 1987) by a person operating services for the carriage of passengers or goods by rail."

(11) In paragraph 5 of Schedule 5 to the Act of 1973 (which lists the carriage of goods or passengers by rail as among the services in respect of which a reference to the Consumer Protection Advisory Committee or the Monopolies and Mergers Commission is excluded or subject to special restrictions) there shall be added at the end "otherwise than on shuttle services (within the meaning of the Channel Tunnel Act 1987)."

(12) In this section—

1973 c. 41. "the Act of 1973" means the Fair Trading Act 1973;

1976 c. 34. "the Act of 1976" means the Restrictive Trade Practices Act 1976;

"the Act of 1980" means the Competition Act 1980;

"channel tunnel agreement" means any agreement connected with the construction or operation of the tunnel system; 1980 c. 21.

"group" means a body corporate and all other bodies corporate which are its subsidiaries within the meaning of the Companies Act 1985; and 1985 c. 6.

"specify" and "specified" mean specify and specified in an order.

Supplementary provisions with respect to orders under Part III.

34.—(1) Any power to make an order conferred on the Secretary of State or the appropriate Minister by any provision of this Part of this Act shall be exercisable by statutory instrument.

(2) Subject to subsection (3) below, any statutory instrument containing an order made under any such provision shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Subsection (2) above—

(a) shall not apply to a statutory instrument containing an order under section 10(8), 23(5) or 33 of this Act; and

(b) shall not apply to a statutory instrument containing an order made under section 11 of this Act if a draft of the instrument containing the order has been approved by resolution of each House of Parliament before the order is made.

(4) Any order made by the Secretary of State or the appropriate Minister under this Part of this Act may make different provision for different cases or classes of case to which the order applies.

(5) It is hereby declared that, notwithstanding that orders under section 11 of this Act may affect individuals or bodies corporate outside the United Kingdom, any provision made by any such order that does affect such individuals or bodies corporate applies whether or not those individuals are British subjects or those bodies corporate are incorporated in any part of the United Kingdom.

PART IV

CONSTRUCTION AND IMPROVEMENT OF ROADS NEAR FOLKESTONE

The A20 improvement works.

35.—(1) The Secretary of State may, subject to and in accordance with the provisions of this Act, construct the works specified in Part I of Schedule 4 to this Act (referred to below in this Act as the A20 improvement works).

(2) Part II of that Schedule shall have effect for conferring on the Secretary of State powers in relation to—

(a) the stopping up of highways and the extinguishment of rights of way over them; and

(b) temporary interference with highways;

for the purpose of or in connection with the construction of any of the A20 improvement works.

(3) Part III of that Schedule shall have effect—

(a) for treating highways constructed by the Secretary of State in pursuance of that Schedule as highways of the descriptions there specified;

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(b) for transferring such of those highways as do not become trunk roads to the Kent County Council;

(c) for treating the construction of highways and other things done in pursuance of that Schedule as authorised under the provisions of the Highways Act 1980 there specified;

1980 c. 66.

(d) for treating certain provisions of that Schedule as provisions of instruments made under that Act of the descriptions there specified; and

(e) for enabling traffic on any highway constructed in pursuance of that Schedule to be subject to regulation under the Road Traffic Regulation Act 1984 as soon as it is open for public use.

1984 c. 27.

(4) Subject to paragraph 2 of that Schedule (which gives the limits of deviation for the works and also permits deviation from the levels shown on the deposited sections), the A20 improvement works shall be constructed in the lines or situations shown on the deposited plans and in accordance with the levels shown on the deposited sections.

Acquisition of land for the A20 improvement works.

36. Subject to section 37 of this Act, the Secretary of State is authorised by this section to acquire compulsorily—

(a) so much of the land shown on the deposited plans within the limits of deviation for the A20 improvement works as may be required for the construction of those works and other works in connection with those works; and

(b) so much of the land so shown within the limits of land to be acquired as may be so required.

PART V

MISCELLANEOUS AND GENERAL

Supplementary provisions with respect to acquisition of land.

37.—(1) The purposes for which land may be acquired under section 8 of this Act include, in the case of any land specified in columns 1 and 2 of section A or B of Part I of Schedule 5 to this Act, the purpose specified in relation to that land in column 3 of section A or B as one for which that land may be acquired or used.

(2) The purposes for which land may be acquired under section 36 of this Act include, in the case of any land specified in columns 1 and 2 of Part II of that Schedule, the purpose specified in relation to that land in column 3 of that Schedule as one for which that land may be acquired or used.

(3) Part III of that Schedule shall have effect for supplementing sections 8 and 36 of this Act and for regulating or (in certain circumstances) restricting the exercise of the powers conferred by those sections.

(4) Subject to Part III of that Schedule and to subsection (5) below, Part I of the Compulsory Purchase Act 1965 (except sections 4 and 27 and paragraph 3(3) of Schedule 3), in so far as it is applicable for the purposes of this Act and is not inconsistent with the provisions of this Act, shall apply to the acquisition of land under section 8 or 36 of this Act as it applies to a compulsory purchase to which Part II of the Acquisition of Land Act 1981, or Schedule 1 to that Act, applies and as if this Act were a compulsory purchase order under the latter Act.

1965 c. 56.

1981 c. 67.

(5) Section 11(1) of the Compulsory Purchase Act 1965 (power to enter on and take possession of land the subject of a notice to treat after giving not less than fourteen days' notice) shall have effect— 1965 c. 56.

(a) in its application by virtue of subsection (4) above to any of the land specified in the table in paragraph 2(3) of Part III of Schedule 5 to this Act, as if for the words "fourteen days" there were substituted the words "one month"; and

(b) in its application by virtue of that subsection to any other land, as if for the words "fourteen days" there were substituted the words "three months".

(6) The Lands Clauses Consolidation Act 1845 shall not apply to the acquisition of land under section 8 or 36 of this Act. 1845 c. 18.

Time within which powers of compulsory acquisition may be exercised.

38.—(1) Subject to subsection (3) below, a notice to treat under the Compulsory Purchase Act 1965 (as applied by section 37 of this Act and whether or not as extended by Part III of Schedule 5 to this Act) for the purpose of acquiring any land under section 8 or 36 of this Act shall not be served after 31st December 1992 or such later date as may for the time being be authorised by an order made by the Secretary of State.

(2) An order under subsection (1) above shall be subject to special Parliamentary procedure.

(3) Where the Secretary of State has issued a certificate under the following provisions of this section, a notice to treat under the Act of 1965 (as so applied and whether or not as so extended) for the purpose of acquiring under section 8(1) of this Act the land specified in the certificate may be served at any time before the date specified in the certificate.

(4) The Concessionaires may in relation to any land which they require for purposes of safety in connection with any railway or siding comprised in the tunnel system apply to the Secretary of State for an extension of the time allowed under subsection (1) above for serving a notice to treat for the purpose of acquiring the land under section 8(1) of this Act.

(5) Before making such an application, the Concessionaires shall serve on every owner, lessee and occupier (except tenants for a month or less than a month) of the land in relation to which they propose to seek the extension a notice in a form approved by the Secretary of State—

(a) stating that they propose to make an application under subsection (4) above in relation to the land;

(b) stating what the effect will be if their application is granted; and

(c) specifying the time, which shall not be less than fourteen days from service of the notice, within which and the manner in which representations about the application can be made.

(6) Where the Secretary of State is satisfied—

(a) that the Concessionaires have complied with the requirements of subsection (5) above; and

(b) that all or some part of the land to which the application relates is required for purposes of safety in connection with any railway or siding comprised in the tunnel system;

he may, after taking into consideration any representations about the application duly made by the recipient of a notice under that subsection, issue a certificate specifying which of the land to which the application relates is in his opinion required for those purposes.

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(7) The Secretary of State shall specify in any certificate which he issues under this section such date as he thinks fit as the date before which any notice to treat for the purpose of acquiring the land specified in the certificate must be served.

Extension of Railways Board's powers in connection with through services. 1962 c. 46.

39.—(1) In section 3(3) of the Transport Act 1962 (powers of the Railways Board) there shall be substituted for paragraph (a) (power to carry goods and passengers within Great Britain)—

"(a) to carry goods and passengers by rail within, to or from Great Britain,

(aa) to carry goods and passengers by rail between places outside Great Britain in so far as they consider it expedient to do so in connection with the exercise of their powers under paragraph (a) above,";

and there shall be added at the end—

"(g) to do anything which appears to the Board to be expedient for the purposes of or in connection with the provision by the Board of railway services outside Great Britain."

(2) It is within the power of the Railways Board to enter into a contract with any person operating railway services through the tunnel system for the passage of any train of any such person over or along any railway of the Board; and this section gives any person with whom the Board have entered into such a contract authority to use any railway of the Board in accordance with that contract in so far as such authority is not given by any other enactment.

(3) The assumption by the Railways Board, under any contract with the Concessionaires under which the Board are permitted to use the tunnel system, of any obligations with respect to the exercise of any of their powers, shall not be regarded (if it would be so regarded apart from this provision) as incompatible with the proper exercise of those or any other of their powers.

Railways Board's plan for international through services.

40.—(1) It shall be the duty of the Railways Board to prepare a plan stating measures which the Board propose to take, and any proposals as to measures which the Board consider ought to be taken by any person in the United Kingdom or France, with the aim of securing—

(a) the provision or improvement of international through services serving various parts of the United Kingdom; and

(b) an increase in the proportion of the passengers and goods carried between places in the United Kingdom and places outside the United Kingdom that is carried by international through services.

(2) The measures referred to in subsection (1) above are—

(a) measures relating to the operation of international through services;

(b) measures relating to the carrying out of works or other development connected with international through services (including collection and distribution centres for goods and inland clearance depots); and

(c) measures relating to the provision or improvement of facilities or other services connected with international through services.

(3) The Railways Board—

(a) shall prepare the plan under this section not later than 31st December 1989;

(b) shall keep the plan under review and from time to time revise it; and

(c) shall cause the plan and any revisions of it to be published in such manner as they think fit.

(4) In preparing the plan and any revisions of it the Railways Board shall have regard to the financial resources likely to be available to them and to any restrictions likely to be imposed on them with respect to the application of such resources.

(5) The duties imposed by this section shall not apply at any time when the original Concession, as defined by section 1(4) of this Act, has expired or terminated and no new Concession is in operation.

(6) In this section "international through services" means services for the carriage of passengers or goods by rail by way of the tunnel system, other than shuttle services.

Railway services: consultative committees and closures.

1962 c. 46.

1984 c. 32.

41.—(1) The duty—

(a) of the Central Transport Consultative Committee for Great Britain and each of the Area Transport Users Consultative Committees under section 56(4) of the Transport Act 1962; and

(b) of the London Regional Passengers' Committee under section 40(4) of the London Regional Transport Act 1984;

to consider and, where it appears to them to be desirable, make recommendations with respect to any matter affecting the services and facilities there mentioned shall apply in relation to services and facilities within this subsection as it applies in relation to services and facilities provided by the Railways Board or any subsidiary of theirs.

(2) The services and facilities within subsection (1) above are—

(a) international railway passenger services which are provided otherwise than by the Concessionaires or the Railways Board or any subsidiary of theirs; and

(b) facilities so provided which are intended for use primarily in connection with such services.

(3) In relation to any services or facilities to which by virtue of subsection (1) above the duty under section 56(4) or 40(4) applies—

(a) section 56(4) shall have effect as if references in it to a Board or to the Board concerned were references to the person providing those services and facilities; and

(b) section 40(5) to (7) and (9) and section 41(3) and (5) to (7) of the Act of 1984 shall have effect as if references in any of those provisions to the Railways Board or to the Railways Board or any subsidiary of theirs were references to that person.

(4) The reference to services and facilities in section 56(4) shall not include railway services and facilities provided by the Railways Board or any subsidiary of theirs so far as they are provided outside Great Britain.

(5) The references to railway passenger services in section 56(7) of the Act of 1962 (procedure in case of proposal to discontinue all railway passenger services from a station or on a line) shall not include international railway passenger services.

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(6) In this section "international railway passenger services" means services provided in Great Britain for the carriage of passengers by rail between any place in Great Britain and any place outside Great Britain by way of the tunnel system.

No government grants to Railways Board in respect of international railway services. 1974 c. 48.

42.—(1) No obligation with respect to international railway services shall be imposed on the Railways Board under section 3 of the Railways Act 1974 (imposition of obligations in connection with certain Community regulations giving rise to payments by way of compensation).

1977 c. 20.

(2) In ascertaining any relevant deficit of the Railways Board's railway undertaking for the purposes of section 1 of the Transport (Financial Provisions) Act 1977 (power of Secretary of State to make grants in respect of such a deficit) there shall be disregarded so much of the revenue and expenditure properly attributable to revenue account as is referable to the provision of international railway services.

1968 c. 73.

(3) No grants shall be made by the Secretary of State under section 56(1) of the Transport Act 1968 (grants towards capital expenditure on public passenger transport facilities) towards expenditure incurred or to be incurred by the Railways Board for the purpose of the provision, improvement or development of international railway services.

(4) In this section "international railway services" means services for the carriage of passengers or goods by way of the tunnel system.

Application of railway regulation enactments.

43. Schedule 6 to this Act shall have effect for making miscellaneous provisions about the application of railway regulation enactments in relation to the tunnel system, the Concessionaires and certain other persons operating services by way of the tunnel system.

Modification of enactments relating to coast protection, safety of navigation and the powers of harbour authorities. 1949 c. 74.

44.—(1) Section 16(1) of the Coast Protection Act 1949 (consent of coast protection authority required for carrying out coast protection work) shall not apply to the carrying out of any work by the Concessionaires for the construction or protection of any part of the tunnel system, but section 17(2) to (9) of that Act (restrictions imposed on the carrying out of work excluded from section 16(1) by section 17(1) of that Act) shall apply to any such work of the Concessionaires as it applies to work so excluded by section 17(1)(d) of that Act (work carried out by certain bodies for the protection of a railway).

(2) Section 18 of that Act (prohibition of excavation or removal of materials from the seashore) shall not apply to any excavation or removal by the Concessionaires in the course of constructing, maintaining or altering the tunnel system of any materials on, under or forming part of any portion of the seashore within the limits of deviation for their scheduled works.

(3) Section 34(1) of that Act (restriction of works detrimental to navigation) shall not apply in relation to anything done in the course of carrying out any work which the Concessionaires are authorised by this Act to carry out.

(4) Nothing in that Act or any order under that Act shall authorise or require any person to carry out any work within 150 metres of the centre line of the tunnel system, so far as lying under the foreshore or the bed of the sea, without the consent of the Concessionaires.

(5) Subject to subsection (6) below, any power conferred on the Dover Harbour Board by any enactment to raise or destroy wrecks, dredge or

deepen the foreshore or the bed of the sea or carry out any blasting operations shall not without the consent of the Concessionaires be exercised—

(a) in the case of any operation involving the use of explosives having an explosive force greater than that of 100 pounds of trinitrotoluene (TNT), within 1,000 metres;

(b) in the case of any other operation involving the use of any explosives, within 500 metres; and

(c) in any other case, within 150 metres;

of the centre line of the tunnel system, so far as lying under the foreshore or the bed of the sea.

(6) Subsection (5) above shall not apply in relation to the exercise by the Dover Harbour Board in, or within 200 metres of any entrance to, Dover Harbour of any power to carry out blasting operations if the Board—

(a) have given to the Concessionaires such notice of their intention to carry out the operations as is reasonably practicable; and

(b) have consulted the Concessionaires with a view to agreeing the time at which and the manner in which the operations are carried out.

(7) The Concessionaires shall not unreasonably withhold their consent in any case where it is required under subsection (4) or (5) above.

(8) Any difference arising between the Concessionaires and any person seeking their consent under subsection (4) or (5) above shall be determined by arbitration.

Protection of interests.

45. Schedule 7 to this Act shall have effect for protecting the interests of the bodies and persons specified in that Schedule (being bodies and persons who may be affected by other provisions of this Act).

Determination of questions referred to arbitration under this Act.

46. Where under this Act any difference (other than a difference which falls to be determined by the Lands Tribunal) is to be determined by arbitration, then, subject to any other provision of this Act, the difference shall be referred to, and settled by, a single arbitrator to be agreed between the parties or, in default of agreement, to be appointed on the application of either party, after notice in writing to the other, by the President of the Institution of Civil Engineers.

Offences by bodies corporate.

47.—(1) Where a body corporate is guilty of an offence under this Act or of an offence created by an order made under section 11 of this Act and the offence is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, this section shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Financial provisions.

48.—(1) Any expenditure incurred by the Secretary of State—

(a) in making payments for land vested in or acquired by him under this Act;

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(b) for the purpose of or in connection with the discharge by the Intergovernmental Commission or the Safety Authority of their functions under the Treaty;

(c) by virtue of section 25 or 26 of this Act;

(d) in making payments for the purpose of restoring any land in pursuance of this Act;

(e) in making any payments of compensation that fall under any provision of this Act to be made by him; and

(f) in meeting any obligations or exercising any rights to which he is or from time to time becomes subject or entitled in pursuance of the Treaty or the Concession, being obligations or rights arising in connection with the tunnel system;

shall be met out of money provided by Parliament.

(2) Any increase attributable to this Act—

(a) in the sums payable out of money so provided under any other enactment; and

(b) in the administrative expenses of any government department;

shall be met out of money so provided.

(3) Any sums received by the Secretary of State—

(a) in reimbursement of any expenditure mentioned in subsection (1)(a), (d) or (e) above;

(b) in consideration of the disposal by him of any land acquired under this Act or otherwise in connection with the construction of the tunnel system;

(c) by way of receipts arising from the operation of the tunnel system or any part of it under section 26 of this Act; or

(d) in pursuance of the Treaty or the Concession;

shall be paid by him into the Consolidated Fund.

Interpretation.

49.—(1) In this Act, except where the context otherwise requires—

"A20 improvement works" has the meaning given by section 35;

"the appropriate authority" means—

(a) in relation to the acquisition of land required for the Concessionaires' scheduled works and other works in connection with those works, or for any purpose of Part IV of this Act, the Secretary of State;

(b) in relation to any other matter concerning the Concessionaires' scheduled works or such other works, the Concessionaires;

(c) in relation to the County Council's scheduled works and other works in connection with those works, that Council; and

(d) in relation to the Railways Board's scheduled works and other works in connection with those works, the Railways Board;

"the arbitral tribunal" has the meaning given by section 2(10);

1980 c. 66.

"bridleway" has the same meaning as in the Highways Act 1980;

"the Concession", "Concession agreement", "Concession lease" and "the Concessionaires" have the meanings given by the relevant provisions of section 1 (read with section 3(3));

PART V

"deposited plans" and "deposited sections" mean respectively the plans and sections shown on Sheets Nos. 1 to 15 and 21 to 34 of the plans and sections deposited in connection with the Channel Tunnel Bill in the Office of the Clerk of the Parliaments and the Private Bill Office of the House of Commons in April 1986 and the plans and sections so deposited in July 1986;

"Dover Harbour" has the same meaning "harbour" has in the Dover Harbour Consolidation Act 1954; 1954 c. iv.

"enactment" includes an enactment contained in this Act or in any Act passed on or after the date on which this Act is passed, and any subordinate legislation within the meaning of the Interpretation Act 1978; 1978 c. 30.

"footpath" has the same meaning as in the Highways Act 1980; 1980 c. 66.

"frontier" means the frontier between the United Kingdom and France fixed by the Treaty;

"functions" includes powers, duties and obligations;

"goods" includes vehicles (notwithstanding that they may be being used for the carriage of other goods or of persons), animals, plants and any other creature, substance or thing capable of being transported;

"the Intergovernmental Commission" means the Intergovernmental Commission established by the Treaty;

"the international arrangements" means—

(a) the Treaty and the Concession; and

(b) any other agreements or arrangements between Her Majesty's Government in the United Kingdom and the Government of the French Republic which for the time being apply for regulating any matters arising out of or connected with the tunnel system;

"land" includes buildings and other structures, land covered with water, and any estate, interest, easement, servitude or right in or over land;

"limits of deviation" means the limits of deviation shown on the deposited plans and "limits of land to be acquired" means the limits of land to be acquired so shown;

"modification" includes addition, omission and alteration, and related expressions shall be construed accordingly;

"nature conservation" means the conservation of flora, fauna or geological or physiographical features;

"the Railways Board" has the meaning given by section 5(3);

"the Safety Authority" means the Safety Authority established by the Treaty;

"shuttle service" and "shuttle train" have the meanings given by section 1(9);

"substance" means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour;

"train" includes any locomotive and railway rolling stock of any description;

"the Treaty" has the meaning given by section 1(4);

"the tunnel system" has the meaning given by section 1(7); and

PART V

"vehicle" includes a railway vehicle.

(2) References in this Act to—

(a) the scheduled works;

(b) the Concessionaires' scheduled works;

(c) the County Council's scheduled works; and

(d) the Railways Board's scheduled works;

shall be read in accordance with section 5(4) of this Act.

(3) References in this Act to the expiry of the Concession are references to the expiry of the maximum period for which, in accordance with its terms, the Concession would remain in force in default of earlier termination under any of its provisions providing for premature termination of that maximum period.

(4) References in this Act to the termination of the Concession are references to the termination of the Concession before the end of that maximum period.

(5) References in this Act to agreement on a new Concession, and to a new Concession, shall be read in accordance with section 3(5) of this Act.

(6) In this Act—

(a) references to the M20 are references to the special road so designated; and

(b) references to specified distances or lengths shall be construed as if the words "or thereabouts" were inserted after each such distance or length, distances between points on a road or railway being measured along the centre line of the road or railway.

(7) Unless the context otherwise requires, a reference in this Act to a work identified by a number shall be read as a reference to the scheduled work or (as the case may be) the A20 improvement work of that number.

(8) In this Act—

(a) any reference specifying any land or point shown on the deposited plans shall be taken as a reference to the land or point identified on those plans by the numbers or letters or the numbers and letters so specified;

(b) unless the context otherwise requires, any reference to any land specifying a range of consecutive numbers shall include a reference to any land identified on the deposited plans by a number within the range of numbers so specified whether or not a letter is added to that number for the purpose of identification; and

(c) any reference to any land specifying a single number with the addition of a range of alphabetically consecutive letters shall include a reference to any land identified on the deposited plans by that number with the addition of any letter within the range of letters so specified.

1973 c. 26.

(9) Any reference in this Act to Part I or II of the Land Compensation Act 1973 or any provision of either Part shall include a reference to that Part or provision as modified by section 84(1) of that Act.

Short title and extent.

50.—(1) This Act may be cited as the Channel Tunnel Act 1987.

(2) This Act extends to Northern Ireland.

SCHEDULES

SCHEDULE 1

Section 5.

