

ELIZABETH II



1973 CHAPTER xxxii

An Act to empower the Tyneside Passenger Transport Executive to construct works and to acquire lands; to authorise the Executive to enter into agreements with the British Railways Board with respect to certain existing railways of the Board including provision for the determination of questions arising concerning the alteration, maintenance and operation thereof for rapid transit; to confer general powers upon the Executive with respect to the rapid transit railway and their general undertaking; and for other purposes.

[25th July 1973]

WHEREAS—

(1) The Tyneside Passenger Transport Executive (hereinafter referred to as "the Executive") were established under the Transport Act 1968 as the Passenger Transport Executive for the area designated by the Tyneside Passenger Transport Area (Designation) Order 1969, later extended by the Tyneside Passenger Transport (Designation of Additional Area) Order 1973, comprising the city and county of Newcastle upon Tyne; the county boroughs of Gateshead, South Shields, Sunderland and Tynemouth; in the administrative county of Durham, the borough of Jarrow and the urban districts of Blaydon, Boldon, Felling, Hebburn, Ryton and Wickham; and, in the administrative

county of Northumberland, the boroughs of Wallsend and Whitley Bay, the urban districts of Gosforth, Longbenton, Newburn and Seaton Valley, the parishes of Brunswick, Dinnington, Hazlerigg, Heddon-on-the-Wall, North Gosforth, Ponteland and Woolsington in the rural district of Castle Ward and the parish of Wylam in the rural district of Hexham:

(2) It is the general duty of the Executive under the said Act of 1968 to secure or promote the provision of a properly integrated and efficient system of public passenger transport to meet the needs of their area:

(3) A comprehensive study of land use and transport requirements has been made and the principal recommendations resulting from this study, known as the Tyne-Wear Plan, for the improvement of public transport in the Executive's area have been approved by each of the local planning authorities in that area and by the Tyneside Passenger Transport Authority:

(4) It is expedient that provision should be made in accordance with those recommendations for the conversion, by arrangement between the Executive and the British Railways Board, of certain existing railways, including the railways known as the North Tyne Loop, the South Shields Branch and part of the Gosforth and Ponteland Light Railway for operation as a rapid transit system of transport, and for the linking, alteration and extension of those railways by means of the works authorised by this Act to form a single rapid transit system to meet the needs for public passenger transport in the Executive's area in conjunction with integrated bus services:

(5) It is accordingly expedient that the Executive should be empowered to construct the works authorised by this Act and to acquire or use the lands referred to in this Act and that the other powers in this Act should be conferred upon the Executive:

(6) It is expedient that the other provisions in this Act should be enacted:

(7) The purposes of this Act cannot be effected without the authority of Parliament:

(8) Plans and sections showing the lines or situations and levels of the works to be constructed under the powers of this Act and plans of the lands authorised to be acquired by this Act, and a book of reference to such plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands, were duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office, House of Commons, with the clerks of the county councils of the administrative counties of Durham and Northumberland, with the town clerk of the city and county of Newcastle upon Tyne and with the town clerks of the county boroughs of Gateshead,

South Shields and Tynemouth, which plans, sections and book of reference are respectively referred to in this Act as “ the deposited plans ”, “ the deposited sections ” and “ the deposited book of reference ”:

(9) An alteration having been made since the plans and sections were so deposited in the work to be constructed under this Act comprising a widening of the bridge carrying the railway between Kenton Bank Foot and South Gosforth over Wansbeck Road, a plan and section of the said work as so altered have been deposited in the office of the Clerk of the Parliaments and in the Private Bill Office, House of Commons, and with the clerk of the county council of the administrative county of Northumberland, which plan and section are in this Act respectively referred to as “ the substituted plan ” and “ the substituted section ”:

May it therefore please Your Majesty that it may be enacted, and 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

1. This Act may be cited as the Tyneside Metropolitan Railway Short title. Act 1973.

2. This Act is divided into Parts as follows:—

Part I.—Preliminary.

Part II.—Works.

Part III.—Lands.

Part IV.—Protective provisions.

Part V.—Miscellaneous and general.

Division of
Act into
Parts.

3.—(1) In this Act, unless the context otherwise requires, the Interpretation. several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated herewith have, in relation to the relative subject-matter, the same respective meanings, and—

“ the Act of 1845 ” means the Railways Clauses Consolidation 1845 c. 20. Act 1845;

“ the Act of 1863 ” means the Railways Clauses Act 1863; 1863 c. 92.