THE SCHEDULED WORKS

PART I

THE CONCESSIONAIRES' SCHEDULED WORKS

In the district of Dover (town of Dover and parishes of Capel-le-Ferne and Hougham Without) and the district of Shepway (town of Folkestone and parishes of Hawkinge, Newington and Saltwood), in the county of Kent—

Work No. 1—A railway (3225 metres in length), including a viaduct, commencing by a junction with Work No. 30 at a point 565 metres east of the northern end of the existing bridge carrying the B2065 over the railway between Ashford and Folkestone West, passing by means of the viaduct over the M20 at a point 155 metres north-west of the bridge carrying the bridleway from the A20 at Stone Farm, Newington, to Dibgate Camp and then over the A20 (Work No. 9A), continuing in an easterly direction and terminating at a point 85 metres west of a point on the road known as Castle Hill 170 metres north of its junction with the Castle Hill Roundabout:

Work No. 2—A railway (5862 metres in length), commencing by a junction with Work No. 1 at its termination, diverging in a south-westerly direction from that work, then turning in a north-westerly direction to pass under that work in tunnel, then turning in a northerly and then in an easterly direction and terminating by a junction with Work No. 1 at its said termination:

Work No. 3—A railway (1146 metres in length), commencing by a junction with Work No. 1 at its termination, passing under Castle Hill and terminating below a point 240 metres west of a point on Canterbury Road 620 metres from its junction with Churchill Avenue:

Work No. 4—A railway (8400 metres in length), commencing by a junction with Work No. 3 at its termination, passing in a north-easterly direction under Sugarloaf Hill, then in an easterly and then in a south-easterly direction and terminating below a point on the line of the level of mean high water springs below Shakespeare Cliff 580 metres east of the western portal of the Shakespeare Tunnel of the Railways Board:

Partly in the district of Dover (town of Dover and parish of Hougham Without), in the county of Kent—

Work No. 5—A railway (19250 metres in length), commencing by a junction with Work No. 4 at its termination and extending under the English Channel to terminate by a junction with a railway constructed from France:

Work No. 6—An adit, commencing at a point on the Old Dover Colliery site 360 metres south-west of the western portal of the said Shakespeare Tunnel, passing in a north-east by easterly direction and terminating by a junction with Work No. 5 at the commencement of that work:

Work No. 7—A sea wall between Abbot's Cliff and the Old Dover Colliery site, commencing at a point on the line of the level of mean high water springs 255 metres south-west by west of the eastern portal of the Abbotscliff Tunnel of the Railways Board, extending seaward in a south-easterly direction to a line near the level of mean low water springs, then turning in an east by north-easterly direction to a point seaward of the Old Dover Colliery site and then turning in a north-easterly direction and terminating at a point on the line of the level of

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mean high water springs 130 metres south of the western portal of the said Shakespeare Tunnel:

In the district of Shepway (town of Folkestone and parishes of Hythe, Newington and Saltwood), in the county of Kent—

Work No. 9A—A diversion of the A20, including a roundabout at its junction with the B2065 (Work No. 10A) commencing at a point 40 metres west of the access from the A20 to Truck's Hall, passing in a north-easterly and then easterly direction to the said junction with the B2065 at a point 45 metres north of Beachborough Crossroads, thence passing in a south-east by easterly direction to join the line of the existing A20 near its junction with Frogholt Lane, thence in a south-easterly direction, south of the existing A20, and terminating by a junction with that road at a point 520 metres west of its termination at the Cheriton Roundabout:

Work No. 9B—A slip road commencing by a junction with Work No. 9A at a point 340 metres south-east of the junction of the existing A20 with Frogholt Lane and terminating by a junction with the existing A20 at a point 30 metres west of the junction of that road with Newington Road:

Work No. 9C—An access road commencing by a junction with the existing A20 at a point 850 metres west of its said termination, passing in a north-easterly and then easterly direction and terminating at the bridge forming part of Work No. 9D:

Work No. 9D—An access road, including a bridge over the railway (Work No. 2), commencing by a junction with Work No. 9C at its termination and terminating at a point 60 metres north of the building known as Longport:

Work No. 9E—An access road comprising a slip road, including a crossing over the A20 as diverted (Work No. 9A), commencing by a junction with the northern carriageway of the M20 at a point 170 metres east of the bridge carrying over that road the bridleway from Saltwood to the A20 at Stone Farm, Saltwood, passing in a north-east by easterly, easterly and then south-easterly direction, crossing Work No. 9A at a point 720 metres west of its termination, thence passing in an easterly and then northerly direction and terminating at a point 70 metres east of the building known as Shelton:

Work No. 9F—An access road comprising a slip road, including a crossing over the M20 and the A20 as diverted (Work No. 9A), commencing by a junction with the southern carriageway of the M20 at a point 150 metres east of the said bridge carrying over that road the bridleway from Saltwood to the A20, passing in a north-east by easterly, south-easterly and then easterly direction, crossing the M20 and Work No. 9A at a point 660 metres west of the termination of that work, then passing in a north-east by easterly direction and terminating at a point 160 metres north of the said building known as Longport:

Work No. 9G—A slip road commencing by a junction with the A20 as diverted (Work No. 9A) at the roundabout at its junction with the B2065, passing in a westerly, southerly and then easterly direction and terminating by a junction with the slip road (Work No. 9E) at a point 105 metres east of the existing bridge carrying the B2065 over the M20:

Work No. 10A—A diversion of the B2065, including a bridge over Works Nos. 9E to 9G and the M20, commencing at a point 220 metres north of Beachborough Crossroads, passing in a southerly direction to the roundabout (part of Work No. 9A), thence in a southerly direction over the slip road (Work No. 9G), the access road (Work No. 9E), the M20 and the access road (Work No. 9F) and terminating at the commencement of Work No. 11:

Work No. 11—A diversion of the B2065, including a viaduct over Works Nos. 30 and 30A and the railway between Ashford and Folkestone West (including Work No. 30B), commencing at a point 25 metres south of the southern end of the bridge carrying that road over the M20 and terminating at a point 140 metres south of the southern end of the existing bridge carrying that road over the said railway:

Work No. 14—An access road commencing at a point 10 metres west of a point on the access road (Waterworks Lane) leading to the Cherry Garden Reservoir of the Folkestone and District Water Company 220 metres north of the M20, passing in a south-easterly direction and terminating by a junction with the new road (Work No. 34H):

Work No. 15—An access road commencing by a junction with Churchill Avenue on its north side at a point 230 metres east of the entrance from that road to Cannon House and terminating at a point on the surface of the ground at the termination of Work No. 3:

Work No. 16—A drainage lagoon in the enclosures numbered 0794, 1684, 1085, 0584, 1174, 1136, 0571, 0272, 0576, 0083, 0002, 8200, 8585 and 0095 on the 1/2500 Ordnance Map of Kent, sheets TR1736 and TR1737 (editions of 1971) and TR1836 (edition of 1958) to be formed by an embankment across Seabrook Stream immediately to the east of the footbridge carrying the bridleway from the A20 at Stone Farm to Dibgate Camp across that stream:

In the borough of Ashford (town of Ashford and parishes of Kingsnorth and Sevington), in the county of Kent—

Work No. 17—A road comprising dual carriageways, including a bridge over the Ashford to Folkestone West railway, commencing at a roundabout at a point 350 metres south by south-west from the southernmost corner of the moat at Old Boys Hall, passing in an easterly, then north-easterly, direction to cross over that railway at a point 450 metres north-west of the bridge carrying Highfield Lane over that railway, then passing in a northerly direction and terminating by a junction with the slip roads by which the road from Sevington joins Junction No. 10 on the M20, the existing road from that junction to the entrance to Ashford Park at a point 330 metres north-east of the said railway forming part of the northern carriageway of the said dual carriageway road:

Work No. 17A—A road commencing by a junction with the roundabout at the commencement of Work No. 17 and terminating, within the entrance to an intended inland clearance depot, at a point 85 metres south-east of that point of commencement.

PART II

THE COUNTY COUNCIL'S SCHEDULED WORKS

In the borough of Ashford (town of Ashford and parishes of Kingsnorth and Sevington), in the county of Kent—

Work No. 18—A road comprising dual carriageways, including a bridge over the river Great Stour, two bridges over the river East Stour and duplication of the bridge carrying Beaver Road over the Tonbridge to Ashford railway, commencing at the existing roundabout in Beaver Road at a point 65 metres north of the northern end of that bridge, passing over that railway to a roundabout south of that bridge, then turning south-east to pass over the rivers Great Stour and East Stour to a roundabout at a point 80 metres north-west of the bridge carrying the Ashford to Rye railway over New Town Road, then turning south-south-west along a line to the east of the river East Stour, then crossing

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that river and continuing on the same line and terminating at a roundabout 550 metres east of the junction of Kingsnorth Road with Ashford Road:

Work No. 18A—A road commencing by a junction with Work No. 18 at the roundabout south of the bridge over the Tonbridge to Ashford railway and terminating in Beaver Road at the northern end of the bridge carrying that road over the river Great Stour:

Work No. 18B—A road commencing by a junction with Work No. 18 at the roundabout north-west of the railway bridge over New Town Road and terminating by a junction with that road 35 metres north-east of that commencement:

Work No. 18C—A road commencing by a junction with Work No. 18 at a roundabout at a point 280 metres south-east of the junction of Riversdale Road with Whitfield Road and terminating at a point 40 metres east of that commencement, forming the access to an intended road vehicle park on land owned by the Railways Board:

Work No. 18D—A road, including a bridge over the river East Stour, commencing by a junction with Work No. 18 at the roundabout at the commencement of Work No. 18C, passing west across the river East Stour and terminating by a junction with Beaver Road at a point 70 metres east of the junction of that road with Park Place:

Work No. 18E—A road commencing by a junction with Work No. 18 at the roundabout at the termination of that work and terminating by a junction with Ashford Road (A2070) at a point 770 metres south-east of that roundabout:

Work No. 19—A road commencing by a junction with Work No. 18 at the roundabout at the termination of that work, passing in a north-westerly direction and terminating at a roundabout forming a junction with Wotton Road at a point 300 metres from Kingsnorth Road:

Work No. 20—A road comprising dual carriageways, including bridges over the Ashford to Rye railway and the river East Stour, commencing by a junction with Work No. 18 at the roundabout at the termination of that work, passing in an easterly direction across the Ashford to Rye railway at a point 420 metres south of the bridge carrying that railway over the river East Stour, and across that river and terminating by a junction with Work No. 17 at the roundabout at the commencement of that work.

PART III

THE RAILWAYS BOARD'S SCHEDULED WORKS

In the London borough of Lambeth—

Work No. 21—A railway (705 metres in length), at Waterloo station on the west side of the railway between that station and Clapham Junction, commencing at a point on platforms 19 and 20 serving two of the Windsor lines of the said railway 61 metres south of the buffer stops of those two lines and terminating by a junction with the said Windsor lines at a point 15 metres north of the bridge carrying the said railway over Carlisle Lane at its junction with Hercules Road, including bridges over Westminster Bridge Road, Upper Marsh, Carlisle Lane, Centaur Street and Virgil Street and viaducts over lands between or adjoining those roads:

Work No. 21A—An access road at Waterloo station, commencing at a point on the arched structure carrying the said station 115 metres south-west of the buffer stop of the Windsor line served by platform 21

and terminating by a junction with Leake Street at a point 26 metres south-east of the junction of that street with York Road:

Work No. 21B—An access road at Waterloo station, commencing at a point in the existing access road serving the said station 28 metres east of its junction with Westminster Bridge Road and terminating at the point in Addington Street where that street branches to join Westminster Bridge Road:

In the London borough of Wandsworth—

Work No. 23—A railway (984 metres in length) at Stewart's Lane, Battersea, commencing by a junction with the Windsor lines of the railway between Waterloo and Clapham Junction at a point 480 metres north-east of the bridge carrying that railway over Thessaly Road and terminating by a junction with the railway between Victoria and Ashford at a point 225 metres south-east of the bridge carrying that railway over the said railway between Waterloo and Clapham Junction, including bridges over the access road to Covent Garden Market, Thessaly Road and Stewart's Road and viaducts over lands between or adjoining those roads and the said railway between Waterloo and Clapham Junction:

Work No. 23A—A railway (1012 metres in length) at Stewart's Lane, Battersea, on the north-west side of the railway between Waterloo and Clapham Junction, commencing by a junction with the Windsor lines of that railway at a point 480 metres north-east of the bridge carrying that railway over Thessaly Road and terminating by a junction with those lines at a point 1 metre north-east of the viaduct carrying the South London line between London Bridge and Victoria over that railway, including a viaduct and bridges over the said access road and Thessaly Road:

Work No. 23B—A railway (328 metres in length) at Stewart's Lane, Battersea, on the south-east side of the railway between Waterloo and Clapham Junction, commencing by a junction with the Weymouth lines of that railway at a point 1 metre south-west of the bridge carrying that railway over Thessaly Road and terminating by a junction with those lines at a point 1 metre north-east of the viaduct carrying the railway between Victoria and Ashford over that railway, including bridges over Stewart's Road and the railway between Victoria and Stewart's Lane Junction:

Work No. 24—A railway (489 metres in length) at Clapham Junction (being a reinstatement of a former railway), commencing by a junction with the Windsor lines of the railway between Waterloo and Clapham Junction at a point 5 metres south-west of the bridge carrying those lines over Culvert Road and terminating by a junction with the West London Extension railway, between Longhedge Junction and Kensington Olympia, at a point 3 metres south-east of the bridge carrying that railway over Latchmere Road:

In the London boroughs of Ealing and Hammersmith and Fulham and the Royal borough of Kensington and Chelsea—

Work No. 25A—A railway (1716 metres in length) at Old Oak Common, commencing in the London borough of Ealing at a point 205 metres south-west of the bridge carrying the railway between Reading and Paddington over the Central Line railway between North Acton and East Acton and terminating in the London borough of Hammersmith and Fulham by a junction with the West London railway, between Mitre Bridge Junction and Kensington Olympia, at a point 3 metres north-west of the bridge carrying that railway over Scrubs Lane,

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including bridges over the said Central Line and Old Oak Common Lane:

Work No. 25B—A railway (2300 metres in length) at Old Oak Common, commencing in the London borough of Ealing by a junction with Work No. 25A at a point 260 metres east of Old Oak Common Lane, passing through the London borough of Hammersmith and Fulham and terminating in the Royal borough of Kensington and Chelsea at a point 100 metres north-east of the junction of Barlby Gardens with Barlby Road:

Work No. 25C—A railway (290 metres in length) at Old Oak Common, commencing by a junction with the railway between Reading and Paddington at a point 138 metres west of the bridge carrying the said West London railway over that railway and terminating by a junction with the Victoria branch railway at a point 85 metres south-east of the eastern portal of Mitre Tunnel on that railway, including the removal of that tunnel and the substitution of bridges to carry Scrubs Lane and the said West London railway over the said Victoria branch railway:

In the district of Tandridge (parishes of Bletchingley and Nutfield), in the county of Surrey—

Work No. 26—A railway (1120 metres in length) at Nutfield on the north side of the railway between Redhill and Ashford, commencing by a junction with that railway at a point 63 metres east of the bridge carrying that railway over Coopers Hill Road and terminating by a junction with that railway at a point 20 metres west of the bridge carrying Outwood Lane over that railway:

Work No. 26A—A cut (115 metres in length) at Nutfield forming a diversion of Nutfield Brook, commencing at a point 22 metres north of the southern head-wall of the culvert conducting that stream under the railway between Redhill and Ashford and terminating at a point 98 metres north-east of that point of commencement:

In the borough of Maidstone (parish of Lenham), in the county of Kent—

Work No. 28A—A railway (543 metres in length) on the north side of the railway between London and Ashford, commencing by a junction with that railway at a point 560 metres north-west of the bridge carrying Ham Lane over that railway and terminating by a junction with that railway at a point 18 metres north-west of that bridge:

Work No. 28B—A railway (543 metres in length) on the south side of the railway between London and Ashford, commencing by a junction with that railway at a point 170 metres north-west of the bridge carrying Lenham Road over that railway and terminating by a junction with that railway at a point 365 metres south-east of that bridge:

In the borough of Ashford (town of Ashford), in the county of Kent—

Works Nos. 29A and 29B—Widenings on the north sides of the bridges carrying the railways between Ashford and Canterbury, Folkestone West and Rye over the rivers Great Stour and East Stour:

In the district of Shepway (parishes of Newington and Saltwood), in the county of Kent—

Work No. 30—A railway (700 metres in length) at Dolland's Moor, commencing by a junction with the railway between Ashford and Folkestone West at a point 135 metres west of the existing bridge carrying the B2065 over that railway and terminating by a junction with Work No. 1 at its commencement:

Work No. 30A—A railway (1270 metres in length) at Dolland's Moor, commencing by a junction with the railway between Ashford and Folkestone West at a point 375 metres east of the eastern portal of

Saltwood Tunnel and terminating by a junction with Work No. 30 at a point 125 metres from the termination of that work:

Work No. 30B—A railway (558 metres in length), being a deviation of the railway between Ashford and Folkestone West, commencing by a junction with that railway at the said point 135 metres west of the existing bridge carrying the B2065 over that railway and terminating by a junction with that railway at a point 415 metres east of that bridge.

PART IV

SUPPLEMENTARY

Interpretation

1. In this Schedule—

"A20" means the road from Ashford to Folkestone so classified; and

"B2065" means the road from Hythe to Bishopsbourne so classified.

Limits of deviation

2. In their construction—

(a) each scheduled work may deviate from the line or situation shown for that work on the deposited plans to the extent of the limits of deviation so shown;

(b) Work No. 5 may deviate from the level shown for that work on the deposited sections to the extent of 10 metres upwards and to any extent downwards; and

(c) each of the scheduled works other than Work No. 5 may deviate from the level so shown for the work in question to the extent of 3 metres upwards and to any extent downwards.

SCHEDULE 2

Section 6.

SUPPLEMENTARY PROVISIONS AS TO THE SCHEDULED WORKS AND OTHER AUTHORISED WORKS

PART I

APPLICATION OF ENACTMENTS

Application of Part II of the Public Utilities Street Works Act 1950

1950 c. 39.

1.—(1) Part II of the Public Utilities Street Works Act 1950 (public utilities' street works code where apparatus is affected by road, bridge or transport works) shall apply to any works for the construction or maintenance of Works Nos. 9A, 10A, 11 and 17 as if the Concessionaires were a highway authority.

(2) This paragraph does not prejudice the application, in accordance with that Act, of Part II of that Act to works required for the purposes of any transport undertaking within the meaning of that Act..

Application of Railways Clauses Acts

2.—(1) Subject to the following provisions of this paragraph, the Railways Clauses Consolidation Act 1845 and Part I of the Railways Clauses Act 1863, insofar as they are applicable for the purposes of this Act and are not inconsistent with its provisions, are hereby incorporated with this Act.

1845 c. 20.
1863 c. 92.

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1845 c. 20.

(2) The following provisions of the Railways Clauses Consolidation Act 1845 are excepted from incorporation by virtue of sub-paragraph (1) above—

sections 1, 5, 7 to 9, 11, 12, 15, 17, 19, 20, 22, 23, 162 and 163;

but of the provisions of that Act which are so incorporated the following shall not apply to the Concessionaires—

sections 13, 14, 47, 48, 59 to 62, 75, 77 to 85, 94, 95 and 112 to 124.

1863 c. 92.

(3) The following provisions of Part I of the Railways Clauses Act 1863 are excepted from incorporation by virtue of sub-paragraph (1) above—

sections 13 to 19;

but of the provisions of that Part of that Act which are so incorporated sections 4 to 7 shall not apply to the Concessionaires.

(4) For the purposes of the provisions of the said Clauses Acts so incorporated and applicable to the Concessionaires—

(a) references to the company are references to the Concessionaires;

(b) "the railway" means Works Nos. 1 to 5 and other works and things constructed, provided or used for or in connection with those works and, for the purposes of sections 16 and 30 to 44 of the said Act of 1845, includes Work No. 6;

(c) section 6 of the said Act of 1845 shall have effect as if the words "and to take lands for that purpose" and the words "for the value of the lands so taken or used and" were omitted;

(d) section 46 of the said Act of 1845 shall have effect as if the proviso were omitted; and

(e) section 68 of the said Act of 1845 shall have effect as if the word "gates" where first occurring, the words "or leading to or from" and the words from "together with all necessary gates" to "all necessary stiles" were omitted.

(5) For the purposes of the provisions of the said Clauses Acts so incorporated and applicable to the Railways Board—

(a) references to the company are references to the Railways Board;

(b) "the railway" means the Railways Board's scheduled works other than Works Nos. 21A, 21B and 26A and, for the purposes of sections 16 and 30 to 44 of the said Act of 1845, includes those last-mentioned works.

(6) For the purposes of the provisions of the said Clauses Acts so incorporated and applicable to the Concessionaires and the Railways Board—

(a) section 87 of the said Act of 1845 shall have effect as if for the words from "company, being" to "other railway" there were substituted the word "body" and for the words "other company", where secondly occurring, there were substituted the words "other body"; and

(b) section 88 of the said Act of 1845 shall have effect as if for the word "companies", in both places where it occurs, there were substituted the word "bodies" and for the word "company" there were substituted the word "body".

(7) Sections 18 and 21 of the said Act of 1845 as incorporated by sub-paragraph (1) above shall not apply in any case where the relations between either the Concessionaires or the Railways Board and any other persons are

1950 c.39.

regulated by Part II of the Public Utilities Street Works Act 1950 or by Part VI of Schedule 7 to this Act.

PART II

REGULATION OF SCHEDULED WORKS AND SUBSIDIARY PROVISIONS

SECTION A

PROVISIONS APPLICABLE TO CONCESSIONAIRES

Use of electrical energy

3.—(1) The following provisions of this paragraph shall apply in respect of the use of electrical energy for the purposes of Works Nos. 3, 4 and 5 (in this section referred to as "the authorised railway").

(2) All reasonable precautions shall be taken in constructing, placing and maintaining electric lines and circuits, and in working the authorised railway, to prevent—

(a) injurious affection (by the discharge of electrical currents into the ground, fusion or electrolytic action) of any gas or water pipes, electric lines or other metallic pipes, structures or substances; or

(b) interference with, or with the working of, any wire, line or apparatus used for the purpose of transmitting electrical energy or of telecommunications.

(3) The Secretary of State may make regulations under this paragraph for regulating the use of electrical energy for the operation of the authorised railway, including regulations—

(a) for preventing injurious affection (by the discharge of electrical currents into the ground, fusion or electrolytic action) of gas or water pipes, electric lines or other metallic pipes, structures or substances; and

(b) for minimising, so far as is reasonably practicable, interference with, and with the working of, electric wires, lines and other apparatus whether such apparatus does, or does not, use the earth as a return.

(4) All reasonable precautions against interference with, or with the working of, any wire, line or apparatus shall be deemed to have been taken if and so long as use is made of either such insulated returns, or of such uninsulated metallic returns of low resistance and of such other means of preventing injurious interference with, and with the working of, electric wires, lines and apparatus, as may be prescribed by the said regulations; and in prescribing such means the Secretary of State shall have regard to the expense involved in relation to the protection afforded.

(5) The provisions of this paragraph shall not give any right of action in respect of injurious interference with, or with the working of, any electric wire, line or apparatus, or the currents therein, unless in the construction, erection, maintaining and working of such wire, line or apparatus all reasonable and proper precautions, including the use of an insulated return, have been taken to minimise injurious interference therewith, and with the currents therein, by or from other electric currents.

(6) If any difference arises between the Concessionaires and any other person with respect to anything in the foregoing provisions of this paragraph, the difference shall, unless the parties otherwise agree, be determined by the Secretary of State or, at his option, by an arbitrator to be appointed by him, and the costs of such determination shall be in the discretion of the Secretary of State or of the arbitrator, as the case may be.

(7) The power to make regulations conferred on the Secretary of State by this paragraph shall be exercisable by statutory instrument.

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(8) In this paragraph reference to an insulated return includes a reference to a return by means of a combined neutral and earth cable which is covered by a sheath suitable for protection against corrosion and is approved for use below ground by the Secretary of State for the purpose of any regulations relating to the supply of electricity.

Concessionaires' subsidiary works

4.—(1) The Concessionaires may, for the purposes of or in connection with their scheduled works, do any of the following things within the limits of deviation for those works, that is to say—

(a) make, provide and maintain all such approaches, bridges, subways, interchanges, roundabouts, lifts, stairs, escalators, ramps, passages, means of access, shafts, stagings, buildings, apparatus, plant and machinery as may be necessary or convenient;

(b) make junctions and communications (including the provision of steps or ramps for the use of persons on foot) with any existing highway or access way intersected or interfered with by, or contiguous to, any of those works, and widen or alter the line or level of any existing highway or access way for the purpose of connecting it with any of those works or another highway, or of crossing under or over the existing highway or access way;

(c) construct, provide and maintain all such embankments, aprons, abutments, retaining walls, wing walls, culverts and other works as may be necessary or convenient;

(d) carry out any works, and do any things necessary, for the protection of any adjoining land;

(e) alter or remove any structure erected upon any highway or adjoining land and plant trees, shrubs or other vegetation; and

(f) raise, sink or otherwise alter the position of any of the steps, areas, cellars, boundary-walls, railings, fences, windows, sewers, drains, watercourses, pipes, spouts or wires of, or connected with, any building, and remove any other obstruction.