“ the Act of 1965 ” means the Compulsory Purchase Act 1965 c. 56. 1965;

PART I
—cont.

“ the authorised works ” means the works authorised by this Act;

“ enactment ” means any enactment, whether public general or local, and includes any order or byelaw having effect by virtue of an enactment;

“ the Executive ” means the Tyneside Passenger Transport Executive;

“ existing ” means existing at the commencement of this Act;

“ Gateshead ” means the county borough of Gateshead;

“ Gateshead Corporation ” means the mayor, aldermen and burgesses of the county borough of Gateshead;

“ highway authority ” means—

(a) in the case of trunk roads, the Secretary of State or, with his consent, the authority who are for the time being acting as his agent under the Highways Act 1959 with respect to that road;

(b) in the case of other highways, the local highway authority and includes, in the case of such other highways which are not classified roads, the local authority for the district in which the highway is situated;

“ land ” includes land covered by water, any interest in land and any easement or right in, to or over land;

“ the limits of deviation ” means the limits of deviation shown on the deposited plans;

“ Newcastle ” means the city and county of Newcastle upon Tyne;

“ the Newcastle and Gateshead railways ” mean Works Nos. 1 to 5 authorised by this Act and all works and conveniences connected therewith;

“ Newcastle Corporation ” means the lord mayor, aldermen and citizens of the city and county of Newcastle upon Tyne;

“ the port authority ” means the Port of Tyne Authority;

“ the railways board ” means the British Railways Board;

“ the rapid transit railway ” means the system of railways comprising—

(a) the existing railway of the railways board between Heaton Junction and Jesmond Station both in Newcastle, through Tynemouth and Whitley Bay,

comprising part of the railway known as the North Tyne Loop and the railway (Work No. 7) authorised by this Act;

(b) all or part of the existing light railway of the railways board between the former Kenton Bank Foot Station in the rural district of Castle Ward in the county of Northumberland and South Gosforth Station in the urban district of Gosforth in the said county;

(c) the Newcastle and Gateshead railways authorised by this Act;

(d) all or part of the existing railway of the railways board between Old Fold in Gateshead and Tyne Dock in South Shields and the railway (Work No. 8) authorised by this Act; and

(e) all or part of the railway between South Shields and Tyne Dock (Work No. 10) authorised by this Act;

and includes all works and conveniences provided in connection with the said railways, as existing, altered or constructed (as the case may be) from time to time;

“the river” means the river Tyne and, where the context so admits, includes the bed and shores of the river Tyne within the jurisdiction of the port authority;

“river work” means any work authorised by this Act in, on, over or under the river;

“South Shields” means the county borough of South Shields;

“South Shields Corporation” means the mayor, aldermen and burgesses of the county borough of South Shields;

“telegraphic line” has the same meaning as in the Telegraph Act 1878;

1878 c. 76.

“the tribunal” means the Lands Tribunal;

“Tynemouth” means the county borough of Tynemouth;

“Tynemouth Corporation” means the mayor, aldermen and burgesses of the county borough of Tynemouth; and

“the underground railways” means such portions of the Newcastle and Gateshead railways, and any necessary works and conveniences connected therewith, as are constructed in tunnel in such manner as does not necessitate the cutting through or removal of the surface soil.

PART I
—cont.

1968 c. 73.

(2) In this Act references to the area of the Executive are references to the area of the Executive for the time being designated, or deemed to be designated, under section 9 of the Transport Act 1968.

(3) In this Act references to the Secretary of State are references to the Secretary of State responsible for transport industries and highways, except that in the following provisions of this Act such references are references to the Secretary of State responsible for shipping and industry:—

Paragraph (8) of section 10 (Provisions as to use of electrical energy);

Proviso (b) to subsection (1) of section 12 (Subsidiary works in river and elsewhere);

Section 41 (River work to be subject to approval of Secretary of State);

Section 43 (Abatement of river work abandoned or decayed);

Section 44 (Survey of river work);

Section 46 (Lights on river work during construction);

Paragraph (3) (e) and paragraph (4) of section 48 (For protection of Port of Tyne Authority and river users);

and in subsection (8) of section 55 (Removal of human remains) of this Act such reference is a reference to the Secretary of State responsible for home affairs.