(2) The Concessionaires shall pay compensation for any damage done in exercise of the powers conferred by this paragraph.

(3) Any question of disputed compensation payable under the provisions of this paragraph shall be determined under and in accordance with Part I of the Land Compensation Act 1961.

1961 c. 33.

Use of lagoon for drainage

5.—(1) Subject to the requirements of sub-paragraph (2) below, the Concessionaires may—

(a) raise, lower or regulate the water, or the level or flow of water, in the Seabrook Stream in such manner as may be necessary or expedient for the construction, maintenance or operation of the drainage lagoon (Work No. 16); and

(b) discharge water from the lagoon into the stream at a point immediately below the embankment by which that work is formed.

(2) In the construction of that embankment, and thereafter in the maintenance and operation of that work, the Concessionaires shall take such steps as may be necessary to ensure compliance with the requirement that the rate at which water is discharged from that work into the stream is never more than such maximum rate nor less than such minimum rate as may be agreed between the Concessionaires and the Southern Water Authority or, in default of agreement or on notice being given by the Secretary of State to the Concessionaires and the water authority, shall be determined by him; and in the exercise of any of the

powers of sub-paragraph (1) above the Concessionaires shall comply with such conditions as may be so agreed or determined.

(3) Before agreeing rates of discharge or conditions under sub-paragraph (2) above the water authority shall consult the Nature Conservancy Council, the Shepway District Council and the Kent County Council.

(4) For the purposes of the Water Resources Act 1963 the provisions of this Act authorising the construction, maintenance and operation of the drainage lagoon shall be treated as if contained in a licence to construct impounding works granted to the Concessionaires subject to the requirement, and to any conditions relating to the exercise of the powers of sub-paragraph (1)(a) above, agreed or determined under sub-paragraph (2) above. 1963 c. 38.

(5) For the purposes of Part II of the Control of Pollution Act 1974 the discharge of water under sub-paragraph (1)(b) above shall be treated as if made with the consent of the water authority given in pursuance of that Act subject to such conditions relating to the discharge as may be agreed or determined under sub-paragraph (2) above. 1974 c. 40.

(6) In any proceedings for failure to comply with any such requirement or condition as is mentioned in sub-paragraph (4) above, it shall be a defence to prove that the failure was wholly or mainly attributable to exceptional shortage of rain, frost, accident or other unavoidable cause.

Safety of lagoon

6. For the purposes of the Reservoirs Act 1975 (which makes special provision about the construction, use, alteration and inspection of large reservoirs), the drainage lagoon (Work No. 16) shall be treated as a large raised reservoir within the meaning of that Act. 1975 c. 23.

SECTION B

PROVISIONS APPLICABLE TO COUNTY COUNCIL

County Council's subsidiary works

7.—(1) The County Council may, for the purposes of or in connection with their scheduled works, do any of the following things within the limits of deviation for those works, that is to say—

(a) make, provide and maintain all such approaches, bridges, subways, roundabouts, ramps, passages and means of access as may be necessary or convenient;

(b) make junctions and communications (including the provision of steps or ramps for the use of persons on foot) with any existing highway or access way intersected or interfered with by, or contiguous to, any of those works, and widen or alter the line or level of any existing highway or access way for the purpose of connecting it with any of those works or another highway, or of crossing under or over the existing highway or access way;

(c) construct, provide and maintain all such embankments, aprons, abutments, retaining walls, wing walls, culverts and other works as may be necessary or convenient;

(d) carry out any works, and do any things necessary, for the protection of any adjoining land;

(e) alter or remove any structure erected upon any highway or adjoining land and plant trees, shrubs or other vegetation; and

(f) raise, sink or otherwise alter the position of any of the steps, areas, cellars, boundary-walls, railings, fences, windows, sewers, drains, watercourses, pipes, spouts or wires of, or connected with, any building, and remove any other obstruction.

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(2) The County Council shall pay compensation for any damage done in exercise of the powers conferred by this paragraph.

(3) Any question of disputed compensation payable under the provisions of this paragraph shall be determined under and in accordance with Part I of the Land Compensation Act 1961.

1961 c. 33.

SECTION C

PROVISIONS APPLICABLE TO RAILWAYS BOARD

Passenger station at Ashford

1845 c. 20.

8.—(1) Without prejudice to section 16 of the Railways Clauses Consolidation Act 1845, as applicable to them, the Railways Board may, on land in the borough of Ashford (town of Ashford) in which they have sufficient right or interest—

(a) make, maintain and operate a new passenger station adjacent to their existing station at Ashford on any part of the lands in that town numbered 21 on the deposited plans;

(b) construct and maintain facilities in connection with the said new passenger station, including a terminal building with frontier control facilities, footbridges linking that station with their said existing station and other works and conveniences, including road vehicle parks, on the lands in that town numbered 3, 16, 18, 20 and 21 on the deposited plans with means of access for vehicles provided in accordance with sub-paragraph (2) below;

(c) lay out a new road vehicle park on any part of the lands in that town numbered 25, 27 and 28 to 31 on the deposited plans with means of access for vehicles either to the new road (Work No. 18C) or to such other road as may be agreed between the Railways Board and the Kent County Council or in default of agreement determined by the Secretary of State.

(2) The means of access for vehicles to the facilities mentioned in sub-paragraph (1)(b) above shall be provided at such points as may be agreed between the Railways Board and the County Council or in default of agreement determined by the Secretary of State.

Passenger station at Waterloo

9.—(1) In connection with the construction of Works Nos. 21, 21A and 21B, the Railways Board may, within the limits of deviation for those works in the London borough of Lambeth—

(a) enlarge, improve, and provide frontier control facilities at their existing Waterloo station with all necessary works and conveniences connected therewith;

(b) make junctions with and alter the line or level of any street or way adjoining, or affected by the construction of, those works;

(c) provide means of access for vehicles to Carlisle Lane at the points marked C and D on the deposited plans and to Upper Marsh at the points so marked E and F; and

(d) appropriate, hold and use, for the purposes of Work No. 21 and the works at the station under paragraph (a) above, any lands within the said limits, including any works on those lands previously authorised by any enactment.

(2) In connection with the construction of Work No. 21, the Railways Board may in the London borough of Lambeth—

(a) reduce to a width not less than 1·83 metres so much of the footpath known as Leake Court as lies between the points marked G and H on the deposited plans;

(b) reduce to a width not less than 15 metres so much of Carlisle Lane as lies within the limits of deviation for that work between the points marked I and J on the deposited plans; and

(c) remove the parapets on the western sides of the existing bridges over Westminster Bridge Road and Upper Marsh.

Railways at Stewart's Lane, Wandsworth

10.—(1) In connection with the construction of Works Nos. 23, 23A and 23B, the Railways Board may in the London borough of Wandsworth—

(a) construct the bridge over Thessaly Road (part of Work No. 23A) so as to provide a headroom not less than 4·40 metres over the surface of the street under the bridge;

(b) alter the level of Stewart's Road under the bridge over that road (part of Work No. 23B) so as to provide a headroom not less than 4·57 metres over the surface of the street;

(c) provide means of access for vehicles to Ascalon Street at the points marked A and B on the deposited plans, to Stewart's Road at the point so marked C and to Ponton Street at the point so marked D; and

(d) appropriate, hold and use, for the purposes of Works Nos. 23A and 23B, any lands within the limits of deviation for those works and any works on those lands previously authorised by any enactment.

(2) In connection with the construction of Works Nos. 23, 23A and 23B or other works of the Railways Board in the vicinity thereof, the Railways Board may in the London borough of Wandsworth provide, for the purposes of such construction and of the maintenance and operation of those works, means of access for vehicles to Corunna Terrace at the point marked J on the deposited plans.

Works Nos. 25A and 25B: nature consultations

11. The Railways Board shall not begin to construct Work No. 25A or Work No. 25B until they have consulted—

(a) the councils of the London borough of Ealing, the London borough of Hammersmith and Fulham and the Royal borough of Kensington and Chelsea; and

(b) the London Wildlife Trust;

as to the likely effect of the construction of the works on nature conservation.

Further works and powers

12. The Railways Board may make and maintain the following further works (in so far as they are shown on the deposited plans and sections, in the lines or situations, and according to the levels, so shown) and may exercise the following powers—

(1) In connection with the construction of Work No. 24, they may in the London borough of Wandsworth—

(a) provide means of access for vehicles to Sheepcote Lane at the points marked A and B on the deposited plans; and

(b) appropriate, hold and use, for the purposes of that work, any lands within the limits of deviation for that work, including any works on those lands previously authorised by any enactment.

(2) In connection with the construction of Works Nos. 25A, 25B and 25C, they may, within the limits of deviation for those works, in the London boroughs of Ealing and Hammersmith and Fulham and the Royal borough of Kensington and Chelsea—

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(a) make, maintain and operate a maintenance depot; and

(b) provide means of access for vehicles to Scrubs Lane and Mitre Way at the points marked B and C respectively on the deposited plans.

(3) In connection with the construction of Works Nos. 25A, 25B and 25C and of other works of the Railways Board in the vicinity thereof, they may in those boroughs provide means of access for vehicles to Old Oak Common Lane and Barlby Road at the points marked A and D respectively on the deposited plans.

(4) On the completion of Work No. 26A they may, in the parish of Bletchingley in the district of Tandridge, in the county of Surrey, fill in so much of Nutfield Brook between the points marked B and C on the deposited plans as will be rendered unnecessary by that work.

(5) In connection with the construction of Works Nos. 30, 30A and 30B, they may in the parishes of Newington and Saltwood, in the district of Shepway, in the county of Kent—

(a) provide facilities for making emergency repairs to rolling stock on any part of the lands numbered, in the parish of Newington, 4 to 7, 12, 25, 26, 33 and 36 and, in the parish of Saltwood, 7 and 8 on the deposited plans; and

(b) provide means of access for vehicles for construction purposes to the road from Hythe to Bishopsbourne (B2065) at the point marked K on the deposited plans.

Temporary possession of land

13.—(1) Subject to the provisions of this paragraph the Railways Board may, in connection with the construction of their scheduled works specified in column (1) of the following table or any works in connection with those works, enter upon and take possession of the lands in the areas specified in columns (2) and (3) of that table for such purposes as are specified in column (4) of that table and may, for any such purpose, remove any structures on those lands and provide means of access to those lands.

THE TABLE

(1) *Works Nos.*	(2) *Area*	(3) *Number of land shown on deposited plans*	(4) *Purpose for which temporary possession may be taken*
23, 23A and 23B	London borough of Wandsworth	26	The provision of vehicular access for construction.
		48	The provision of a working site and vehicular access for construction.
25A, 25B and 25C	London borough of Hammersmith and Fulham	4 and 8	The provision of a working site and vehicular access for construction.
26 and 26A	District of Tandridge (parish of Nutfield)	1, 2, 4 to 7 and 7A	The provision of a working site and vehicular access for construction to Coopers

(1) *Works Nos.*	(2) *Area*	(3) *Number of land shown on deposited plans*	(4) *Purpose for which temporary possession may be taken*
			Hill Road at the point marked A on the deposited plans.
	District of Tandridge (parish of Bletchingley)	1, 2 and 5 to 7	The provision of a working site and vehicular access for construction to Outwood Lane at the point marked B on the deposited plans.
28A and 28B	Borough of Maidstone (parish of Lenham)	2 and 4	The provision of a working site and vehicular access for construction to Ham Lane at the point marked A on the deposited plans.
		10 and 11	The provision of a working site and vehicular access for construction to Lenham Road at the point marked B on the deposited plans.

(2) Not less than 28 days before entering upon and taking temporary possession of any land under this paragraph the Railways Board shall give notice to the owners and occupiers of the land.

(3) The Railways Board shall not, without the agreement of the owners and occupiers, remain in possession of any part of any land under this paragraph after a period of one year from the completion of the work or (as the case may be) all the works specified in relation to that land in column (1) of the table in sub-paragraph (1) above.

(4) Except in the case of the land in the London borough of Wandsworth numbered 26 on the deposited plans, all private rights of way over any land of which the Railways Board take temporary possession under this paragraph shall be suspended and unenforceable for so long as the Railways Board remain in lawful possession of the land.

(5) Before giving up possession of any land of which they have taken temporary possession under this paragraph, the Railways Board shall remove all temporary works and restore the land to the reasonable satisfaction of the owners and occupiers of the land.

(6) The Railways Board shall not be empowered to purchase compulsorily, or be required to purchase, any part of any land of which they have taken temporary possession under this paragraph.

(7) The Railways Board shall pay compensation to—

(a) the owner or occupier of any land of which they take temporary possession under this paragraph for any damage resulting from the exercise of the powers of this paragraph in relation to that land; and

(b) any person who suffers damage by reason of the suspension of any right under this paragraph.

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(8) Nothing in this paragraph shall affect liability to compensate under section 6 or 43 of the Railways Clauses Consolidation Act 1845, as incorporated with this Act, or section 10(2) of the Compulsory Purchase Act 1965, as applied by section 37 of this Act, or under any other enactment, except so far as compensation is payable under sub-paragraph (7) above.

1845 c. 20.
1965 c. 56.

(9) Any dispute as to a person's entitlement to compensation under this paragraph, or as to the amount of the compensation, shall be determined under and in accordance with Part I of the Land Compensation Act 1961.

1961 c. 33.

SECTION D

PROVISIONS APPLICABLE TO CONCESSIONAIRES, COUNTY COUNCIL AND RAILWAYS BOARD

Use of sewers, etc. for removing water

14.—(1) The appropriate authority may use for the discharge of any water pumped or found during the construction of the scheduled works or any works in connection with those works any available stream or watercourse or any public sewer, 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 or public sewer within the limits of deviation for their scheduled works.

(2) The appropriate authority shall not under the powers of this paragraph discharge any water into any sewer vested in or under the control of a water authority, internal drainage board or local authority except with the consent of that authority or board (which shall not be unreasonably withheld) and subject to such terms and conditions as that authority or board may reasonably impose; and the appropriate authority shall not make an opening into any such sewer except in accordance with plans reasonably approved by, and under the superintendence (if given) of, that authority or board.

(3) The discharge of water under the powers conferred by this paragraph into any stream shall not prejudice the application of Part II of the Control of Pollution Act 1974 but section 31 of that Act shall have effect in relation to discharges under the powers of this paragraph into any relevant waters within the meaning of that section as if no matter so discharged were trade or sewage effluent or other matter mentioned in subsection (2)(e) of that section.

1974 c. 40.

(4) In the exercise of their powers under this paragraph the appropriate authority shall not damage or interfere with—

(a) the bed of any watercourse forming part of the main river of a water authority or the banks thereof within the meaning of section 116 of the Land Drainage Act 1976; or

1976 c. 70.

(b) a metropolitan watercourse within the meaning of paragraph 1 of Schedule 5 to that Act.

(5) The appropriate authority shall take all such steps as may be reasonably required to secure that any water discharged under the powers of this paragraph shall be as free as may be reasonably practicable from any gravel, chalk, soil or other solid substance or matter in suspension.

(6) Any difference arising between the appropriate authority and a water authority, internal drainage board or local authority under this paragraph shall be determined by arbitration.

Underpinning of buildings SCH. 2

15.—(1) If in the construction of any of the scheduled works or any works in connection with any such work ("the work in question") it becomes necessary to do so, the appropriate authority may, and if required by the owner or lessee shall, underpin or otherwise strengthen any building within 35 metres of the work in question in accordance with the provisions of this paragraph.

(2) Except in case of emergency, the appropriate authority shall give to the owner, lessee or occupier of a building, or the owner or lessee of a building shall give to the appropriate authority, at least 28 days' notice in writing of the intention or (as the case may be) requirement, to underpin or otherwise strengthen that building under this paragraph, and if within 21 days of the giving of such notice the owner, lessee or occupier or (as the case may be) the appropriate authority give a counter-notice in writing disputing the necessity of the underpinning or strengthening, the question of necessity shall be settled by arbitration.

(3) The appropriate authority may, at any time after the underpinning or strengthening of any building under the foregoing provisions of this paragraph is completed and before the expiration of a period of five years from the bringing into use of the work in question, enter upon and survey the building and, after complying with the foregoing provisions of this paragraph, carry out such further underpinning or strengthening of the building as they may deem necessary or expedient or, if the owner, lessee or occupier of the building disputes the necessity or expediency, as may be settled by arbitration.

(4) Where any question of necessity or expediency is referred to arbitration under the foregoing provisions of this paragraph and the arbitrator, after inspecting the building, decides that the underpinning or strengthening is necessary or (as the case may be) that the further underpinning or strengthening is necessary or expedient, the arbitrator may, and if so required by the owner, lessee or occupier shall, prescribe the manner in which the underpinning or strengthening is to be carried out and the appropriate authority shall underpin or strengthen the building accordingly.

(5) For the purpose of determining how to exercise their powers and duties under this paragraph the appropriate authority may at any reasonable time enter and survey any building within 35 metres of any of their scheduled works.

(6) The appropriate authority shall pay compensation to the owner, lessee and occupier of every building underpinned or strengthened in pursuance of the powers conferred by this paragraph for any damage which they may suffer by reason of the exercise of those powers.

(7) Nothing in this paragraph shall affect liability to compensate under section 6 of the Railways Clauses Consolidation Act 1845, as incorporated with this Act, or section 10(2) of the Compulsory Purchase Act 1965, as applied by section 37 of this Act, or under any other enactment, except so far as compensation is payable under sub-paragraph (6) above. 1845 c. 20. 1965 c. 56.

(8) Any dispute as to a person's entitlement to compensation under this paragraph, or as to the amount of the compensation, shall be determined under and in accordance with Part I of the Land Compensation Act 1961. 1961 c. 33.

(9) Section 30 of the Compulsory Purchase Act 1965 shall apply to the service of notices under this paragraph with any necessary modifications.

(10) In this paragraph "building" includes any structure and, in the case of a work under the surface of the ground, reference to a building within 35 metres of that work includes reference to any building within 35 metres of the point on the surface below which the work is situated.

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PART III

HIGHWAYS, ROADS, ETC.

Stopping up of highways by Concessionaires, County Council and Railways Board

16.—(1) Subject to the provisions of this paragraph, the Concessionaires may, in connection with the construction of their scheduled works, stop up each of the highways or parts thereof specified, by reference to the letters and numbers shown on the deposited plans, in columns (1) and (2) of Section A in Part I or II of the following table and any other bridleways or footpaths within the limits of land to be acquired.

(2) Subject to the provisions of this paragraph, the County Council may, in connection with the construction of their scheduled works, stop up each of the highways or parts thereof specified as aforesaid in columns (1) and (2) of Section B in Part I or II of the following table and any other bridleways or footpaths within the limits of land to be acquired.

(3) Subject to the provisions of this paragraph, the Railways Board may stop up each of the highways or parts thereof specified as aforesaid in columns (1) and (2) of Section C in Part I or II of the following table and any other bridleways or footpaths within the limits of land to be acquired.

(4) The stopping up under this paragraph of the existing highways or parts thereof specified in columns (1) and (2) of Part II of the following table is subject to the requirements of paragraph 18 below—

(a) with respect to the new highway to be substituted therefor, specified as aforesaid or by reference to scheduled works, in column (3) of that Part of the table in relation to each such existing highway or part thereof; or

(b) where that new highway is not a scheduled work, with respect either to that new highway or to such other new highway as may be approved by the County Council as the highway to be substituted for any such existing highway or part thereof;

and references in paragraph 18, in relation to any such existing highway or part thereof, to an alternative approved highway are references to any other new highway approved as mentioned in paragraph (b) above as the highway to be substituted for it.

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THE TABLE

PART I

HIGHWAYS TO BE STOPPED UP

SECTION A

In connection with the Concessionaires' scheduled works

(1) *Area*	(2) *Highway or part to be stopped up*
District of Shepway, parish of Newington	Footpath from A4 to A5 Footpath and access from C5 to C6 Footpath from C3 to C4
town of Folkestone	Access road (Waterworks Lane) from N3 to N5 Footpath and track from P3 to P4
Borough of Ashford, parish of Sevington	Road (Church Road) from S5 to S6 Road used as public path from T1 to T2 Footpath from T2 to U1 Footpath from W1 to W2 Footpath from V1 to U2 Footpath from Z3 to Y2

SECTION B

In connection with the County Council's scheduled works

(1) *Area*	(2) *Highway or part to be stopped up*
Borough of Ashford, town of Ashford	Road (New Town Road) from KA1 to KA2 Footpath from KB1 to KB2 Road (Rugby Gardens) from KB3 to KB4 Track from KB5 to KB6 Track from KB7 to KB8
town of Ashford and parish of Kingsnorth parish of Sevington	Footpath from KD1 to KD6 Footpath from KE2 to KE3 Footpath from KE1 to U1

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SECTION C

In connection with the Railways Board's scheduled works

(1) *Area*	(2) *Highway or part to be stopped up*
London borough of Lambeth	Road (Addington Street) from A to B

PART II

HIGHWAYS TO BE STOPPED UP AND NEW HIGHWAYS SUBSTITUTED THEREFOR

SECTION A

In connection with the Concessionaires' scheduled works

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

(1) *Area*	(2) *Highway or part to be stopped up*	(3) *New highway to be substituted therefor*
town of Folkestone	Footpath from M1 to M2	
	Footpath from N1 to N2	New footpath from N3 to N4
	Footpath from P1 to P2	New footpath from P1 to P2
Borough of Ashford, parish of Sevington	Footpath from S1 to S2	New footpath from S1 to S3 to S4 to S2
	Footpath from U1 to Z2	New footpath from X1 to X2
	Footpath from Z1 to Z4	New footpath from Y1 to Y2

SECTION B

In connection with the County Council's scheduled works

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

SECTION C

In connection with the Railways Board's scheduled works

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

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

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

(7) After the extinguishment of all rights of way over or along any highway or any part thereof under the foregoing provisions of this paragraph the land forming the site of the highway or part so stopped up may be appropriated without payment therefor and may be used by the appropriate authority for the purposes of Part II or III of this Act.

(8) Any person who suffers loss by the extinguishment of any private right under this paragraph shall be entitled to compensation to be determined, in case of dispute, under and in accordance with Part I of the Land Compensation Act 1961.

1961 c. 33.

(9) Compensation in respect of the extinguishment of any private right payable under sub-paragraph (8) above shall be paid by that one of the Concessionaires, the County Council and the Railways Board by whose action the private right is extinguished.

17.—(1) The Concessionaires may, with the written consent of the Secretary of State, stop up in connection with the construction of any of the works authorised by this Act any part of the M20 within the limits of land to be acquired other than any part of its carriageways.

(2) On the stopping up of any part of the M20 under sub-paragraph (1) above, all rights of way over or along that part shall be extinguished.

Construction and completion of new or substituted highways

18.—(1) None of the following parts of highways to which sub-paragraph (4) of paragraph 16 above applies, namely—

(a) the parts of the A20 road from Ashford to Folkestone for which parts of Work No. 9A and Work No. 9B are to be substituted; and

(b) the parts of the B2065 road from Hythe to Bishopsbourne for which Works Nos. 10A and 11 are to be substituted;

shall be stopped up under that paragraph until the County Council have certified the date on which the new highway concerned has been completed and is open for public use or, on application made to the Secretary of State by the Concessionaires after refusal by the County Council so to certify, he has so certified.

(2) If within 28 days after an application has been made to the County Council for them to certify a date under sub-paragraph (1) above they have neither done so nor refused to do so, they shall be deemed for the purposes of that sub-paragraph to have refused to do so.

(3) The part of the A20 road from Ashford to Folkestone for which Work No. 9A is to be substituted shall not be stopped up under paragraph 16 above until, in addition, the County Council have certified that—

(a) the new bridleway between CE1 and F5; or

(b) an alternative approved highway;

has been completed in accordance with their reasonable requirements and is open for public use or, in case of a difference between the Concessionaires and the County Council as to whether a certificate has been unreasonably withheld or as to the reasonableness of their requirements, until the difference has been

determined by the Secretary of State, on application made to him by the Concessionaires after not less than 28 days' notice to the County Council, and he has certified that the new bridleway or alternative approved highway has been completed in accordance with his determination and is open for public use.

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

(a) the new highway to be substituted therefor; or

(b) an alternative approved highway;

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

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

(a) the new highway to be substituted therefor; or

(b) an alternative approved highway;

has been completed and is open for public use.

19.—(1) Before commencing the construction of any of Works Nos. 9A, 9B, 10A, 11 or 17 the Concessionaires shall submit to the County Council for their approval plans, sections and specifications (below in this paragraph referred to as "plans") of the work and, unless the Concessionaires and the County Council otherwise agree, it shall not be constructed except in accordance with the plans submitted to the County Council and approved by them or, on application made to the Secretary of State by the Concessionaires after disapproval of the plans by the County Council, approved by him.

(2) If within 28 days after the plans have been submitted the County Council have not approved or disapproved them, they shall be deemed to have approved the plans as submitted.

20.—(1) If it appears to the County Council that the construction of Work No. 17 will not be completed on or before the date on which their scheduled works will be completed and open for public use, they may by notice require the Concessionaires to complete the construction of that work by such reasonable date as they may specify in the notice.

(2) Any difference about the reasonableness of any date specified in a notice under sub-paragraph (1) above shall be determined by the Secretary of State.

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

Repair of highways and agreements with highway authorities

21.—(1) Notwithstanding anything in section 46 of the Railways Clauses Consolidation Act 1845, as incorporated with this Act, the appropriate authority shall not be liable to maintain the surface of any highway under or over which the scheduled works shall be constructed or the immediate approaches thereto. 1845 c. 20.

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(2) Except as provided in sub-paragraph (3) below, any new highway constructed by the Concessionaires or the Railways Board under this Act in substitution for an existing highway or part thereof shall, unless otherwise agreed between the Concessionaires or the Railways Board and the County Council, be maintained by and at the expense of the Concessionaires or the Railways Board for a period of twelve months from the date certified as the date on which it has been completed and is open for public use and, at the end of that period, shall be maintained by and at the expense of the County Council.

(3) The new bridleway between the points G1 and G2 shown on the deposited plans to be substituted for the part of the existing bridleway in the district of Shepway (parishes of Hythe and Newington) between those points shall, when completed, be maintained by and at the expense of the Concessionaires.

1968 c. 73.

(4) Sections 116 and 117 of the Transport Act 1968 (responsibility for the maintenance of highway bridges over railways) shall apply to the Concessionaires as if they were one of the boards mentioned in those sections.

(5) Where under this Act the appropriate authority are authorised to stop up or interfere with an existing highway or part thereof, they may enter into agreements with the persons having the charge, management or control of the highway concerning the construction, or a contribution towards the expense of the construction, of any new highway to be provided in substitution therefor or of any alteration of the existing highway and any other related matters.

(6) The appropriate authority may, by agreement with any such persons, delegate to them the power of constructing any such new highway or any such alteration of an existing highway, including any bridge over any railway, and, where the appropriate authority are responsible for maintaining the new or altered highway (or bridge), the power to maintain it.

Temporary interference with highways

22.—(1) The appropriate authority may, for the purpose of constructing or maintaining works which they are authorised to construct under this Act, temporarily stop up, break up or interfere with, or alter or divert, the whole or any part of any highway within the limits of land to be acquired or used and may carry out and do all necessary works and things for, or in connection with, the stopping up, opening, breaking up, interference, alteration or diversion and for keeping the highway open for traffic.

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

Power to use subsoil of highways

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

Status of certain highways constructed by the Concessionaires

24.—(1) The Secretary of State shall certify points on Works Nos. 9E and 9F to which each of those works from their commencement shall be special roads.

(2) On the date certified by the Secretary of State as the date on which the roads forming the parts of those works from their commencement to those points have been completed and are open for public use, those roads shall become trunk roads and special roads for the exclusive use of traffic of Classes I and II of the

classes of traffic specified in Schedule 4 to the Highways Act 1980 as if they had been provided by the Secretary of State in pursuance of a scheme made by him under section 16 of that Act— 1980 c. 66.

(a) prescribing the route of those roads as the route for the special roads to be provided under the scheme;

(b) prescribing both those classes of traffic; and

(c) specifying that date as the date on which those special roads were to become trunk roads.

(3) The provisions of sub-paragraph (2) above shall be treated for the purposes of that Act as provisions of a scheme under that section.

(4) On the date certified in relation to any new highway under paragraph 18(1) above the road which is the highway shall be transferred to the Kent County Council.

(5) Where the construction of any part of the road forming Work No. 17 has been completed the Secretary of State may, if the part concerned was not a highway at the passing of this Act, certify a date on which it is to be transferred to that Council.

(6) In the case of any new road constructed by the Concessionaires in pursuance of this Schedule, other than one to which sub-paragraph (2), (4) or (5) above applies, the Secretary of State may certify a date on which that road is to be transferred to that Council.

(7) On the date certified in relation to any road or part of a road under sub-paragraph (5) or (6) above, that road or part of a road shall be transferred to that Council.

(8) Subject to paragraph 27(4)(b) below, following a transfer under sub-paragraph (4) or (7) above the road or part of a road transferred shall be treated as if it had been constructed by that Council in exercise of their powers under section 24(2) of the Highways Act 1980.

(9) The Secretary of State may classify any road proposed to be constructed which may be transferred to that Council under this paragraph in any manner in which, and for any purposes for which, he could under section 12(3) of that Act classify a proposed highway for which that Council are the highway authority.

(10) On the date of its transfer to that Council any road classified under sub-paragraph (9) above shall become a highway classified in the manner and for the purposes in question as if so classified under section 12(3) of that Act.

Status of the County Council's works

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

Regulation of traffic on new roads

26.—(1) Subject to sub-paragraph (2) below, any power under the Road Traffic Regulation Act 1984 to make an order or to give a direction with respect to any road shall be exercisable in relation to any road forming or forming part of any of the Concessionaires' or the County Council's scheduled works before that road is open for public use, in any case where it appears to the Secretary of State to be expedient that the order or (as the case may be) the direction should have effect immediately on the road's becoming open for public use. 1984 c. 27.

(2) The procedure otherwise applicable under that Act in relation to the making of any such order or the giving of any such direction shall apply in any such case with such modifications as the Secretary of State may determine; and

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he shall publish notice of those modifications in such manner as appears to him to be appropriate for bringing them to the notice of persons likely to be affected by the provisions of any such order or (as the case may be) by any such direction.

Compensation for, and mitigation of, adverse effects of certain authorised works

27.—(1) Subject to the following provisions of this paragraph, the Secretary of State is the responsible authority for the purposes of Parts I and II of the Land Compensation Act 1973 (compensation for, and mitigation of, injurious effects of public works) as respects the Concessionaires' scheduled works and any other works of the Concessionaires authorised by this Act (including the construction or alteration of any highway).

1973 c. 26.

(2) Where a claim under Part I of that Act relates to depreciation caused by use of the road forming Work No. 17—

(a) if and so far as it relates to depreciation that would not have been caused but for the opening to public traffic of Kent County Council's scheduled works, that Council shall be the responsible authority in relation to it; and

(b) if and so far as the Secretary of State is the responsible authority in relation to it, no account shall be taken in assessing compensation of any use or expected intensification of use of that road due to that opening.

(3) If and so far as the Kent County Council are the responsible authority in relation to a claim under that Part of that Act by virtue of sub-paragraph (2)(a) above, that Part of that Act shall have effect in relation to the claim as if—

(a) the relevant date were the date on which all of their scheduled works were first open to public traffic;

(b) the increase in value to be taken into account under section 6 were any increase that would not have been caused but for the opening to public traffic of those works; and

(c) subsection (1) of section 8 did not preclude the payment of compensation unless the previous claim was in respect of depreciation that would not have been caused but for that opening and subsection (2) of that section did not preclude the payment of compensation.

S.I. 1975/1763.

(4) Subject to the following provisions of this paragraph, the Noise Insulation Regulations 1975 shall have effect as if—

(a) the Secretary of State were the appropriate highway authority in relation to all of the Concessionaires' scheduled works and other works of the Concessionaires authorised by this Act which are highways, except the road forming Work No. 17;

(b) Work No. 17 were, as from the commencement of its construction, the construction of a highway by the Kent County Council; and

(c) the relevant noise level, in relation to the road forming that work, did not include any level of noise caused or expected to be caused by traffic using or expected to use it before the date on which all of Kent County Council's scheduled works are first open to public traffic.

(5) Notwithstanding anything in sub-paragraph (1) or (4) above, the Secretary of State—

(a) is not liable to satisfy any claim under Part I of the Land Compensation Act 1973 in connection with the use of any highway for which he is not the highway authority; and

(b) does not have any obligation or power under the Noise Insulation Regulations 1975 in connection with the use or alteration of any such highway;

if and so far as the claim, obligation or power arises in connection with the alteration of the highway otherwise than in pursuance of this Act.

(6) Subject to the following provisions of this paragraph, in the case of any of the Concessionaires' scheduled works and any other works of the Concessionaires authorised by this Act which involve the construction or alteration of a highway, the Secretary of State shall have the powers and duties of a highway authority under—

(a) section 28 of that Act (power to pay expenses of persons moving temporarily during construction works); and

(b) sections 246, 253 and 282 of the Highways Act 1980 (which relate respectively to acquisition of land, agreements with respect to use of land and execution of works for the purpose of mitigating adverse effects of highways); 1980 c. 66.

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

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

(a) any land acquired by him under section 246 of the Highways Act 1980; and

(b) any rights and liabilities acquired by or accrued to him under that section, section 253 or 282 of the Highways Act 1980 or the Noise Insulation Regulations 1975; S.I. 1975/1763.

by virtue of this paragraph.

(8) For the purposes of section 26 of the Land Compensation Act 1973 (power of responsible authority to acquire land by agreement for the purpose of mitigating any adverse effects of public works) the Concessionaires' and the Railways Board's scheduled works and any other works of the Concessionaires or (as the case may be) of the Railways Board authorised by this Act shall be treated as public works notwithstanding that they form part of a statutory undertaking as defined by section 290(1) of the Town and Country Planning Act 1971. 1973 c. 26. 1971 c. 78.

SCHEDULE 3

Section 9.

PLANNING PERMISSION

Preliminary

1. In this Schedule—

"authorised development" means development to which the planning permission deemed by section 9(1) of this Act to have been granted under Part III of the Act of 1971 relates;

"spoil" means spoil from tunnelling works; and

"surplus spoil" means spoil which is not used for the purposes of any of the works authorised by this Act.

Scheme of operation for authorised development

2. Any authorised development shall be carried out in accordance with a scheme of operation consisting of the arrangements with respect to the matters mentioned in the left-hand column of the following table which the appropriate planning authority have, at the request of the Concessionaires, for the time being

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approved as the arrangements which are to be adopted in carrying out the development to which the scheme relates.

The only grounds on which the authority may refuse to approve arrangements with respect to any matter so mentioned (including arrangements modifying or replacing any arrangements previously approved) are—

(a) that the arrangements relate to development which, for the purposes of regulating the matter in question, ought to and can reasonably be considered in conjunction with other authorised development which is to be carried out in the authority's area; and

(b) the ground specified in relation to that matter in the right-hand column of the table.

THE TABLE

Matters	*Grounds*
The sites, other than sea bed sites, from which any minerals and aggregates required for carrying out the development are to be obtained.	That the arrangements ought to be modified— (a) to control the depletion of mineral resources in the authority's area; (b) to prevent or reduce prejudicial effects on the free flow of traffic in their area; or (c) to preserve the amenity of their area or in the interests of nature conservation; and are reasonably capable of being so modified.
The means and routes by which any minerals, aggregates, bulk materials other than minerals or aggregates and tunnel lining segments so required are to be transported to construction and storage sites within the limits of land to be acquired.	That the arrangements ought to be modified— (a) to prevent or reduce prejudicial effects on the free flow of traffic in their area; or (b) to preserve the amenity of their area or in the interests of nature conservation; and are reasonably capable of being so modified.
The handling during removal, storage and re-use of any topsoil removed in the course of carrying out the development.	That the arrangements ought to be modified to ensure that the topsoil remains in good condition and are reasonably capable of being so modified.
The sites, within the limits of land to be acquired, at which any minerals and aggregates required for carrying out the development are to be stored until used. The sites, within those limits, at which any topsoil removed in the course of carrying out the development is to be stored until re-used. The hours during which, and the days on which, work is to be carried out	That the arrangements ought to be modified to preserve the amenity of the neighbourhood or in the interests of nature conservation or of the preservation of a site of archaeological or historic interest and are reasonably capable of being so modified. (*Note*: This ground applies in relation to the matters mentioned in all succeeding entries in the left-hand column of this table.)

Matters	*Grounds*
within those limits for the purpose of carrying out the development. The suppression of noise and dust caused by any operations carried on within those limits for the purpose of carrying out the development. The measures to be taken within those limits to prevent mud being carried on to any highway as a result of carrying out the development. The use within those limits of artificial lighting for the purpose of carrying out the development. The sites, within those limits, which are to be used for camps for the accommodation of persons engaged in carrying out the development.	

In this paragraph "the appropriate planning authority" means, in relation to the first two matters mentioned in the left-hand column of the table, the county planning authority, and otherwise the district planning authority.

Detailed plans and specifications for certain authorised development

3. To the extent that any authorised development consists of any operation or work mentioned in the left-hand column of the following table it shall be carried out in accordance with detailed plans and specifications approved, at the request of the Concessionaires, by the appropriate planning authority.

The only ground on which the authority may refuse, or impose conditions on the grant of, any approval of plans or specifications of any operation or work so mentioned is that specified in relation to that operation or work in the right-hand column of the table.

THE TABLE

Operation or work	*Grounds*
The erection, construction, alteration or extension of any building, road vehicle park or noise screening. Terracing or other earthworks.	That— (a) the design or external appearance of the building, road vehicle park, noise screening, terracing or other earthworks ought to be modified to preserve the amenity of the neighbourhood and is reasonably capable of being so modified; or (b) the development ought to and could reasonably be carried out elsewhere within the limits of land on which the works of which it forms part may be carried out under this Act.

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Operation or work	*Grounds*
The erection, construction or installation of lighting equipment.	That— (a) the design of the equipment, with respect to the emission of light, ought to be modified to preserve the amenity of the neighbourhood and is reasonably capable of being so modified; or (b) the development ought to and could reasonably be carried out elsewhere within the limits of land on which the works of which it forms part may be carried out under this Act.
The formation, laying out or alteration of any means of access to any highway used, or proposed highway proposed to be used, by vehicular traffic.	That the development would be prejudicial to road safety or the free flow of traffic and is reasonably capable of modification so as to avoid such prejudice.
The construction of Work No. 7, referred to below in this Schedule as the sea wall.	That its elevation, situation or external appearance ought to be modified to preserve the amenity of the neighbourhood or the marine environment or in the interests of nature conservation and is reasonably capable of being so modified having regard to all the circumstances (including any relevant requirements for the protection of navigation).

Note:

1. The operations and works specified in the entries in the left-hand column of the table preceding the last such entry do not include anything to which that last entry applies or the deposit of spoil on the landward side of the sea wall.

2. The grounds in paragraph (b) of the first and second entries in the right-hand column of the table do not apply in the case of any development which forms part of a scheduled work or of railway sidings constructed in connection with such a work.

In this paragraph—

(a) "the appropriate planning authority" means, in relation to the construction of the sea wall, the county planning authority, and otherwise the district planning authority; and

(b) the reference to relevant requirements for the protection of navigation is a reference to—

(i) the requirements of paragraph 2 of Part III and paragraphs 4 and 5 of Part IV of Schedule 7 to this Act with respect to the approval of such part of the sea wall as is on the surface of lands below the level of mean high water springs; and

(ii) any conditions or restrictions imposed in relation to any such part of the sea wall under any of those provisions.

Spoil

4.—(1) No surplus spoil shall be deposited except on the landward side of the sea wall.

(2) No more than the maximum permitted amount of spoil shall be deposited there (whether or not as surplus spoil).

(3) The maximum permitted amount of spoil is the amount deriving from the excavation of 3.75 million cubic metres of unexcavated material.

(4) The functions of a local planning authority of issuing enforcement notices under section 87 of the Act of 1971 or serving stop notices under section 90 of that Act shall be exercisable by the county planning authority so far as they relate to a breach of planning control consisting of failure to comply with the requirement imposed by sub-paragraph (2) above.

(5) The county planning authority may by notice in writing require the Concessionaires to give in writing within twenty-one days after the date on which the notice is served, or such longer time as may be specified in the notice or as the authority may allow, such information as may be so specified as to—

(a) the amount of spoil which has been deposited on the landward side of the sea wall; and

(b) the rate at which spoil is to be deposited there in the future;

and any information as to an amount of spoil shall be given by reference to the volume of the material from which it derives in its unexcavated state.

(6) Subsections (2) and (3) (offences) of section 284 of the Act of 1971 shall have effect in relation to notices under sub-paragraph (5) above as they have effect in relation to notices under subsection (1) of that section.

5.—(1) The methods to be employed in, and the timing of, the deposit of spoil on the landward side of the sea wall shall be in accordance with arrangements approved, at the request of the Concessionaires, by the county planning authority.

(2) The height of the spoil deposited on the landward side of the sea wall shall not exceed the maximum specified in those arrangements.

(3) Finishing treatment shall be applied to the surface of the spoil deposited there in accordance with those arrangements.

(4) The county planning authority shall not refuse, or impose conditions on the grant of, any approval required for the purposes of this paragraph unless they are satisfied that it is expedient to do so on the ground that the arrangements ought to be modified to preserve the amenity of the neighbourhood or the marine environment or in the interests of nature conservation and are reasonably capable of being so modified.

6. Once the tunnel system has been brought into operation, the Concessionaires shall, in accordance with a scheme agreed with the county planning authority or, in default of agreement or on notice being given by the Secretary of State to the authority and the Concessionaires, settled by him, put so much of the area on the landward side of the sea wall as consists of land reclaimed by the deposit of spoil and is not required for or in connection with the operation of the tunnel system into such a condition as the scheme may provide.

Protection of site at Holywell Coombe

7.—(1) No part of Work No. 3 shall be constructed in any part of the protected site.

(2) Nothing shall be done in any part of the protected site in connection with the construction of that work except necessary drainage work and landscaping of the site.

(3) No part of that work shall be constructed, and nothing shall be done in connection with the construction of that work, anywhere else unless—

(a) the southern boundary of the protected site is fenced; or

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(b) that boundary has been fenced but the fencing has been temporarily removed because it was necessary to remove it in order to carry out necessary drainage work or landscaping of the site.

(4) In this paragraph "the protected site" means the area of land at Holywell Coombe in the district of Shepway (town of Folkestone) bounded on the southern side by a straight line between National Grid reference points 622058E 138078N and 622138E 138095N, on the western and eastern sides by straight lines passing due north from each of those points to the limit of deviation of Work No. 3 and on the northern side by that limit.

Arrangements and schemes for certain authorised development

8.—(1) Where the bringing into use of any building, facility or work comprised in any authorised development will result in the emission of significant levels of noise, the building, facility or work shall not be brought into use unless measures for the suppression of that noise have been taken in accordance with arrangements approved, at the request of the Concessionaires, by the district planning authority.

(2) The district planning authority shall not refuse any approval required for the purposes of sub-paragraph (1) above unless they are satisfied that it is expedient to do so on the ground that the arrangements ought to be modified to preserve the amenity of the neighbourhood and are reasonably capable of being so modified.

9.—(1) The land associated with any building, facility or work comprised in any authorised development shall be landscaped in accordance with a scheme approved, at the request of the Concessionaires, by the district planning authority.

(2) No building, facility or work so comprised shall be brought into use unless—

(a) a scheme for the landscaping of the land associated with it has been so approved; and

(b) any landscaping operations required by the scheme to have been completed before the building, facility or work is brought into use have been completed in accordance with the scheme.

(3) The district planning authority shall not refuse any approval required for the purposes of this paragraph unless they are satisfied that it is expedient to do so on the ground that the scheme ought to be modified to enhance the amenity of the neighbourhood or in the interests of nature conservation or of the preservation of a site of archaeological or historic interest and is reasonably capable of being so modified.

Consultation regarding County Council development

10. None of the development to which the planning permission deemed by section 9(3) of this Act to have been granted under Part III of the Act of 1971 relates shall be begun until the County Council have consulted the district planning authority with regard to the design of the development and the landscaping and noise screening to be undertaken in connection with the development.

Certificates for construction or use of certain authorised development

11.—(1) Subject to sub-paragraph (2) below, the construction of the terminal area at Cheriton, Folkestone shall cease at the end of the period of six months beginning with the day it began unless the Secretary of State has, before the end of that period, certified either—

(a) that, in his opinion, adequate facilities for and in connection with public viewing of the construction have been provided; or

(b) that, in his opinion, the Concessionaires have taken all reasonable steps to provide such facilities;

and it shall not be begun again unless the Secretary of State has certified as mentioned either in paragraph (a) above or in paragraph (b) above.

(2) If it is intended to provide facilities for or in connection with public viewing of the construction of the terminal area within that area, sub-paragraph (1) above shall not apply in relation to the construction of the terminal area so far as it consists of work in connection with the provision of the facilities.

12. The inland clearance depot to be constructed at Ashford, in Kent, shall not be brought into use until the Secretary of State has—

(a) certified either—

(i) that, in his opinion, adequate refreshment and sleeping facilities for the use of drivers of vehicles using the depot have been provided within the limits of land to be acquired for the purposes of or in connection with the depot; or

(ii) that, in his opinion, the Concessionaires have taken all reasonable steps to provide such facilities; and

(b) certified, under paragraph 20(3) of Schedule 2 to this Act, completion of the construction of Work No. 17.

13. The tunnel system shall not be brought into use until the Secretary of State has certified either—

(a) that, in his opinion, adequate facilities for and in connection with public viewing of the operation of the terminal area at Cheriton, Folkestone have been provided; or

(b) that, in his opinion, the Concessionaires have taken all reasonable steps to provide such facilities.

14.—(1) The Secretary of State shall consult the county and district planning authorities before giving any certificate for the purposes of paragraph 11, 12(a) or 13 above.

(2) Where the Secretary of State gives any such certificate as is mentioned in sub-paragraph (1) above he shall give a copy of the certificate to each of the authorities whom he was required by that sub-paragraph to consult before giving it.

(3) No failure on the part of the Secretary of State to comply with his obligations under sub-paragraph (1) or (2) above shall affect the validity of any certificate given by him for the purposes of paragraph 11, 12(a) or 13 above.

Working sites: discontinuance of operations and putting into condition

15.—(1) Where any authorised development consists of or includes the carrying out on any working site within the limits of land to be acquired of operations ancillary to the construction of the tunnel system—

(a) those operations shall be discontinued before the end of the relevant period; and

(b) the Concessionaires shall, in accordance with a scheme agreed with the district planning authority or, in default of agreement or on notice being given by the Secretary of State to the authority and the Concessionaires, settled by him, put the site, except any part which is required either for use for or in connection with the operation of the tunnel system or for any of the Railways Board's works, into such a condition as the scheme may provide.

(2) The relevant period is the period of ten years beginning with the date of the passing of this Act or such longer period as the Secretary of State may specify,

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after consultation with the district planning authority, at any time before the end of the period of ten years or of any period previously specified by him.

16. Where any development to which any planning permission granted by virtue of section 9(4) of this Act relates consists of or includes the carrying out on any working site within the limits of land to be acquired of operations ancillary to any of the Railways Board's works—

(a) those operations shall be discontinued before the end of the period of ten years beginning with the date of the passing of this Act; and

(b) the Railways Board shall, in accordance with a scheme agreed, in the case of a working site in a London borough, with the borough planning authority and, in the case of a working site anywhere else, by the district planning authority or, in default of agreement or on notice being given by the Secretary of State to the authority and the Railways Board, settled by him, put the site, except any part which is required for any of the Railways Board's works, into such a condition as the scheme may provide.

Nature, the countryside and archaeological and historic sites

17.—(1) Where a request is made—

(a) for an approval under paragraph 2, 3, 5 or 9 above;

(b) for an approval of detailed plans and specifications which is required for the exercise of any planning permission granted by virtue of section 9(4) of this Act;

the planning authority shall, within five days of receiving it, commence any appropriate consultation with respect to it.

(2) The authority shall not take any decision in relation to the request until either they have received any representations which the body or bodies consulted wish to make or the period of 21 days from the commencement of consultation has ended.

(3) Before a planning authority agree a scheme under paragraph 6, 15 or 16 above they shall undertake any appropriate consultation with respect to it.

(4) In this paragraph "appropriate consultation" means—

(a) where the authority consider that nature conservation may be affected, consultation with the Nature Conservancy Council;

(b) where they consider that the conservation of the natural beauty and amenity of the countryside (including nature conservation) may be affected, consultation with the Countryside Commission;

(c) where they consider that a site of archaeological or historic interest may be affected, consultation with the Historic Buildings and Monuments Commission for England.

Approvals: supplementary SCH. 3

18. A planning authority shall not be required to entertain any request for an approval required for the purposes of any provision of this Schedule unless the Concessionaires have deposited with them both—

(a) a plan showing the Concessionaires' current proposals regarding the layout of the authorised development; and

(b) a schedule setting out the Concessionaires' current proposals regarding the timetable for carrying it out.

19.—(1) The Secretary of State may give directions to a planning authority requiring any request by the Concessionaires for an approval required for the purposes of any provision of this Schedule to be referred to him instead of being dealt with by them.

(2) A direction under this paragraph may relate either to a particular request or to requests of a class specified in the direction.

(3) A request in respect of which such a direction has effect shall be referred to the Secretary of State accordingly.

(4) The Secretary of State may refuse or impose conditions on an approval only on the grounds open to the authority required to refer the request for it.

(5) The determination by the Secretary of State of the request shall be final.

20. The Secretary of State may give directions to a planning authority restricting the grant, either indefinitely or during such period as may be specified in the directions, of a particular approval required for the purposes of any provision of this Schedule or of approvals so required of a class specified in the directions.

21.—(1) Where the Concessionaires are aggrieved by the decision of a planning authority on any request for an approval required for the purposes of any provision of this Schedule, they may by notice under this sub-paragraph appeal to the Secretary of State whose decision on the appeal shall be final.

(2) Any notice under sub-paragraph (1) above shall be in writing and be served, within 28 days of notification of the decision to which it relates, on the Secretary of State and the authority whose decision is appealed against.

(3) On an appeal under this paragraph, the Secretary of State may allow or dismiss the appeal or vary the decision of the authority whose decision is appealed against but may make a determination involving the refusal of, or imposition of conditions on, an approval only on the grounds open to that authority.

(4) Where the authority to whom a request for approval is made fail to notify the Concessionaires of their decision on that request within—

(a) the period of two months beginning with the date on which that request was made; or

(b) such extended period as may from time to time be agreed upon in writing between the authority and the Concessionaires;

the provisions of this paragraph shall apply in relation to the request as if the authority had refused it and as if they had notified the Concessionaires of their decision on the last day of the two month period or, where an extended period has been agreed, on the last day of that extended period.

(5) No appeal under section 36 of the Act of 1971 may be made against any decision in relation to which a right of appeal arises under this paragraph.

Section 35.

SCHEDULE 4

THE A20 IMPROVEMENT WORKS

PART I

THE AUTHORISED WORKS

Description of works

1. The works which the Secretary of State is authorised by section 35 of this Act to construct are the following—

In the district of Dover (town of Dover and parishes of Capel-le-Ferne and Hougham Without) and the district of Shepway (town of Folkestone and parish of Hawkinge), in the county of Kent—

Work No. 31—A road forming the northern carriageway of a dual carriageway road, including a viaduct, commencing by a junction with the northern carriageway of the M20 at a point 90 metres west of the underpass whereby the footpath from Elvington Road to Biggins Wood Road passes under the M20, passing east and turning north-east over land known as Holywell Coombe by means of the viaduct, then in tunnel under Round Hill and Crete Road West (Pilgrims Way) and terminating on the west side of Canterbury Road (A260) at a point 55 metres north-west of the junction of that road with Alkham Valley Road (B2060):

Work No. 32—A road forming the southern carriageway of the said dual carriageway road, including a viaduct, commencing by a junction with the southern carriageway of the M20 at the said point 90 metres west of the said underpass, passing east and turning north-east over the said land known as Holywell Coombe by means of the viaduct, then in tunnel under Round Hill and Crete Road West (Pilgrims Way) and terminating at a point 45 metres north-west of the junction of Canterbury Road with Alkham Valley Road:

Work No. 33—A road comprising dual carriageways, commencing by junctions with Works Nos. 31 and 32 at their termination, passing north-east under Canterbury Road at a point 50 metres north of its junction with Alkham Valley Road, then along a line to the north of Alkham Valley Road, then crossing over that road by a bridge at a point 125 metres north-west of the entrance to Havenfield Lodge, then passing east, crossing under Cauldham Lane, Capel Street and Satmar Lane, then turning south-east and terminating at a roundabout forming a junction with the A20 (Works Nos. 44A and 44B) at a point 480 metres south-west of the entrance from that road to Court Wood:

Work No. 34—A grade separated junction comprising—

Work No. 34A—A slip road commencing by a junction with Work No. 31 at a point 220 metres from its commencement and terminating at the entry to a northern junction roundabout (part of Work No. 34C) at a point 80 metres north of the northern end of the bridge carrying the M20 over Waterworks Lane;

Work No. 34B—A slip road commencing at the exit from the said northern junction roundabout and terminating by a junction with Work No. 31 at a point 280 metres east of the existing junction of Castle Hill with the Castle Hill Roundabout;

Work No. 34C—A road, including junction roundabouts at its commencement and termination and a bridge over Works Nos. 31 and 32, commencing at the said northern junction roundabout at the termination of Work No. 34A and terminating at a southern junction roundabout at a point 85 metres south of the said existing junction of Castle Hill with the Castle Hill Roundabout;

Work No. 34D—A realignment and alteration of the southern carriageway of the M20 to form a slip road, commencing at a point in the said carriageway 270 metres west of the southern end of the said bridge carrying the M20 over Waterworks Lane and terminating at the exit from the said southern junction roundabout;

Work No. 34E—A slip road commencing at the entry to the said southern junction roundabout and terminating by a junction with Work No. 32 at a point 400 metres east of the said existing junction of Castle Hill with the Castle Hill Roundabout;

Work No. 34F—A road in substitution for part of Churchill Avenue commencing by a junction with the said southern junction roundabout and terminating by a junction with the southern carriageway of Churchill Avenue at a point 440 metres east of that roundabout;

Work No. 34G—A realignment of Cherry Garden Avenue, commencing at the said southern junction roundabout and terminating at the junction of that road with Papworth Close;

Work No. 34H—A road in substitution for part of Castle Hill at its junction with the Castle Hill Roundabout, commencing by a junction with that road at a point 260 metres north of that roundabout, passing south-west and west and terminating at the northern junction roundabout at the termination of Work No. 34A:

Work No. 35—A diversion and extension of Park Farm Road, commencing by a junction with Work No. 34F at a point 150 metres west of the termination of that work and terminating at a point in Park Farm Road 75 metres from its commencement:

Work No. 36—A widening on the north side of Crete Road West (Pilgrims Way) between its junction with Gibraltar Lane and its junction with Canterbury Road at a point 235 metres south of the junction of that road with Alkham Valley Road:

Work No. 37—A realignment of Canterbury Road and regrading of its junction with Alkham Valley Road, including a bridge over Works Nos. 33, 38A and 38C, commencing at a point in Canterbury Road 420 metres north of that road junction as existing and terminating at a point 250 metres south of that road junction:

Work No. 38—Junctions of Works Nos. 31, 32 and 33 with Canterbury Road and Alkham Valley Road comprising—

Work No. 38A—A slip road commencing by a junction with Work No. 31 at a point 190 metres south-west of the termination of that work, passing under Canterbury Road and turning north and west to terminate at a roundabout forming a junction with that road at a point 240 metres north of its junction with Alkham Valley Road;

Work No. 38B—A slip road commencing at the said roundabout forming a junction with Canterbury Road at the termination of Work No. 38A and terminating by a junction with the northern carriageway of Work No. 33 at a point 385 metres south-west of the existing junction of Church Hill with Alkham Valley Road;

Work No. 38C—A slip road commencing by a junction with Work No. 32 at a point 80 metres south-west of the termination of that work,

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passing under Canterbury Road and terminating at a roundabout forming a junction with Alkham Valley Road at a point 340 metres from its junction with Canterbury Road;

Work No. 38D—A slip road commencing at the said roundabout forming a junction with Alkham Valley Road at the termination of Work No. 38C and terminating by a junction with the southern carriageway of Work No. 33 at a point 220 metres south-west of the said existing junction of Church Hill with Alkham Valley Road:

Work No. 39—A road, including a bridge over Works Nos. 33 and 38D, in substitution for part of Church Hill at its junction with Alkham Valley Road, commencing by a junction with Alkham Valley Road at a point 100 metres north-east of the existing entrance to Coombe Farm, passing north, then turning north-east and terminating at a point in Church Hill 100 metres from the existing junction of that road with Alkham Valley Road:

Work No. 40—A road in substitution for part of Crete Road East at its junction with Alkham Valley Road, commencing by a junction with Alkham Valley Road at a point 30 metres east of the existing entrance to Havenfield Lodge and terminating at a point in Crete Road East 15 metres south-west of the entrance to Havenfield Hall:

Work No. 41—A diversion of Cauldham Lane, including a bridge over Work No. 33, commencing at a point in that road 125 metres south of its junction with the road to Lower Stenden Farm and terminating at a point in Cauldham Lane at its junction with Hurst Lane:

Work No. 42—A realignment and regrading of Capel Street, including a bridge over Work No. 33, commencing at a point in that road 150 metres south-west of its junction with Satmar Lane and terminating at a point in Capel Street 180 metres north of its junction with Hurst Lane:

Work No. 43—A diversion of Satmar Lane, including a bridge over Work No. 33, commencing at a point in that road 560 metres south-west of its junction with Crook's Court Lane and terminating at a point in Satmar Lane 300 metres north-east of Ivy Farm:

Work No. 44—A junction of Work No. 33 with the A20 at Court Wood comprising—

Work No. 44A—A diversion of the A20 as existing, commencing at a point in that road 310 metres east of the existing entrance to Abbots Land Farm and terminating at the said roundabout at the termination of Work No. 33;

Work No. 44B—A diversion of the A20 as existing, commencing at the said roundabout at the termination of Work No. 33 and terminating at a point in the A20 95 metres west of the entrance to Court Wood.

Limits of deviation

2. In their construction—

(a) each of the works described in paragraph 1 above may deviate from the line or situation shown for that work on the deposited plans to the extent of the limits of deviation so shown;

(b) so much of each of Works Nos. 31 and 32 as lies between its commencement and the point at which it passes into tunnel under Round Hill may deviate from the level shown for that part of that work on the deposited sections to the extent of 1.5 metres upwards and to any extent downwards; and

(c) each of the works described in paragraph 1 above, other than the parts of Works Nos. 31 and 32 specified in sub-paragraph (b) above, may deviate from the level shown for that work or, in the case of Works Nos.

31 and 32, that part of that work on the deposited sections to the extent of 3 metres upwards and to any extent downwards.

Interpretation of Part I

3. In paragraph 1 above, "A20" means the trunk road from Folkestone to Dover so classified.

PART II

INTERFERENCE WITH HIGHWAYS

Stopping up of highways

4.—(1) Subject to the provisions of this paragraph, the Secretary of State may, in connection with the construction of the A20 improvement works, stop up each of the highways or parts thereof specified, by reference to the letters and numbers shown on the deposited plans, in columns (1) and (2) of the following table and any other bridleways or footpaths within the limits of deviation for the works authorised by Part IV of this Act, and thereupon all rights of way over or along the highway or part thereof so stopped up shall be extinguished.

(2) The existing highways or part thereof specified in columns (1) and (2) of Part II of the following table shall not be stopped up under this paragraph until the new highway to be substituted therefor specified as aforesaid, or by reference to works authorised by Part IV of this Act, in column (3) of that Part of the table in relation to each such existing highway or part thereof has been completed in accordance with sub-paragraph (4) below.

THE TABLE

PART I

Highways to be stopped up

(1) *Area*	(2) *Length of highway to be stopped up*
District of Shepway, town of Folkestone	Footpath and access track from DB1 to DB2 Road (Castle Hill) from DC1 to DC2 Road (part of Churchill Avenue (A20)) from DD1 to DD2 Road (Park Farm Road) from DE1 to DE2 Road (Crete Road West) from DF1 to DF2 Footpath from DG1 to DG2
District of Shepway, parish of Hawkinge	Footpath from DH1 to DH2 Footpath and access track from DI1 to DI2
District of Dover, parish of Capel-le-Ferne	Footpath from DL1 to DL4 Footpath from DN1 to DN2 Footpath from DP1 to DP2 Footpath from DP3 to DP4 Road (Satmar Lane) from DR1 to DR2 Footpath from DS1 to DS2

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Highways to be stopped up and new highways substituted therefor

(1) *Area*	(2) *Highway or part to be stopped up*	(3) *New highway to be substituted therefor*
District of Shepway, town of Folkestone	Footpath and access track from DA1 to DA2	New footpath from DA1 to N3
District of Shepway, parish of Hawkinge	Road (Church Hill) from DJ1 to DJ2	Work No. 39
	Road (Crete Road East) from DK1 to DK2	Work No. 40
District of Dover, parish of Capel-le-Ferne	Footpath from DL2 to DL3	New footpath from DL2 to DL5
	Road (Cauldham Lane) from DM1 to DM2	Work No. 41
	Footpath from DO1 to DO4 and DO2 to DO5	New footpath from DO1 to DO3
District of Dover, parishes of Capel-le-Ferne and Hougham Without	Byway from DT1 to DT2, footpath from DW1 to DW2 and footpath from DX1 to DX2	New bridleway from DT1 to DT3 to DW1 to DX2
	Road (Satmar Lane) from DU1 to DU2	Work No. 43 New footpath from DV2 southward along the line of the existing road to the new bridleway between DT3 and DW1
District of Dover, parish of Hougham Without	Road (A20) from DY1 to DY2	Works Nos. 44A and 44B New footpath from DY1 to DY2 (part of Works Nos. 44A and 44B)

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

(4) No part of any highway specified in Part II of the above table in this paragraph shall be stopped up under this paragraph until the Secretary of State is satisfied that the new highway to be substituted therefor has been completed and is open for public use.

(5) Any person who suffers loss by the extinguishment of any private right under this paragraph shall be entitled to compensation to be determined, in case of dispute, under and in accordance with Part I of the Land Compensation Act 1961.

1961 c. 33.

Temporary interference with highways

5.—(1) The Secretary of State may, for the purpose of constructing or maintaining the A20 improvement works, temporarily stop up, open, break up or interfere with, or alter or divert, the whole or any part of any highway within

the limits of deviation for the works authorised by Part IV of this Act or the limits of land to be acquired, and may carry out and do all necessary works and things for, or in connection with, the stopping up, opening, breaking up, interference, alteration or diversion and for keeping the highway open for traffic.

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

PART III

MISCELLANEOUS

Status of new highways

6.—(1) On the date on which this Act is passed the roads mentioned in sub-paragraph (2) below shall become trunk roads and special roads for the exclusive use of traffic of Classes I and II of the classes of traffic specified in Schedule 4 to the Highways Act 1980 as if the provision by him of special roads along the route of those roads had been authorised by a scheme made by the Secretary of State under section 16 of that Act— 1980 c. 66.

(a) prescribing that route as the route for the special roads;

(b) prescribing both those classes of traffic; and

(c) specifying that date as the date on which those special roads were to become trunk roads.

(2) The roads to which sub-paragraph (1) above applies are—

(a) so much of the roads forming Works Nos. 31 and 32 as lie, in the case of Work No. 31, between its commencement and a point on the road 690 metres from that commencement and, in the case of Work No. 32, between its commencement and a point on the road 875 metres from that commencement; and

(b) the slip roads forming or forming part of Works Nos. 34A and 34D.

(3) On the date on which this Act is passed the roads mentioned in sub-paragraph (4) below shall become trunk roads as if they had become so by virtue of an order under section 10(2) of the Highways Act 1980 specifying that date as the date on which they were to become trunk roads.

(4) Those roads are—

(a) such parts of the roads forming Works Nos. 31 and 32 as do not on that date become trunk roads and special roads by virtue of sub-paragraph (1) above;

(b) the roads forming Works Nos. 33, 34F, 44A and 44B; and

(c) the slip roads forming or forming part of Works Nos. 34B and 34E and the trunk road parts of Works Nos. 38A, 38B, 38C and 38D.

(5) The roads forming—

(a) in the case of each of Works Nos. 38A and 38C, the part from its commencement to a point certified by the Secretary of State for the purposes of sub-paragraph (4)(c) above; and

(b) in the case of each of Works Nos. 38B and 38D, the part from a point so certified to its termination;

shall be the trunk road parts of those works for those purposes.

7.—(1) On the date certified by the Secretary of State as the date on which any highway constructed in pursuance of this Schedule, other than one to which paragraph 6 above applies, is open for public use, that highway shall be transferred to the Kent County Council and, following that transfer, shall be

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1980 c.66.

treated for the purposes of the Highways Act 1980 as if it had been so transferred by virtue of an order made under the provision of that Act which applies in relation to its construction by virtue of paragraph 8 below.

(2) The Secretary of State may classify any highway proposed to be constructed in pursuance of this Schedule, other than one to which paragraph 6 above applies, in any manner in which, and for any purposes for which, he could classify that highway under section 12(3) of that Act.

(3) On the date of its transfer under sub-paragraph (1) above to the Kent County Council any highway classified under sub-paragraph (2) above shall become a highway classified in the manner and for the purposes in question as if so classified under section 12(3) of that Act.

Regulation of construction of works

8. The construction by the Secretary of State of a highway in pursuance of this Act shall be treated as the construction of a highway in pursuance of—

(a) a scheme under section 16 of the Highways Act 1980, in the case of the roads mentioned in paragraph 6(2) above;

(b) section 24(1) of that Act, in the case of the roads mentioned in paragraph 6(4) above;

(c) an order under section 18 of that Act made in relation to the roads which become trunk roads and special roads by virtue of paragraph 6(1) above, in the case of the road forming Work No. 34C; and

(d) an order under section 14 of that Act made in relation to the roads which become trunk roads by virtue of paragraph 6(3) above, in any other case.

Status of ancillary operations and works

9.—(1) The carrying out of any of the A20 improvement works which is not the construction of a highway and the stopping up of any highway in pursuance of Part II of this Schedule shall be treated as having been authorised by an order under section 14 of the Highways Act 1980 made in relation to the roads which become trunk roads by virtue of paragraph 6(3) above.

(2) Subject to sections 21 and 22 of that Act as they apply by virtue of sub-paragraph (1) above, the stopping up of any highway in pursuance of Part II of this Schedule shall not affect any rights—

(a) of statutory undertakers in respect of any apparatus of theirs which immediately before the date on which this Act is passed is under, in, on, over, along or across that highway; or

(b) of any sewerage authority in respect of any sewers or sewage disposal works of theirs which immediately before that date are under, in, on, over, along or across that highway.

Application of Highways Act powers to provisions of this Schedule

10.—(1) Any provision of Part I or II of this Schedule relating to any operation or work which by virtue of any of the preceding provisions of this Part of this Schedule is to be treated as authorised by an order under section 14 or 18 of the Highways Act 1980 shall be treated for the purposes of that Act as provisions of such an order.

(2) The provisions of paragraph 6(1) above shall be treated for those purposes as provisions of a scheme under section 16 of that Act.

Regulation of traffic on new roads SCH. 4

11.—(1) Subject to sub-paragraph (2) below, any power under the Road Traffic Regulation Act 1984 to make an order or to give a direction with respect to any road shall be exercisable in relation to any road forming or forming part of any of the A20 improvement works before that road is open for public use, in any case where it appears to the Secretary of State to be expedient that the order or (as the case may be) the direction should have effect immediately on the road's becoming open for public use. 1984 c.27.

(2) The procedure otherwise applicable under that Act in relation to the making of any such order or the giving of any such direction shall apply in any such case with such modifications as the Secretary of State may determine; and he shall publish notice of those modifications in such manner as appears to him to be appropriate for bringing them to the notice of persons likely to be affected by the provisions of any such order or (as the case may be) by any such direction.

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SCHEDULE 5

SUPPLEMENTARY PROVISIONS AS TO ACQUISITION OF LAND

PART I

PURPOSES FOR WHICH CERTAIN LAND MAY BE ACQUIRED OR USED UNDER SECTION 8

SECTION A

PURPOSES OF THE CONCESSIONAIRES

(1) *Area*	(2) *Number of land shown on deposited plans*	(3) *Purpose for which land may be acquired or used*
Borough of Ashford—parish of Sevington	1 to 8	The construction of an inland clearance depot, the provision of road vehicle parks and landscaping and a working site and access for construction purposes.
District of Shepway—parish of Newington	4, 5, 7, 25, 26, 35 and 36	The provision of a working site and access for construction purposes.
	30 to 35 and 37	The provision of drainage, a working site and access for construction and maintenance purposes.
District of Shepway—town of Folkestone parish of Newington	3 to 37, 48 to 52, 60 to 65 and 82	The construction of a terminal area (including loading platforms, bridges, railway sidings and premises) at Cheriton, Folkestone and the provision of working sites and access for construction purposes.
District of Shepway—town of Folkestone	30 to 44	The provision of drainage and access for construction and maintenance purposes.
	51 and 55	The provision of a working site and access for construction purposes.
	51 and 54	The provision of facilities north of Churchill Avenue for operation and maintenance purposes, the provision of a working site and access for construction purposes.

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(1) *Area*	(2) *Number of land shown on deposited plans*	(3) *Purpose for which land may be acquired or used*
District of Dover— town of Dover	7, 8 and 9	The provision of a working site and access for construction purposes.
	9 to 18	The provision of working and camp sites and access for construction purposes.
	22 to 31	The provision of a working site and access for construction purposes and the construction and maintenance of a shaft and facilities for operation and maintenance purposes.
	35 and 36	The construction of railway sidings at the Old Dover Colliery site, the provision of a working site and the provision of facilities for operation and maintenance purposes.
	33 and 34	The operation and maintenance of the existing road access tunnel between the Old Folkestone Road and the Old Dover Colliery site and the existing adit from the Old Dover Colliery site.
	33 to 36	The provision of working sites and access for construction and maintenance purposes.

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SECTION B

PURPOSES OF THE RAILWAYS BOARD

(1) *Area*	(2) *Number of land shown on deposited plans*	(3) *Purpose for which land may be acquired or used*
London borough of Hammersmith and Fulham	2	The construction of a retaining wall and provision of access for vehicles for the purposes of maintenance.
London borough of Wandsworth	9 to 13 and 16 to 18	The provision of a working site for construction of Works Nos. 23, 23A and 23B, and means of access for vehicles for the purposes of maintenance, to Stewart's Road at the point marked E on the deposited plans, Corunna Terrace at the point so marked F, and Linford Street at the points so marked G and H.
District of Shepway— parish of Newington	25, 26 and 35	The construction of railway sidings at Dolland's Moor.

PART II

PURPOSES FOR WHICH CERTAIN LAND MAY BE ACQUIRED OR USED UNDER SECTION 36

(1) *Area*	(2) *Number of land shown on deposited plans*	(3) *Purpose for which land may be acquired or used*
District of Dover— parish of Capel-le-Ferne	107	The landscaping of the works and land formation.
parish of Hougham Without	2	The landscaping of the works and land formation.

PART III

SUPPLEMENTARY

Provision enabling owners and lessees to require purchase of their interests

1.—(1) If the Secretary of State makes an order under section 38(1) of this Act extending the time within which a notice to treat may be served in respect of any land the following provisions of this paragraph shall have effect as from the coming into operation of that order.

(2) If any owner or lessee of any of that land gives notice in writing to the appropriate authority that he desires his interest in any part of the land specified in the notice to be acquired by the appropriate authority, the appropriate authority shall, within the period of three months after the receipt of such notice—

(a) enter into an agreement with him for the acquisition of his interest in the land or such part thereof as may be specified in the agreement; or

(b) serve on him a notice to treat for the compulsory acquisition of his interest in the land specified in his notice, or in such part thereof as may be required by the appropriate authority; or

(c) serve on him notice in writing of their intention not to proceed with the purchase of his interest in the land specified in his notice.

(3) Where notice is given under sub-paragraph (2) above by an owner or lessee in respect of his interest in land specified in the notice, then—

(a) if the appropriate authority—

(i) fails to comply with the requirements of that sub-paragraph; or

(ii) withdraws a notice to treat served in compliance with paragraph (b) of that sub-paragraph; or

(iii) serves on him notice in compliance with paragraph (c) of that sub-paragraph;

the power of the appropriate authority to serve a notice to treat in respect of that person's interest in the land so specified shall cease; or

(b) if the owner's or lessee's interest in part only of that land is acquired in pursuance of an agreement under paragraph (a) of that sub-paragraph, or a notice to treat served by virtue of paragraph (b) of that sub-paragraph, the power of the appropriate authority to serve a notice to treat in respect of that person's interest in the remainder of that land shall cease.

(4) In this paragraph "lessee" means a person who holds an interest under a lease for a period of which not less than 21 years is unexpired at the date of the giving of any notice by that person under sub-paragraph (2) above.

(5) This paragraph shall not apply to any subsoil or under-surface of land required only for the construction of a work at a level more than 9 metres below the surface of the land or, in the case of a work below a watercourse or other area of water, the surface of the adjoining ground which is at all times above water level.

Acquisition of subsoil or rights in land

2.—(1) The appropriate authority may, under section 8 or 36 of this Act—

(a) acquire only so much as may be required for the purposes mentioned in those sections of the subsoil and under-surface of; or

(b) create and acquire such easements or rights as may be required for those purposes in;

any land to which that section relates, not being land specified in the table in sub-paragraph (3) below, without being required to acquire any greater interest.

(2) The provisions of Part I of the Compulsory Purchase Act 1965, as applied by section 37 of this Act, and the enactments relating to compensation for the compulsory purchase of land, shall with the necessary modifications (including the adaptations of that Part of that Act specified in paragraph 8 below) have effect in relation to the creation and acquisition of such easements or rights as if it were the purchase of land within the meaning of that Part of that Act, and any notice to treat in respect of any such easement or right shall describe its nature. 1965 c.56.

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(3) Notwithstanding the provisions of section 8 of this Act, the Secretary of State shall not acquire compulsorily under that section any interest in any part of any land specified in the following table, except the subsoil or under-surface or easements or rights in the subsoil and under-surface as provided by sub-paragraph (1) above—

THE TABLE

(1) *Area*	(2) *Number of land shown on deposited plans*
District of Shepway—	
town of Folkestone	59 to 88
parish of Hawkinge	1 to 17
District of Dover—	
parish of Capel-le-Ferne	1 to 98
parish of Hougham Without	1 and 3 to 51
town of Dover	1 to 6, 19, 20, 21 and 32

(4) For the purposes of sub-paragraph (3) above the subsoil and under-surface of any land specified in the table in that sub-paragraph shall not include any subsoil or under-surface which is within 9 metres of the level of the surface of the ground or, in the case of a building on the land, the level of the surface of the ground adjoining the building or, in the case of a watercourse or other area of water, the level of the surface of the adjoining ground which is at all times above water level.

Acquisition of part only of certain properties

3.—(1) Where a copy of this paragraph is endorsed on, or annexed to, a notice to treat served under Part I of the Compulsory Purchase Act 1965, as applied by section 37 of this Act, the following provisions of this paragraph shall apply to the land subject to the notice instead of section 8(1) of that Act.

1965 c.65.

(2) Where the land subject to the notice is part only of a house, building or factory, or part only of land consisting of a house together with any park or garden belonging thereto, then, if the person on whom the notice is served, within the period of two months beginning with the day on which the notice is served on him, serves on the appropriate authority a counter-notice objecting to the sale of the part and stating that he is willing and able to sell the whole (in this paragraph below referred to as "the land subject to the counter-notice"), the question whether he shall be required to sell the part shall, unless the appropriate authority agrees to take the land subject to the counter-notice, be referred to the Lands Tribunal.

(3) If the said person does not serve such a counter-notice as aforesaid within the period of two months beginning with the day on which the notice to treat is served on him, or if on such a reference to the Lands Tribunal the tribunal determines that the part subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, in the case of part of any land consisting of a house together with a park or garden belonging thereto, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the said person shall be required to sell the part.

(4) If, on such a reference to the Lands Tribunal, the tribunal determines that part only of the land subject to the notice to treat can be taken without material

detriment to the remainder of the land subject to the counter-notice, or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the notice to treat shall be deemed to be a notice to treat for that part.

(5) If, on such a reference to the Lands Tribunal, the tribunal determines that the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice but that the material detriment is confined to a part of the land subject to the counter-notice, the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the appropriate authority is authorised to acquire compulsorily under section 8 or 36 of this Act.

(6) If the appropriate authority agrees to take the land subject to the counter-notice, or if the Lands Tribunal determines that—

(a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or (as the case may be) without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and

(b) the material detriment is not confined to a part of the land subject to the counter-notice;

the notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice, whether or not the whole of that land is land which the appropriate authority is authorised to acquire compulsorily under section 8 or 36 of this Act.

(7) In any case where, by virtue of a determination by the Lands Tribunal under sub-paragraph (4), (5) or (6) above, a notice to treat is deemed to be a notice to treat for part of the land specified in the notice or for more land than is specified in the notice, the appropriate authority may, within six weeks after the tribunal makes its determination, withdraw the notice to treat and, if this is done, shall pay to the person on whom the notice to treat was served compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice, to be determined in default of agreement by the tribunal.

(8) For the purposes of sub-paragraph (7) above, the determination shall not be deemed to be made so long as—

(a) the time for requiring the tribunal to state a case with respect to the determination has not expired;

(b) any proceedings on points raised by a case so stated have not been concluded; or

(c) any proceedings on appeal from any decision on points raised by a case so stated have not been concluded.

(9) Where a person is required under this paragraph to sell part only of a house, building or factory, or of land consisting of a house together with any park or garden belonging thereto, compensation shall be payable to him for any loss sustained by him due to the severance of that part in addition to the value of his interest therein.

Minerals

4.—(1) Subject to sub-paragraph (2) below, Parts II and III of Schedule 2 to the Acquisition of Land Act 1981 (exception of minerals from compulsory purchase and regulation of the working of mines or minerals underlying an authorised undertaking) shall have effect in relation to lands within the limits of land to be acquired as if those lands were comprised in a compulsory purchase

1981 c.67.

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order providing for the incorporation with that order of those Parts of that Schedule.

(2) In the application of that Schedule to lands which the Secretary of State is authorised to acquire under section 36 of this Act, the prescribed distance in relation to any seam of minerals lying under land adjoining works forming part of the A20 improvement works shall be such a lateral distance from those works on every side as is equal at every point along those works to one half of the depth of the seam below the natural surface of the ground at that point or forty yards, whichever is the greater.

Extinguishment of private rights of way

5.—(1) All private rights of way over any land which may be acquired compulsorily under this Act shall be extinguished on the acquisition of the land, whether compulsorily or by agreement, or on the entry on the land in pursuance of section 11(1) of the Compulsory Purchase Act 1965, as applied by section 37 of this Act, whichever is sooner.

1965 c.56.

(2) Any person who suffers loss by the extinguishment of any right under this paragraph shall be entitled to compensation.

Provisions as to compensation

6.—(1) In determining a question with respect to compensation claimed in consequence of the compulsory acquisition of land under this Act, the Lands Tribunal shall not take into account—

(a) any interest in land; or

(b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made, whether on the land acquired or on any other land with which the claimant is (or was at the time of the erection, execution or making of the building, works, improvement or alteration) directly or indirectly concerned;

if the tribunal are satisfied that the creation of the interest, or (as the case may be) the erection of the building, the execution of the works or the making of the improvement or alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) Any dispute as to a person's entitlement to compensation under any provision of this paragraph, or as to the amount of the compensation, shall be determined under and in accordance with Part I of the Land Compensation Act 1961.

1961 c.33.

Correction of deposited plans

7.—(1) If the deposited plans or the book of reference to those plans are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the appropriate authority, after giving not less than ten days' notice to the owner, lessee and occupier of the land in question, may apply to two justices having jurisdiction in the place where the land is situated for the correction thereof.

(2) If on any such application it appears to the justices that the misstatement or wrong description arose from mistake or inadvertence, the justices shall certify accordingly and shall in their certificate state in what respect any matter is misstated or wrongly described.

(3) The certificate shall be deposited in the office of the Clerk of the Parliaments and a copy thereof in the Private Bill Office of the House of Commons and with the proper officer of each County Council or London Borough Council in whose area is situated the land to which the certificate relates, and thereupon the

deposited plans or the book of reference thereto (as the case may be) shall be deemed to be corrected according to the certificate, and it shall be lawful for the appropriate authority, in accordance with the certificate, to proceed under this Act as if the deposited plans or the book of reference had always been in the corrected form.

(4) A person with whom a copy of the certificate is deposited under this paragraph shall keep it with the documents to which it relates.

Adaptation of Part I of the Compulsory Purchase Act 1965 1965 c.56.

8. In relation to the compulsory creation and acquisition of an easement or right in land (in any enactment amended by this paragraph referred to as "a right over land") by virtue of paragraph 2 above, Part I of the Compulsory Purchase Act 1965 applies with the following modifications—

(a) For section 7 (which relates to compensation) there shall be substituted the following—

"7.—(1) In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is purchased is depreciated by the purchase but also to the damage, if any, to be sustained by the owner of the land by reason of injurious affection of other land of the owner by the exercise of the right.

(2) The modifications subject to which subsection (1) of section 44 of the Land Compensation Act 1973 is to have effect, as applied by subsection (2) of that section to compensation for injurious affection under this section, are that for the words 'land is acquired or taken' there shall be substituted 'a right over land is purchased' and for the words 'acquired or taken from him' there shall be substituted 'over which the right is exercisable'.";

1973 c.26.

(b) For section 8(1) (which relates to cases in which a vendor cannot be required to sell part only of a building or garden) there shall be substituted the following—

"8.—(1) Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or factory or of a park or garden belonging to a house (hereafter in this subsection referred to as 'the relevant land')—

(a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Lands Tribunal (hereafter in this section referred to as 'the Tribunal'); and

(b) before the Tribunal has determined that question the person satisfies the Tribunal that he has an interest which he is able and willing to sell in the whole of the relevant land; and—

(i) where that land consists of a house, building or factory, that it cannot be made subject to the right without material detriment to it; or

(ii) where that land consists of such a park or garden, that it cannot be made subject to the right without seriously affecting the amenity or convenience of the house to which it belongs;

the compulsory purchase order shall, in relation to that person, cease to authorise the purchase of the right and be deemed to authorise the purchase of that person's interest in the whole of the relevant land

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including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the Tribunal directs.

(1A) Any question as to the extent of the land in which the compulsory purchase order is deemed to authorise the purchase of an interest by virtue of subsection (1) above shall be determined by the Tribunal.

(1B) Where in consequence of a determination of the Tribunal that it is satisfied as mentioned in subsection (1) above the compulsory purchase order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of six weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the acquiring authority to withdraw the notice.

1973 c. 26.

(1C) The modifications subject to which subsection (1) of section 58 of the Land Compensation Act 1973 is to have effect, as applied by subsection (2) of that section to the duty of the Tribunal in determining whether it is satisfied as mentioned in subsection (1) above, are that at the beginning of paragraphs (a) and (b) there shall be inserted the words 'a right over', for the word 'severance' there shall be substituted 'right on the whole of the house, building or factory or of the house and the park or garden' and for the words 'part proposed' and 'part is' there shall be substituted respectively 'rights proposed' and 'right is'.";

(c) The following provisions stating the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land, namely—

section 9(4) (failure of owners to convey);

paragraph 10(3) of Schedule 1 (owners under incapacity);

paragraph 2(3) of Schedule 2 (absent and untraced owners); and

paragraphs 2(3) and 7(2) of Schedule 4 (common land);

shall be so modified 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 purchased compulsorily is vested absolutely in the acquiring authority;

(d) Section 11 (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on sheriff's warrant in the event of obstruction) shall be modified correspondingly;

(e) Section 20 (compensation for short term tenants) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of the interests but taking into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right in question;

(f) Section 22 (protection of acquiring authority's possession of land where by inadvertence an interest in the land has not been purchased) shall be so modified 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 in question, subject to compliance with that section as respects compensation; and

(g) Paragraph 2(1) of Schedule 1 (power of owners to sell to the acquiring authority) shall be modified to empower all persons who are seised or possessed of or entitled to any of the land over which a right is required by the acquiring authority to grant that right to the authority and to enter all necessary agreements for the purpose.

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Section 43.

APPLICATION OF RAILWAY REGULATION ENACTMENTS

Tunnel system railway to be a "railway" under the Regulation of Railways Act 1871

1871 c. 78.

1. In section 2 of the Regulation of Railways Act 1871 (interpretation of terms), in the definition of "railway" there shall be inserted after the word "Parliament", where it first occurs, the words "the Channel Tunnel Act 1987".

Disapplication of enactments in the case of the Concessionaires and through service operators

2. Sections 4 (duty of railway company to make returns of overtime worked by certain employees) and 6 (passenger tickets issued by railway company in the United Kingdom to be printed with the fare) of the Regulation of Railways Act 1889 and the Railway Companies (Accounts and Returns) Act 1911 shall not apply to the Concessionaires or to any through service operator.

1889 c. 57.
1911 c. 34.

Extension of enactments in relation to through service operators

3. In the following enactments, the expressions "company" and "railway company" shall be treated as including (in so far as they do not already do so) any through service operator—

section 16 of the Railway Regulation Act 1840 (obstruction of officers of railway company);

1840 c. 97.

sections 22 (provision and improper use of means of communication) and 25 (arbitration of compensation for railway accidents) of the Regulation of Railways Act 1868;

1868 c. 119.

sections 3 and 4 (inspection of railways) and 6 and 7 (returns of and inquiries into railway accidents) of the Regulation of Railways Act 1871;

sections 1(1)(*c*) (power of Secretary of State to make orders in relation to the provision and use of brakes on passenger trains) and 5 (penalty for avoiding payment of fare) of the Regulation of Railways Act 1889; and

section 43 of the Road and Rail Traffic Act 1933 (which modifes section 6 of the Act of 1871).

1933 c. 53.

Modification of enactments applying to Concessionaires and through service operators

4.—(1) In their application to—

(a) the Concessionaires or any through service operator;

(b) any railway of the Concessionaires or any station or other works or premises connected therewith; or

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(c) any train of the Concessionaires or any through service operator;

the enactments specified in column (1) of the following table (which create the offences broadly described in column (2) of the table) shall each have effect as if the maximum fine which may be imposed on summary conviction of any offence specified in the enactment were, instead of that specified in column (3) of the table, a fine not exceeding the level specified in column (4) of the table.

THE TABLE

	(1) *Enactment*	(2) *Description of offence*	(3) *Maximum fine otherwise applicable (level on standard scale)*	(4) *Maximum fine (level on standard scale)*
1840 c. 97.	Section 16 of the Railway Regulation Act 1840.	Obstruction of officers of railway company or trespass upon railway.	Level 1	Level 3
1842 c. 55.	Section 17 of the Railway Regulation Act 1842.	Misconduct of persons employed on railways.	Level 1	Level 3
1868 c. 119.	Section 22 of the Regulation of Railways Act 1868.	Provision and improper use of means of communication.	Level 1	Level 2
1889 c. 57.	The Regulation of Railways Act 1889— section 5(1).	Failure to produce ticket, to pay fare or to give name and address.	Level 1	Level 2
	section 5(3).	Travel with intent to avoid payment of fare.	Level 2	Level 3

(2) In such application—

(a) section 16 of the Act of 1840 shall have effect as if the court had, as an alternative to imposing a fine, the power to award imprisonment for a period not exceeding one month; and

(b) section 17 of the Act of 1842 shall have effect as if, instead of the power to award imprisonment for a period not exceeding two months, the court had power to award imprisonment for a period not exceeding three months; and

(c) section 5(2) of the Act of 1889 (power to arrest passenger who fails to produce ticket and refuses to give his name and address) shall have effect as if after the word "refuses" there were inserted the words "or fails".

Extension of sections 55 and 56 of the British Transport Commission Act 1949 in relation to the tunnel system railway

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1949 c. xxix.

5. Sections 55 (penalty for trespass on railways, etc.) and 56 (penalty for stone throwing, etc., on railways) of the British Transport Commission Act 1949 shall apply in relation to any railway, siding, tunnel, railway embankment, cutting or similar work comprised in the tunnel system as they apply in relation to any railway, siding, tunnel, railway embankment, cutting or similar work belonging to the Railways Board.

Interpretation

6. In this Schedule "through service operator" means a person, other than the Concessionaires or the Railways Board, operating services for the carriage of passengers or goods by rail by way of the tunnel system.

SCHEDULE 7

Section 45.

PROTECTIVE PROVISIONS

PART I

HIGHWAYS AND TRAFFIC

1.—(1) The following provisions of this Part of this Schedule shall, unless otherwise agreed in writing between the appropriate authority and the highway authority concerned, have effect for the protection of the highway authorities referred to in this Part.

(2) In this Part of this Schedule—

"appropriate authority" does not include the Secretary of State or the County Council;

"highway" means a highway maintainable by the highway authority;

"highway authority" means—

(a) in the case of a trunk road, the Secretary of State; and

(b) in the case of other highways, the local highway authority.

2. Wherever in this Part of this Schedule provision is made with respect to the approval or consent of the highway authority, that approval or consent shall be in writing and subject to such reasonable terms and conditions as the highway authority may require, but shall not be unreasonably withheld.

3. Before carrying out any work for the construction or maintenance of any part of the works authorised by this Act which will involve interference with a highway, or the traffic in any highway, or before temporarily stopping up any highway, the appropriate authority shall consult the highway authority—

(a) as to the time when the work shall be commenced, and as to the extent of the surface of the highway which it may be reasonably necessary for the appropriate authority to occupy, or the nature of the interference which may be caused to traffic in the carrying out of the work, or as to the time during which, and the extent to which, the highway shall be stopped up (as the case may be); and

(b) as to the conditions under which the work shall be carried out or the highway shall be stopped up (as the case may be);

so as to reduce so far as possible inconvenience to the public and to ensure the safety of the public.

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4.—(1) Any such work involving interference with a highway shall not be carried out, the surface of the highway shall not be occupied, the highway shall not be stopped up by the appropriate authority and the interference with traffic shall not be caused except at such time, to such extent and in accordance with such conditions as may be submitted to and approved by the highway authority.

(2) If, within 28 days after the submission to them of proposals for compliance with this paragraph, the highway authority have not approved them or disapproved them, they shall be deemed to have approved the proposals as submitted.

5. The highway authority may require that the works authorised by this Act, so far as they involve any serious interference with the movement of traffic in any highway, shall be carried on, so far as reasonably practicable, continuously day and night and the appropriate authority shall take all such steps as may be reasonably necessary to reduce so far as possible the period of such interference.

6. It shall not be lawful for the appropriate authority in exercise of their powers under this Act to place any hoardings on any part of any highway except for such period and in such manner as shall be reasonably necessary.

7.—(1) The appropriate authority shall not, without the consent of the highway authority, make a junction between any road and a highway or an intended highway except in accordance with plans, sections and specifications submitted to and approved by the highway authority and if, within 28 days after such plans, sections and specifications have been submitted, the highway authority have not approved or disapproved them, they shall be deemed to have approved the plans, sections and specifications as submitted.

(2) For the purposes of this paragraph the plans, sections and specifications of a junction with a highway or intended highway shall include plans, sections and specifications of all works within the highway or (as the case may be) intended highway which are required for the purposes of or in connection with the junction.

8. The appropriate authority shall not, without the consent of the highway authority, construct any part of the works authorised by this Act under and within 8 metres of the surface of any highway except in accordance with plans and sections submitted to, and approved by, the highway authority and if within 28 days after such plans and sections have been submitted the highway authority have not approved or disapproved them, they shall be deemed to have approved the plans and sections as submitted.

9. In the construction of any part of the said works under a highway no part thereof shall, except with the consent of the highway authority, be so constructed as to interfere with the provision of proper means of drainage of the surface of the highway or be nearer than two metres to the surface of the highway.

10.—(1) The provisions of this paragraph have effect in relation to, and to the construction of, any new bridge, or any extension or alteration of an existing bridge, carrying any part of the works authorised by this Act over a highway or carrying a highway over any part of those works, and any such new bridge, or (as the case may be) any bridge so extended or altered, is in this paragraph referred to as "the bridge".

(2) Before commencing the construction of, or the carrying out of any work in connection with, the bridge which involves interference with a highway, the appropriate authority shall submit to the highway authority for their approval plans, sections, drawings and particulars (below in this paragraph referred to as "plans") relating thereto, and the bridge shall not be constructed and the works shall not be carried out except in accordance with the plans submitted to, and approved by. the highway authority.

(3) If within 28 days after the plans have been submitted the highway authority have not approved or disapproved them, they shall be deemed to have approved the plans as submitted.

(4) Any part of the construction of the bridge or any part of any work as aforesaid which involves interference with a highway shall be carried out under the supervision (if given) and to the reasonable satisfaction of the highway authority.

(5) In constructing the bridge, or in carrying out any work in connection therewith which involves interference with any highway, the appropriate authority shall, in such manner and at such time as the highway authority may reasonably require, make good all damage caused to the highway by reason or in consequence of the construction of the bridge or the carrying out of the work.

(6) If the bridge carries any part of the works authorised by this Act over any highway—

(a) it shall be constructed in such manner as to prevent so far as may be reasonably practicable the dripping of water from the bridge; and

(b) the highway authority may, at the cost of the appropriate authority, provide and place such lamps and apparatus as may from time to time be reasonably necessary for efficiently lighting any highway under or in the vicinity of the bridge.

11. The appropriate authority shall secure that so much of the works authorised by this Act as is constructed under any highway shall be so designed, constructed and maintained as to carry the appropriate loading recommended for highway bridges by the Secretary of State at the time of construction of the works, and the appropriate authority shall indemnify the highway authority against, and make good to the highway authority, the expenses which the highway authority may reasonably incur in the maintenance or repair of any highway, or any tunnels, sewers, drains or apparatus therein, by reason of non-compliance with the provisions of this paragraph.

12. It shall be lawful for an officer of the highway authority duly appointed for the purpose, at all reasonable times, on giving to the appropriate authority such notice as may in the circumstances be reasonable, to enter upon and inspect any part of the works authorised by this Act which is in or over any highway, or which may affect any highway or any property of the highway authority, during the carrying out of the work, and the appropriate authority shall give to such engineer or surveyor or officer all reasonable facilities for such inspection and, if he shall be of opinion that the construction of the work is attended with danger to any highway or to any property of the highway authority on or under any highway, the appropriate authority shall adopt such measures and precautions as may be reasonably necessary for the purpose of preventing any damage or injury thereto.

13. The appropriate authority shall not alter, disturb or in any way interfere with any property of the highway authority on or under any highway, or the access thereto, without the consent of the highway authority, and any alteration, diversion, replacement or reconstruction of any such property which may be necessary shall be made by the highway authority or the appropriate authority as the highway authority think fit, and the expense reasonably incurred by the highway authority in so doing shall be repaid to the highway authority by the appropriate authority.

14. The appropriate authority shall not remove any soil or material from any highway except so much as must be excavated in the carrying out of the works authorised by this Act.

15. If the highway authority, after giving to the appropriate authority not less than 28 days' notice (or, in case of emergency, such notice as is reasonably

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practicable) of their intention to do so, incur any additional expense in the signposting of traffic diversions or the taking of other measures in relation thereto, or in the repair of any highway by reason of the diversion thereto of traffic from a road of a higher standard, in consequence of the construction of the works authorised by this Act, the appropriate authority shall repay to the highway authority the amount of any such expense reasonably so incurred.

16.—(1) The appropriate authority shall not, except with the consent of the highway authority, deposit any soil or materials, or stand any vehicle or plant, on or over any highway so as to obstruct or render less safe the use of the highway by any person, or, except with the like consent, deposit any soil or materials on any highway outside a hoarding, and, unless the consent of the highway authority is given within 28 days after request therefor, it shall be deemed to have been refused.

(2) The expense reasonably incurred by the highway authority in removing any soil or materials deposited on any highway in contravention of this paragraph shall be repaid to the highway authority by the appropriate authority.

17. The appropriate authority shall, if reasonably so required by the highway authority, provide and maintain to the reasonable satisfaction of the highway authority, during such time as the appropriate authority may occupy any part of a highway for the purpose of the construction of any part of the works authorised by this Act, temporary bridges and temporary ramps for vehicular or pedestrian traffic over any part of the works or in such other position as may be necessary to prevent undue interference with the flow of traffic in the highway.

18.—(1) Where any part of any highway shall have been broken up or disturbed by the appropriate authority and not permanently stopped up or diverted they shall make good the subsoil, foundations and surface of that part of the highway to the reasonable satisfaction of the highway authority, and shall maintain the same to the reasonable satisfaction of the highway authority for such time as may be reasonably required for the permanent reinstatement of the highway.

(2) The reinstatement of that part of the highway shall in the first instance be of a temporary nature only and the permanent reinstatement thereof shall be carried out by the highway authority so soon as reasonably practicable after the completion of the temporary reinstatement, and the expense reasonably incurred by the highway authority in so doing shall be repaid to the highway authority by the appropriate authority.

19. The appropriate authority shall make compensation to the highway authority for any subsidence of, or damage to, any highway or any property of the highway authority on or under any highway which may be caused by, or in consequence of, any act or default of the appropriate authority, their contractors, servants or agents, whether such damage or subsidence shall happen during the construction of the works authorised by this Act or at any time thereafter.

20. The fact that any act or thing may have been done in accordance with plans approved by the highway authority or under their supervision shall not (if it was not attributable to the act, neglect or default of the highway authority or of any person in their employ or their contractors or agents) exonerate the appropriate authority from any liability, or affect any claim for damages, under this Part of this Schedule or otherwise.

21.—(1) Except as provided in sub-paragraph (2) below, any difference arising between the appropriate authority and the highway authority under this Part of this Schedule shall be determined by the Secretary of State or, at his option, by arbitration.

(2) Where the Secretary of State is the highway authority concerned any such difference shall be determined by arbitration.

PART II

PROTECTION OF THE RAILWAYS BOARD

1.—(1) The following provisions of this Part of this Schedule shall, unless otherwise agreed in writing between the appropriate authority and the Railways Board, have effect for the protection of that board.

(2) In this Part of this Schedule—

"appropriate authority" does not include the Railways Board;

"railway property" means any railway of the Railways Board, and any works connected therewith for the maintenance or operation of which the Railways Board are responsible, and includes any land held or used by the Railways Board for the purposes of any such railway or works;

"the specified works" means so much of any of the works authorised by this Act (other than the A20 improvement works) as may be situated upon, across, under or over, or within 15 metres of, railway property or may in any way affect railway property;

"construction" includes reconstruction and for the purposes of paragraphs 8, 11 and 12 below includes maintenance and repair of the specified works;

"plans" includes sections, drawings, particulars and schedules of construction.

2. The appropriate authority shall not under the powers conferred by section 8 of this Act acquire compulsorily any railway property but may create and acquire such easements and rights as may reasonably be required for the purposes specified in that section in any such property delineated on the deposited plans.

3.—(1) The appropriate authority shall, before commencing the construction of the specified works, supply to the Railways Board such proper and sufficient plans thereof as may reasonably be required and shall not commence the specified works until plans thereof have been approved in writing by the engineer of the Railways Board or settled by arbitration.

(2) If within 28 days after such plans have been supplied to the Railways Board their engineer shall not have notified his disapproval thereof and the grounds of his disapproval, he shall be deemed to have approved the plans as submitted.

4. If within 28 days after such plans have been supplied to the Railways Board the Railways Board give notice to the appropriate authority that the Railways Board desire themselves to construct any part of the specified works forming part of Work No. 1 which, in the opinion of the engineer of the Railways Board, will or may affect the stability of railway property then, if the appropriate authority desire such part of the specified works to be constructed, the Railways Board shall construct it with all reasonable dispatch on behalf of, and to the reasonable satisfaction of, the appropriate authority in accordance with the plans approved or deemed to be approved or settled as aforesaid and under the supervision (if given) of the appropriate authority.

5. Upon signifying his approval or disapproval of the plans the engineer of the Railways Board may specify any protective works, whether temporary or permanent, which in his opinion should be carried out before the construction of the specified works to ensure the safety and stability of railway property; and such protective works as may be reasonably necessary for those purposes shall be constructed by the Railways Board with all reasonable dispatch, and the appropriate authority shall not commence the construction of the specified works until the Railways Board shall have notified the appropriate authority that the protective works have been completed.

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6. The appropriate authority shall give to the engineer of the Railways Board not less than 28 days' notice of their intention to commence the construction of any of the specified works and, except in emergency (when they shall give such notice as may be reasonably practicable), of their intention to carry out any works for the repair or maintenance of the specified works in so far as such works of repair or maintenance affect or interfere with railway property.

7.—(1) The construction of the specified works shall, when commenced, be carried out with all reasonable dispatch in accordance with the plans approved or deemed to be approved or settled as aforesaid and under the supervision (if given), and to the reasonable satisfaction, of the engineer of the Railways Board, and in such manner as to cause as little damage to railway property as may be and as little interference as may be with the conduct of traffic on the railways of the Railways Board.

(2) If any damage to railway property or any such interference shall be caused by the carrying out of the specified works, the appropriate authority shall, notwithstanding any such approval as aforesaid, make good such damage and pay to the Railways Board reasonable expenses to which they may be put and compensation for any loss which they may sustain by reason of any such damage or interference.

(3) Nothing in this paragraph shall impose any liability on the appropriate authority with respect to any damage, costs, expenses or loss attributable to the act, neglect or default of the Railways Board or their servants, contractors or agents.

8. The appropriate authority shall at all times afford reasonable facilities to the engineer of the Railways Board for access to the specified works during their construction and shall supply to him all such information as he may reasonably require with regard to the specified works or the method of construction thereof.

9. The Railways Board shall at all times afford reasonable facilities to the appropriate authority and their agents for access to any works carried out by the Railways Board under this Part of this Schedule during their construction, and shall supply to the appropriate authority such information as they may reasonably require with regard to such works or the method of construction thereof.

10.—(1) If any alteration or addition, whether permanent or temporary, to railway property shall be reasonably necessary during the construction of the specified works, or during a period of twelve months after their completion in consequence of their construction, such alterations and additions may be carried out by the Railways Board.

(2) If the Railways Board give to the appropriate authority reasonable notice of their intention to carry out such alterations or additions, the appropriate authority shall pay to the Railways Board the reasonable cost thereof including, in respect of permanent alterations and additions, a capitalised sum representing any increase in the costs which may be expected to be reasonably incurred by the Railways Board in maintaining, working and, when necessary, renewing any such alterations or additions.

(3) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions, a capitalised sum representing such saving shall be set off against any sum payable by the appropriate authority to the Railways Board under this Part of this Schedule.

11. The appropriate authority shall repay to the Railways Board costs reasonably incurred by the Railways Board—

(a) in constructing any part of the specified works on behalf of the appropriate authority as provided by paragraph 4 above or in

constructing any protective works under paragraph 5 above including, in respect of any permanent protective works, a capitalised sum representing the costs which may be expected to be reasonably incurred by the Railways Board in maintaining and renewing such works;

(b) in respect of the employment of any inspectors, signalmen, watchmen and other persons whom it shall be reasonably necessary to appoint for inspecting, watching and lighting railway property and signalling railway traffic and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction of the specified works;

(c) in respect of any special traffic working upon any existing railways of the Railways Board resulting from any speed restrictions, or any substitution or diversion of services, which may, in the opinion of the Railways Board, be required by reason or in consequence of the construction of the specified works;

(d) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction of the specified works;

(e) in respect of the supervision by the engineer of the Railways Board of the construction of the specified works.

12.—(1) Subject to sub-paragraph (2) below, the appropriate authority shall be responsible for, and make good to the Railways Board, costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule which may be occasioned to, or reasonably incurred by, the Railways Board—

(a) by reason of the construction of the specified works; or

(b) by reason of any act or omission of the appropriate authority, or of any person in their employ, or of their contractors or others whilst engaged upon the construction of the specified works;

and the appropriate authority shall indemnify the Railways Board from and against claims and demands arising out of, or in connection with, the construction of the specified works or any such act or omission.

(2) The fact that any act or thing may have been done in accordance with plans approved by the engineer of the Railways Board, or in accordance with any requirement made by him, or under his supervision, shall not (if it was not attributable to the act, neglect or default of the Railways Board, or of any person in their employ, or of their contractors or agents) excuse the appropriate authority from any liability under this Part of this Schedule.

(3) The Railways Board shall give to the appropriate authority reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the appropriate authority.

13. Any difference arising between the appropriate authority and the Railways Board under this Part of this Schedule shall be determined by arbitration.

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PART III

PROTECTION OF NAVIGATION

1.—(1) The following provisions of this Part of this Schedule shall have effect in relation to tidal works for the protection of navigation.

(2) In this Part of this Schedule—

"tidal work" means so much of the works authorised by this Act as is on the surface of lands below the level of mean high water springs;

1894 c.60. "the Trinity House" has the meaning given in section 742 of the Merchant Shipping Act 1894.

2.—(1) A tidal work shall not be constructed, extended, enlarged, altered, renewed, replaced or reconstructed except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of State before the work is begun.

(2) The Secretary of State's primary concern in exercising his powers under sub-paragraph (1) above shall be to prevent danger to navigation; but he shall have regard, in exercising those powers in relation to such part of the sea wall as is a tidal work, to—

(a) any factors that have been or may be taken into account by the county planning authority in deciding under paragraph 3 of Schedule 3 to this Act whether to approve plans and specifications of the sea wall;

(b) any decision of that authority with respect to the approval of any such plans and specifications; and

(c) any conditions imposed on the grant of any such approval;

with a view to securing that his exercise of those powers is consistent so far as practicable with any decision that has been or may be made by that authority under that paragraph.

(3) In case of contravention of this paragraph or of any condition or restriction imposed under this paragraph—

(a) the Secretary of State may by notice in writing require the Concessionaires, at their own expense, to remove the tidal work or any part thereof and restore the site thereof to its former condition; and if, on the expiration of 30 days from the date when the notice is served upon the Concessionaires, they have failed to comply with the requirements of the notice the Secretary of State may execute the works specified in the notice; or

(b) if it appears to the Secretary of State urgently necessary to do so, he may himself remove the tidal work or part of it and restore the site to its former condition;

and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the Concessionaires.

3. The Secretary of State may at any time if he deems it expedient order a survey and examination of a tidal work, or of the site upon which it is proposed to construct the work, and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable from the Concessionaires.

4.—(1) The Concessionaires shall, at or near a tidal work, during the whole time of the construction, extension, enlargement, alteration, renewal, replacement or reconstruction thereof, exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Secretary of State shall from time to time direct.

(2) If the Concessionaires fail to comply in any respect with a direction given under this paragraph they shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

5.—(1) After the completion of a tidal work the Concessionaires shall, at the outer extremity thereof, exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Trinity House shall from time to time direct.

(2) If the Concessionaires fail to comply in any respect with a direction given under this paragraph they shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

6.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the Concessionaires at their own expense either to repair and restore the work, or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Secretary of State may think proper.

(2) Where part of a work is situated on or over land above the level of mean high water springs and that part is in such condition as to interfere, or to cause reasonable apprehension that it may interfere, with the right of navigation or other public rights over the foreshore, the Secretary of State may include that part of the work, or any portion thereof, in any notice under this paragraph.

(3) If on the expiration of 30 days from the date on which a notice under this paragraph is served upon the Concessionaires they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice and any expenditure incurred by him in so doing shall be recoverable from the Concessionaires.

7.—(1) In case of injury to or destruction or decay of a tidal work, or any part thereof, the Concessionaires shall forthwith notify the Trinity House and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the Trinity House shall from time to time direct.

(2) If the Concessionaires fail to notify the Trinity House as required by this paragraph or to comply in any respect with a direction given under this paragraph, they shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

8.—(1) In proceedings for an offence under paragraph 4, 5 or 7 above it shall be a defence for the Concessionaires to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) If in any case the defence provided by sub-paragraph (1) above involves the allegation that the commission of the offence was due to the act or default of another person, the Concessionaires shall not, without leave of the court, be entitled to rely on that defence unless, within a period of seven days before the hearing, they have served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in their possession.

PART IV

PROTECTION OF DOVER HARBOUR BOARD

1. The following provisions of this Part of this Schedule shall, unless otherwise agreed in writing between the Concessionaires and the Dover Harbour Board (in this Part referred to as "the Harbour Board"), have effect for the protection of the Harbour Board.

2. In this Part of this Schedule—

"plans" includes sections, drawings and specifications;

"the Harbour Board's shore" means that part of the shore above mean low water springs which is vested in the Harbour Board;

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"the protected beach" means that part of the Harbour Board's shore which lies within 100 metres westward of the Admiralty Pier;

"the specified works" means Work No. 7 and any other works authorised by this Act which are on the surface of lands below the level of mean high water springs and within one international nautical mile from the seaward limits of Dover Harbour.

3. The Concessionaires shall consult the Harbour Board as to the methods and timetable for the construction of any of the specified works or the carrying out of operations relating thereto so as to avoid so far as practicable any interference with navigation in Dover Harbour or in the approaches thereto and any damage to the Harbour Board's shore or to any works forming part of the Harbour Board's undertaking.

4.—(1) Before commencing to construct any of the specified works the Concessionaires shall submit to the Harbour Board for their reasonable approval proper and sufficient plans of that work and such work shall not be constructed otherwise than in accordance with such plans as may be reasonably approved in writing by the principal engineer of the Harbour Board and subject to such conditions as he may reasonably require so as to avoid so far as practicable any interference with navigation in Dover Harbour or in the approaches thereto and any damage to the works forming part of the Harbour Board's undertaking, or in accordance with such plans and subject to such conditions as may be determined under paragraph 10 below.

(2) In the event of the principal engineer of the Harbour Board failing to express his disapproval of any plans within one month after such plans have been delivered to the Harbour Board in pursuance of this paragraph, he shall be deemed to have approved the plans as submitted.

5.—(1) If there shall be any inconsistency between the plans of any tidal work approved under paragraph 4 above and the plans approved by the Secretary of State under paragraph 2 of Part III of this Schedule, or between any conditions required under paragraph 4 above and any conditions or restrictions imposed by the Secretary of State under the said paragraph 2, the inconsistency shall be referred to the Secretary of State by the Concessionaires after not less than 14 days' notice to the Harbour Board, and the work shall be constructed in accordance with the plans, and subject to the conditions and restrictions, then determined by the Secretary of State.

(2) A determination by the Secretary of State under sub-paragraph (1) above shall be made in accordance with the said paragraph 2 and shall have effect as if it were an approval of plans and sections, subject to conditions and restrictions (if any) imposed, under that paragraph.

6. The Concessionaires shall compensate the Harbour Board for any damage to any work forming part of the Harbour Board's undertaking or to Dover Harbour or its approaches caused by or arising in consequence of the construction or maintenance of any of the specified works or of the failure or want of repair thereof or in consequence of any act or omission of the Concessionaires, their contractors, agents, workmen or servants whilst engaged upon a specified work and shall indemnify the Harbour Board from all claims, demands or expenses which may be made on or against them or which they may have to pay by reason or in consequence of any such damage:

Provided that the Harbour Board shall give to the Concessionaires reasonable notice of any such claim or demand as aforesaid and no settlement or compromise thereof shall be made without the agreement of the Concessionaires.

7. If at any time any damage or diminution shall occur to the protected beach and such damage or diminution shall be caused wholly or substantially by the construction of the specified works, the Concessionaires shall make good or

cause to be made good such damage or diminution to the reasonable satisfaction of the principal engineer of the Harbour Board.

8. The fact that any act or thing may have been done in accordance with plans approved by the principal engineer of the Harbour Board, or in accordance with a requirement made by him, or under his supervision, shall not (if it was not attributable to the act, neglect or default of the Harbour Board, or of any person in their employ, or of their contractors or agents) excuse the Concessionaires from any liability under this Part of this Schedule.

9. Except in connection with the arrangements for the deposit of spoil approved under paragraph 5 of Schedule 3 to this Act and without prejudice to any other obligations and liabilities of the Concessionaires under this Part of this Schedule, the Concessionaires shall not deposit spoil anywhere below the level of mean high water springs within one international nautical mile of the seaward limits of Dover Harbour.

10. Any difference arising between the Concessionaires and the Harbour Board under this Part of this Schedule shall be determined by the Secretary of State or, at his option, by an arbitrator to be appointed by him, and the costs of final determination shall be in the discretion of the Secretary of State or of the arbitrator, as the case may be.

PART V

PROTECTION OF SEWERS

1.—(1) The following provisions of this Part of this Schedule shall, unless otherwise agreed in writing between the appropriate authority and the sewerage authority concerned, have effect for the protection of the sewerage authorities.

(2) In this Part of this Schedule—

"appropriate authority" does not include the Secretary of State in respect of the A20 improvement works;

"sewer" includes any main used for the conveyance of sewage sludge or sewage effluent and any pipe, subway or storm overflow or other apparatus vested in, or maintained by, the sewerage authority for the purposes of sewerage or sewage disposal, but does not include any such apparatus in respect of which the relations between the appropriate authority and the sewerage authority are regulated by the provisions of Part II of the Public Utilities Street Works Act 1950; 1950 c. 39.

"the sewerage authority" means the Southern Water Authority and the Thames Water Authority, or either of them, in their capacity as authorities responsible for sewerage and sewage disposal, and includes a local authority as a relevant authority for the purposes of section 15 of the Water Act 1973; 1973 c. 37.

"specified work" means so much of any of the works authorised by this Act (other than the A20 improvement works) as may be situated over, or within 15 metres measured in any direction of, or impose any load directly upon, any sewer.

2.—(1) Before commencing the construction or renewal of any specified work the appropriate authority shall submit to the sewerage authority plans thereof as described in paragraph 3 below (in this Part of this Schedule referred to as "the said plans") and shall not commence that work until the sewerage authority have signified their approval of the said plans.

(2) The sewerage authority's approval shall not be unreasonably withheld and, if within 56 days after the submission of the said plans the sewerage authority have not approved or disapproved them, they shall be deemed to have approved them.

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3.—(1) The plans to be submitted to the sewerage authority 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 carried out and the position of all sewers of the sewerage authority within the limits of deviation for that work, and shall comprise detailed drawings of every alteration which the appropriate authority propose to make in any such sewers.

(2) For the purpose of the preparation of the said plans the sewerage authority shall, on application by the appropriate authority, permit them to have access to plans in the possession of the sewerage authority and to any of their sewers.

4. The appropriate authority shall give to the sewerage authority not less than 28 days' notice of their intention to commence the construction or renewal of a specified work and, except in case of emergency (when they shall give such notice as may be reasonably practicable), of their intention to carry out works of repair or maintenance of a specified work.

5. In carrying out any specified work the appropriate authority shall comply with all reasonable requirements of the sewerage authority of which due notice is given to the appropriate authority and shall provide new, altered or substituted sewers, or works for the protection of any sewers of the sewerage authority, in such manner as the sewerage authority shall reasonably require for the protection of, and for preventing injury or impediment to, any such sewer by reason of the specified work.

6. All works for the provision of new, altered or substituted sewers or protective works in pursuance of paragraph 5 above shall, where so required by the sewerage authority, be carried out by or under the supervision (if given) of an officer of the sewerage authority duly appointed for the purpose, and all reasonable costs, charges and expenses to which the sewerage authority may be put by reason of such works, whether in the course of the carrying out of the works, or in the preparation or examination of plans or designs or in such supervision as aforesaid, or otherwise, shall be paid to the sewerage authority by the appropriate authority.

7. Nothing in paragraphs 5 and 6 above shall require the appropriate authority to provide new or substituted works of better type, of greater dimensions or of greater capacity than those of the works in place of which they are provided except in so far as the placing of works of such type, dimensions or capacity has been specified as necessary in a specification of works settled under paragraph 2 above.

8. When works for the provision of any such new, altered or substituted sewers or protective works have been completed in accordance with paragraph 5 above they shall be maintainable by the sewerage authority.

9. The sewerage authority may require such modifications to be made in the said plans as may be reasonably necessary to secure their sewerage system against interference or risk of damage and to provide convenient means of access to their sewers.

10.—(1) Subject to sub-paragraphs (2) and (3) below, if by reason or in consequence of the construction or failure of any of the works authorised by this Act, or any subsidence resulting from any of those works, any damage to any sewer (other than a sewer intended for removal for the purposes of those works) of the sewerage authority shall be caused, the appropriate authority shall pay the cost reasonably incurred by the sewerage authority in making good such damage and shall—

(a) make reasonable compensation to the sewerage authority for loss sustained by them; and

(b) indemnify the sewerage authority against claims, demands, proceedings, costs, damages and expenses which may be made or taken against, or recovered from or incurred by, the sewerage authority;

by reason or in consequence of any such damage.

(2) Nothing in sub-paragraph (1) above shall impose any liability on the appropriate authority with respect to any damage to the extent that it is attributable to the act, neglect or default of the sewerage authority, their officers, servants, contractors or agents.

(3) The sewerage authority shall give to the appropriate authority reasonable notice of any claim or demand as aforesaid and no settlement or compromise shall be made without the prior consent of the appropriate authority.

11. If, in the carrying out of any specified work, or any work for the provision of new, altered or substituted sewers or protective works in pursuance of paragraph 5 above, the appropriate authority damage or, without the consent of the sewerage authority, alter or in any way interfere with any of their existing sewers the appropriate authority shall—

(a) pay to the sewerage authority any additional expense to which they 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 the specified work; and

(b) subject to paragraph 13 below, give to the sewerage authority uninterrupted access to any such new, altered or substituted sewer and such facilities as may be reasonably required for the inspection, maintenance, alteration and repair thereof.

12. An officer of the sewerage authority duly appointed for the purpose may, subject to paragraph 13 below, enter upon and inspect any specified work or any other works constructed under this Part of this Schedule.

13. Access to any sewer under paragraph 11(b) above or entry upon any specified work under paragraph 12 above shall be subject to supervision and control by the appropriate authority but shall be afforded by the appropriate authority as soon as possible and at any reasonable time at which it is required.

14. The approval by the sewerage authority of any plans, drawings, sections or specifications or the supervision by them of any work under this Part of this Schedule shall not exonerate the appropriate authority from any liability or affect any claim for damages by the sewerage authority.

15. As soon as reasonably practicable after the completion of the carrying out of a specified work, the appropriate authority shall deliver to the sewerage authority a plan and section showing the position and level of that work as constructed and all new, altered or substituted works provided in pursuance of paragraph 5 above.

16. Any difference arising between the appropriate authority and the sewerage authority under this Part of this Schedule shall be determined by arbitration.

PART VI

PROTECTION OF CERTAIN STATUTORY UNDERTAKERS

1.—(1) The following provisions of this Part of this Schedule shall, unless otherwise agreed in writing between the appropriate authority and the undertakers concerned, have effect for the protection of the undertakers.

(2) In this Part of this Schedule—

"appropriate authority" does not include the Secretary of State in respect of the A20 improvement works;

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"the undertakers" means any person authorised to carry on an undertaking for the supply of electricity, gas or water within any area within which land is to be acquired or works are to be constructed under this Act and—

(a) in relation to water undertakers, includes a water authority in their capacity as an authority authorised to carry on an undertaking for the supply of water within their area; and

(b) in relation to any apparatus, means the undertakers to whom the apparatus belongs or by whom the apparatus is maintained;

"apparatus" means—

(a) in the case of electricity undertakers, electric lines and works (as respectively defined in the Electric Lighting Act 1882) belonging to, or maintained by, those undertakers; or

1882 c.56.

(b) in the case of gas or water undertakers, mains, pipes or other apparatus belonging to, or maintained by, those undertakers for the purposes of gas or water supply;

(not being in any case apparatus in respect of which the relations between the appropriate authority and the undertakers are regulated by the provisions of Part II of the Public Utilities Street Works Act 1950), and includes any structure for the lodging therein of apparatus;

1950 c.39.

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

"in" in a context referring to apparatus includes under, over, across, along or upon.

2. Notwithstanding anything in this Act or shown on the deposited plans, the appropriate authority shall not acquire any apparatus under section 8 of this Act otherwise than by agreement.

3. If the appropriate authority in the exercise of the powers conferred by this Act acquire any interest in or temporarily occupy any lands in which any apparatus is placed, that apparatus shall not be removed under this Part of this Schedule, and any right of the undertakers to maintain, repair, renew or inspect that apparatus in those lands shall not be extinguished, until any necessary alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the undertakers.

4. If—

(a) the appropriate authority, for the purpose of carrying out any work authorised by this Act in, on or under any land, require the removal of any apparatus placed in that land, and give to the undertakers not less than 56 days' written notice of that requirement, together with a plan and section of the proposed work, and of the proposed position of the alternative apparatus to be provided or constructed; or

(b) in consequence of the exercise of any of the powers conferred by this Act, the undertakers reasonably require to remove any apparatus;

the appropriate authority shall afford to the undertakers the necessary facilities and rights for the construction of any necessary alternative apparatus in other land held by the appropriate authority, or in which the appropriate authority have sufficient rights or interests, 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 held by the appropriate authority and the appropriate authority are unable to afford such facilities and rights as aforesaid, the undertakers shall, on receipt of a written notice to that effect from

the appropriate authority, forthwith use their best endeavours to obtain the necessary facilities and rights.

5. Any alternative apparatus to be constructed in land held by the appropriate authority in pursuance of paragraph 4 above shall be constructed in such manner, and in such line or situation, as may be agreed between the undertakers and the appropriate authority or, in default of agreement, determined by arbitration.

6. The undertakers shall, after the manner of construction and the line and situation of any necessary alternative apparatus have been agreed or determined as aforesaid, and after the grant to the undertakers of any such facilities and rights as are referred to in paragraph 4 above, proceed with all reasonable dispatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the appropriate authority to be removed under the provisions of this Part of this Schedule and, in default, the appropriate authority may remove the apparatus.

7.—(1) Notwithstanding anything in paragraphs 5 and 6 above, if the appropriate authority give notice in writing to the undertakers that they desire themselves to carry out 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 lands held by the appropriate authority, such work, instead of being carried out by the undertakers, shall be carried out by the appropriate authority with all reasonable dispatch under the superintendence (if given) and to the reasonable satisfaction of the undertakers.

(2) Nothing in this paragraph shall authorise the appropriate authority to carry out the placing, erection, installation, bedding, packing, removal, connection or disconnection of any apparatus or to carry out any filling around the apparatus extending (where the apparatus is laid in a trench) within 300 millimetres above the apparatus.

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the appropriate authority afford to the undertakers facilities and rights for the construction, maintenance, repair, renewal and inspection on land held by the appropriate authority of alternative apparatus, those facilities and rights shall be granted upon such terms and conditions as may be agreed between the appropriate authority and the undertakers or, in default of agreement, determined by arbitration.

(2) In determining such terms and conditions as aforesaid in respect of alternative apparatus to be constructed across or along any works authorised by this Act the arbitrator shall—

(a) give effect to all reasonable requirements of the appropriate authority for ensuring the safety and efficient operation of those 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 appropriate authority or the use of the same; and

(b) so far as it may be reasonable and practicable to do so in the circumstances of the case, give effect to the terms and conditions (if any) applicable to the apparatus for which the alternative apparatus is to be substituted.

(3) If the facilities and rights to be afforded by the appropriate authority 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 undertakers than the facilities, rights, terms and conditions applying to the apparatus to be removed, the arbitrator shall make such provision for the payment of compensation to or

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by the appropriate authority by or to the undertakers in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the case.

9.—(1) Not less than 56 days before commencing to carry out any work authorised by this Act which is near to, or will or may affect, any apparatus the removal of which has not been required by the appropriate authority under paragraph 4 above, the appropriate authority shall submit to the undertakers a plan, section and description of the work to be carried out

(2) The work shall be carried out 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 carrying out of the work.

(3) If the undertakers, within 28 days after the submission to them of any such plan, section and description, shall, in consequence of the work proposed by the appropriate authority, reasonably require the removal of any apparatus and give written notice to the appropriate authority of that requirement, the foregoing provisions of this Part of this Schedule shall have effect as if the removal of such apparatus had been required by the appropriate authority under paragraph 4 above.

(4) Nothing in sub-paragraphs (1) to (3) above shall preclude the appropriate authority from submitting at any time, or from time to time, but in no case less than 28 days before commencing to carry out the work, a new plan, section and description thereof instead of the plan, section and description previously submitted, and thereupon the provisions of those sub-paragraphs shall apply to, and in respect of, that new plan, section and description.

(5) The appropriate authority shall not be required to comply with sub-paragraphs (1) to (3) above in a case of emergency but in such a case they shall give notice to the undertakers so soon as reasonably practicable and a plan, section and description of the works so soon as reasonably practicable thereafter, and shall otherwise comply with those sub-paragraphs so far as reasonably practicable in the circumstances.

10. If in consequence of the exercise of the powers of this Act the access to any apparatus is materially obstructed the appropriate authority shall, so far as reasonably practicable, provide alternative means of access to such apparatus.

11. 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 prejudice or affect any right of the appropriate authority or of the undertakers to require removal of that apparatus under this Part of this Schedule or the power of the appropriate authority to carry out works in accordance with paragraph 9 above.

12.—(1) Subject to sub-paragraph (2) below, the appropriate authority shall repay to the undertakers the reasonable expenses incurred by the undertakers in, or in connection with—

(a) the removal and relaying or replacing, alteration or protection of any apparatus or the provision and construction of any new apparatus under any of the provisions of this Part of this Schedule;

(b) the cutting off of any apparatus from any other apparatus; and

(c) any other work or thing rendered reasonably necessary in consequence of the exercise by the appropriate authority of any of the powers of this Act.

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(2) Section 23(3) and (4) of the Public Utilities Street Works Act 1950 (limitations on undertakers' right to payments) shall, so far as applicable, apply to any payment to be made by the appropriate authority under sub-paragraph (1) above as if the works or operations mentioned in that sub-paragraph were such undertakers' works as are referred to in the said subsection (3), and as if in that subsection for the words "specified as so necessary in a specification of the works settled under Part I of the Fourth Schedule to this Act or agreed so to be by the promoting authority" there were substituted the words "agreed or determined by arbitration under Part VI of Schedule 7 to the Channel Tunnel Act 1987". 1950 c.39.

13.—(1) Subject to sub-paragraphs (2) and (3) below, if by reason or in consequence of the construction of any of the works authorised by this Act, or any subsidence resulting from any of those works, any damage 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 the undertakers, or any interruption in the supply of electricity, gas or water (as the case may be) by the undertakers or, in the case of the Central Electricity Generating Board, by or to that board, shall be caused, the appropriate authority 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 loss sustained by them; and

(b) indemnify the undertakers against 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.

(2) Nothing in sub-paragraph (1) above shall impose any liability on the appropriate authority with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of the undertakers, their officers, servants, contractors or agents.

(3) The undertakers shall give to the appropriate authority reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the appropriate authority.

14. The appropriate authority shall, so far as is reasonably practicable, so exercise their powers under paragraph 15 of Schedule 2 above as not to obstruct or render less convenient the access to any apparatus.

15. Notwithstanding the temporary stopping up or diversion of any highway under paragraph 22 of Schedule 2 above, 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 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.

16. Nothing in this Part of this Schedule shall prejudice or affect the provisions of any enactment or agreement regulating the relations between the appropriate authority and the undertakers in respect of any apparatus in land held by the appropriate authority at the commencement of this Act.

17.—(1) Any difference arising between the appropriate authority and the undertakers under this Part of this Schedule shall be determined by arbitration.

(2) In determining any such difference the arbitrator may, if he thinks fit, require the appropriate authority to carry out any temporary or other works so as to avoid, so far as may be reasonably possible, interference with the use of any apparatus.

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PART VII

PROTECTION OF LAND DRAINAGE

1.—(1) The following provisions of this Part of this Schedule shall, unless otherwise agreed in writing beween the appropriate authority and the drainage authority concerned, have effect for the further protection of the drainage authority.

(2) In this Part of this Schedule—

"appropriate authority" does not include the Secretary of State in respect of the A20 improvement works;

"drainage authority" means the Southern Water Authority or, within the area of the River Stour (Kent) Internal Drainage Board, that board except in relation to a drainage work forming part of a main river as defined in the Land Drainage Act 1976;

1976 c. 70.

"drainage work" means any watercourse as defined in that Act and any structure or appliance under the control of the drainage authority constructed or used for defence against water (including sea water);

"plans" includes sections, drawings and specifications;

"specified work" means so much of any work authorised by this Act as will affect any drainage work in the drainage authority's area or the flow of water in, to or from any such drainage work.

2.—(1) Not less than 56 days before beginning to construct any specified work, the appropriate authority shall submit to the drainage authority plans of the work and the work shall not be constructed except in accordance with plans approved by the drainage authority or settled by arbitration and in accordance with any reasonable requirements made by the drainage authority for the protection of any drainage work and for the prevention of flooding.

(2) The requirements which the drainage authority may make under sub-paragraph (1) above include conditions requiring the construction of such protective works by, and at the expense of, the appropriate authority 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 land drainage purposes is not impaired.

(3) If within a period of 28 days after the submission of any plans under sub-paragraph (1) above the drainage authority do not inform the appropriate authority in writing that they disapprove of those plans, stating the grounds of their disapproval, they shall be treated for the purposes of this paragraph as having approved them.

3. Any specified work, and all protective works required by the drainage authority under paragraph 2 above, shall be constructed to the reasonable satisfaction of the drainage authority and the drainage authority shall be entitled by their officer to watch and inspect the construction of such works.

4. If by reason of the construction of any specified work the efficiency of any drainage work for land drainage purposes is impaired or that work is otherwise damaged, such damage shall be made good by the appropriate authority to the reasonable satisfaction of the drainage authority and, if the appropriate authority fail to do so, the drainage authority may make good the same and recover from the appropriate authority the expense reasonably incurred by them in so doing.

5.—(1) The appropriate authority shall indemnify the drainage authority from all claims, demands, proceedings, costs, damages and expenses which may be made or taken against, or recovered from or incurred by, the drainage authority by reason or in consequence of—

(a) any damage to any drainage work so as to impair its efficiency for the purposes of land drainage; or

(b) any raising of the water table in lands adjoining the works authorised by this Act or any sewers, drains or watercourses; or

(c) any flooding or increased flooding of any such lands;

which may be caused by or result from the construction of any work authorised by this Act or any act or omission of the appropriate authority, their contractors, agents, workmen or servants whilst engaged upon the work.

(2) The drainage authority shall give to the appropriate authority reasonable notice of any such claim or demand and no settlement or compromise thereof shall be made without the agreement of the appropriate authority.

6. 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 drainage authority or to their satisfaction or in accordance with any directions or award of an arbitrator shall not relieve the appropriate authority from any liability under the provisions of this Part of this Schedule.

7. Any difference arising between the appropriate authority and the drainage authority under this Part of this Schedule shall be determined by arbitration.

PART VIII

FURTHER PROTECTION OF SOUTHERN WATER AUTHORITY

1. The following provisions of this Part of this Schedule shall, unless otherwise agreed in writing between the Concessionaires and the Southern Water Authority (in this Part referred to as "the Authority"), have effect for the further protection of the Authority.

2. If within six months from the passing of this Act the Authority notify the Concessionaires that they have decided to proceed with the construction of a public sewer and other works for the improvement of drainage sufficient to provide for the disposal of surface water from the terminal area at Cheriton, Folkestone and that it is their intention to complete the works within the period of three years thereafter, the Concessionaires shall not, so long as the Authority proceed with the construction of those works in accordance with that intention, construct the drainage lagoon (Work No. 16) and, on the completion of those works, the powers of this Act for the construction of the lagoon shall cease to have effect.

3. Any right of the Concessionaires under section 34 of the Public Health Act 1936 to drain surface water from the terminal area to any public sewer other than the public sewer mentioned in paragraph 2 above shall not be exercisable except with the written consent of the drainage authority. 1936 c. 49.

4.—(1) Not less than 56 days before beginning to construct the drainage lagoon or other drainage works for the terminal area the Concessionaires shall submit to the Authority a description of the terminal area together with plans and full particulars of the drainage lagoon or such other drainage works or, as the case may be, both the lagoon and such other drainage works as they may propose for or in connection with the discharge of surface water.

(2) The said works shall not be constructed except in accordance with a specification and plans approved by the Authority or settled by arbitration and in accordance with any reasonable requirements made by the Authority for the protection from pollution of any watercourse or underground strata.

(3) The requirements which the Authority may make under sub-paragraph (2) above include the construction of such works by and at the expense of the Concessionaires as are reasonably necessary for the interception, treatment and

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disposal of any poisonous, noxious or polluting matter contained in the run-off from the terminal area.

(4) If within a period of 28 days after the submission of the specification and any plans under sub-paragraph (1) above the Authority do not inform the Concessionaires in writing that they disapprove of those plans, stating the grounds of their disapproval, they shall be treated for the purposes of this paragraph as having approved them.

5. The drainage lagoon and other works constructed by the Concessionaires for or in connection with the discharge of surface water from the terminal area shall be constructed, maintained and operated by the Concessionaires to the reasonable satisfaction of the Authority and the Authority shall be entitled by their officer to watch and inspect the same.

6. Not less than six months before commencing the construction of Works Nos. 3 and 4 and any underground ancillary works associated with those works, the Concessionaires shall, subject to any necessary consents, construct such number of observation boreholes in such positions and equipped with such monitoring equipment as the Authority may reasonably require for the purpose of monitoring the effect of any of those works on groundwater.

7. Except as otherwise agreed in writing by the Authority, the Concessionaires shall not construct buildings on, or raise the level of the surface of the ground within, so much of the site of the inland clearance depot as is within the area designated by the Authority as the 100 year flood plain of the river East Stour without providing equivalent compensatory flood storage capacity elsewhere.

8. Except as provided in paragraph 3 above, nothing in this Part of this Schedule shall prejudice or affect the provisions of any other enactment in their application to the Concessionaires and the Authority.

9. Any difference arising between the Concessionaires and the Authority under this Part of this Schedule shall be determined by arbitration.

PART IX

FURTHER PROTECTION OF THE FOLKESTONE AND DISTRICT WATER COMPANY

1. The following provisions of this Part of this Schedule shall, unless otherwise agreed in writing between the Concessionaires and the Folkestone and District Water Company (in this Part referred to as "the Company"), have effect for the further protection of the Company.

2. Part VI of this Schedule shall have effect as if references therein to apparatus of the Company included the existing drain and telecommunication line serving the Company's house at Cherry Garden.

3. No part of the access road known as Waterworks Lane in the district of Shepway (town of Folkestone) shall be stopped up under paragraph 16 of Schedule 2 to this Act until Work No. 14 has been completed and is open for use by the Company.

4.—(1) Where the Concessionaires propose to construct, as part or for the purpose of Work No. 3 or 4, any underground work within a radius of three kilometres of any of the Company's existing sources of supply, they shall take steps—

(a) to prevent or restrict the flow of water into that work from the stratum through which the work is to be constructed; and

(b) to prevent pollution of water in that stratum from the work;

and, not less than three months before beginning to construct that work, shall submit to the Company a description of the work and of the steps which they propose to take for the purposes mentioned in paragraphs (a) and (b) above.

(2) Any underground work mentioned in sub-paragraph (1) above shall not be constructed except in accordance with the descriptions submitted to, and either approved by the Company or settled by arbitration, and in accordance with any reasonable requirements made by the Company for the protection of the water which they are authorised to abstract from the source of supply in question or which has been so abstracted by them.

(3) If within the period of two months from the submission of any description of an underground work under sub-paragraph (1) above the Company do not inform the Concessionaires in writing that they disapprove of the underground work stating the grounds of their disapproval they shall be treated for the purposes of this paragraph as having approved of it.

(4) If it appears to the Company that—

(a) by reason of the construction by the Concessionaires of an underground work (whether a work such as is mentioned in sub-paragraph (1) above or not) there has been or will be a material reduction in the yield of any of the Company's existing sources of supply; or

(b) by reason of anything done or omitted by the Concessionaires, their servants or agents in relation to an underground work, either in the course of constructing it or otherwise, the water in the stratum through which the work is being or has been constructed has or will become polluted;

the Company may by notice in writing require the Concessionaires—

(i) to take such measures as are specified in the notice for the purpose of preventing or mitigating the reduction in the yield of their sources or for preventing or abating the pollution (as the case may be); or

(ii) if no measures are capable of being required for this purpose, to cease the construction of the underground work for such time as is specified in the notice.

(5) On the receipt of notice under sub-paragraph (4)(a) above the Concessionaires shall forthwith cease such construction for such period as may be agreed in writing between the Company and the Concessionaires or in default of agreement for such period as may be determined by arbitration.

(6) On the receipt of notice under sub-paragraph (4)(b) above the Concessionaires shall take the measures therein specified subject only to such modifications (if any) as may be agreed in writing between the Company and the Concessionaires.

(7) Paragraph 13 of Part VI of this Schedule shall apply to any pollution of or reduction in the yield of water from any of the Company's existing sources of supply which is within a radius of three kilometres from any underground work mentioned in sub-paragraph (1) above as it applies in relation to any damage to property of the Company, and any approval given in relation to that work under this paragraph shall not exonerate the Concessionaires from any liability to the Company under the said paragraph 13 as applied by this sub-paragraph.

5. The Company shall be entitled by their officers or agents to watch and inspect the carrying out of any work authorised by this Act which is within the limits within which the Company are for the time being authorised to supply water.

6. Any difference arising between the Concessionaires and the Company under this Part of this Schedule shall, except as otherwise provided in this Part of this Schedule, be determined by arbitration.

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PART X

PROTECTION OF TELECOMMUNICATIONS OPERATORS

1.—(1) The following provisions of this Part of this Schedule shall, unless otherwise agreed in writing between the appropriate authority and a telecommunications operator, have effect for the protection of that operator.

(2) In this Part of this Schedule "telecommunications operator" means the operator of a telecommunications code system and "telecommunication apparatus", "telecommunications code system" and "telecommunication system" have the same meanings as in Schedule 4 to the Telecommunications Act 1984.

1984 c. 12.

2.—(1) Subject to sub-paragraph (2) below, any electrical works or equipment constructed, erected, laid, maintained, worked or used under this Act shall be so constructed, erected or laid and so maintained, worked and used, and Works Nos. 3, 4 and 5 ("the railway") shall be so worked, that any electricity conveyed by, or used in, or in connection with, any such works or equipment, and tne working of the railway, does not cause avoidable interference (whether by induction or otherwise) with any telecommunication apparatus kept installed for the purposes of a telecommunications code system or the service provided by such a system.

(2) Sub-paragraph (1) above does not apply to any telecommunication apparatus kept or installed for the purposes of a telecommunication system and installed in any part of the railway.

3.—(1) Where in pursuance of paragraph 16 of Schedule 2 to this Act the appropriate authority stop up and discontinue the whole or any part of any highway the following provisions of this paragraph shall have effect in relation to so much of any telecommunication apparatus as is in the land which by reason of the stopping up ceases to be a highway or part thereof (in this paragraph referred to as "the affected apparatus").

(2) The rights of the telecommunications operator of the system for the purposes of which the apparatus is used to remove the affected apparatus shall be exercisable notwithstanding the stopping up, but those rights shall not be exercisable as respects the whole or any part of the affected apparatus after the expiration of a period of 28 days from the date of the service of the notice referred to in sub-paragraph (6) below unless, before the expiration of that period, the operator has given notice to the appropriate authority of its intention to remove the affected apparatus, or that part of it, as the case may be.

(3) The operator of the system for the purposes of which the apparatus is used may, by notice in that behalf to the appropriate authority, abandon the affected apparatus, or any part of it, and shall be deemed, as respects the affected apparatus, or any part of it, to have abandoned it at the expiration of the said period of 28 days unless, before the expiration of that period, the operator has removed it or served notice of intention to remove it.

(4) The operator of the system for the purposes of which the apparatus is used shall be entitled to recover from the appropriate authority the expense of providing, in substitution for the affected apparatus and any apparatus connected with it which is rendered useless in consequence of the removal or abandonment of the affected apparatus, telecommunication apparatus in such other place as the operator may reasonably require.

(5) Where under sub-paragraph (3) above the operator of the system for the purposes of which the apparatus is used has abandoned the whole or any part of the affected apparatus, it shall vest in the appropriate authority and shall be deemed with its abandonment to cease to be kept installed for the purposes of a telecommunications code system.

(6) So soon as practicable after the whole or any part of a highway has been stopped up under paragraph 16 of Schedule 2 to this Act the appropriate authority shall serve notice of the stopping up on any telecommunications operator which has notified the appropriate authority of its interest in the highway.

4. The powers conferred by paragraph 15 of Schedule 2 to this Act shall, so far as reasonably practicable, be so exercised as not to obstruct or render less convenient the access to any telecommunication apparatus kept installed for the purposes of a telecommunications code system.

5. The exercise of the powers conferred by paragraph 22 of Schedule 2 to this Act in relation to a highway shall not affect the rights of the operator of any telecommunications code system, for the purposes of which the apparatus is used, to maintain, inspect, repair, renew or remove telecommunication apparatus in the highway or to open or break up that highway for any of those purposes.

6.—(1) Subject to sub-paragraphs (2) and (3) below, if, by reason or in consequence of the construction of any of the works authorised by this Act or any subsidence resulting from any of those works, any damage to any telecommunication apparatus kept installed for the purposes of a telecommunications code system (other than apparatus the repair of which is not reasonably necessary in view of its intended removal), or any interruption in the service provided by that telecommunications system, shall be caused, the appropriate authority shall bear and pay the cost reasonably incurred by the telecommunications operator of that system in making good such damage or restoring that service and shall—

(a) make reasonable compensation to the operator for loss sustained by it; and

(b) indemnify the operator against claims, demands, proceedings, costs, damages and expenses which may be made, or taken against, or recovered from, or incurred by, the operator;

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

(2) Nothing in sub-paragraph (1) above shall impose any liability on the appropriate authority with respect to any damage or interruption affecting any telecommunications code system to the extent that such damage or interruption is attributable to the act, neglect or default of the operator of that system, its officers, servants, contractors or agents.

(3) The operator shall give to the appropriate authority reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the appropriate authority.

7. Any difference arising between the appropriate authority and any telecommunications operator under this Part of this Schedule shall be determined by arbitration.

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