(4) Any reference in this Act to the deposited plans and sections shall, in relation to the widening of the bridge carrying the railway between Kenton Bank Foot and South Gosforth over Wansbeck Road authorised by paragraph (7) of section 13 (Further works and powers) of this Act, be construed as a reference to the substituted plan and the substituted section.

(5) (a) Except as mentioned in paragraph (b) of this subsection, all distances and lengths stated in any description of works, powers or lands shall be construed as if the words “or thereabouts” were inserted after each such distance and length, and distances between points on a railway shall be taken to be measured along the railway.

(b) This subsection does not apply to distances or lengths stated in the following provisions of this Act:—

Paragraph (3) (c) of section 8 (General provisions as to construction of underground railways);

Section 11 (General provisions as to construction of Tyne bridge);

PART I
—cont.

Proviso (c) to subsection (1) of section 12 (Subsidiary works in river and elsewhere);

Subsection (3) of section 33 (Only subsoil or easements to be acquired under certain lands);

Paragraphs (3) and (4) of section 50 (As to highways, traffic, etc.);

Proviso to paragraph (6) of section 53 (For protection of certain statutory undertakers).

(6) Unless the context otherwise requires, any reference in this Act to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Act.

(7) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by, or by virtue of, any subsequent enactment, including this Act.

4. The following enactments, in so far as they are applicable for the purposes of this Act and are not inconsistent with, or varied by, the provisions thereof, are incorporated with, and form part of, this Act, and this Act shall be deemed to be the special Act for the purposes of the said incorporated enactments:—

Incorporation
of Railways
Clauses Acts.

The Act of 1845 (except sections 7, 8, 9, 11, 12, 13, 17, 19, 20, 22 and 23 thereof) and Part I of the Act of 1863 (except sections 13, 14, 18 and 19):

Provided that—

(i) for the purposes of the provisions of the Act of 1845 and the Act of 1863, as incorporated with this Act, the expression “the company”, where used in the said incorporated provisions, means the Executive;

(ii) the provisions of sections 18 and 21 of the Act of 1845 shall not extend to regulate the relations between the Executive and any other person in respect of any matter or thing concerning which those relations are regulated in any respect by the provisions of—

(a) Part II of the Public Utilities Street Works Act 1950; or

1950 c. 39.

(b) section 53 (For protection of certain statutory undertakers) of this Act;

PART I
—cont.

1968 c. 73.

(iii) the provisions of section 46 of the Act of 1845 shall have effect subject to the provisions of sections 116 and 117 of the Transport Act 1968, as having effect in accordance with the provisions of section 18 (Provisions as to repair of streets, footpaths, etc.) of this Act.

Application
of Part I of
Act of 1965.

1946 c. 49.

5.—(1) Part I of the Act of 1965 (except sections 4, 24 (5) and 27 thereof and paragraph 3 (3) of Schedule 3 thereto), in so far as it is applicable for the purposes of this Act and is not inconsistent with, or varied by, the provisions thereof, shall apply to the compulsory acquisition of land under this Act as it applies to a compulsory purchase to which Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946 applies, and as if this Act were a compulsory purchase order under the said Act of 1946.

(2) Section 11 (1) of the Act of 1965 (which relates to notice of entry), as so applied, shall have effect as if for the word “fourteen” there were substituted, in respect of the lands referred to in Schedule 4 to this Act, the words “twenty-eight” and, in the case of any other lands, the words “ninety-one”.

1845 c. 18.

(3) The Lands Clauses Consolidation Act 1845 shall not apply to the acquisition of land under this Act.

PART II

WORKS

Power to
make works.

6.—(1) Subject to the provisions of this Act, the Executive may, in the lines or situations shown on the deposited plans and according to the levels shown on the deposited sections, make and maintain the works hereinafter described, with all necessary works and conveniences connected therewith:—

In the city and county of Newcastle and the county borough of Gateshead—

(Railway at
Newcastle:
Gallowgate to
Heaton).

Work No. 1 A railway (4,134 metres in length), including a bridge and viaduct, wholly in Newcastle, commencing at a point 28 metres west of the junction of Pitt Street with Wellington Street and terminating by a junction with the railway between Heaton and Walkergate at a point 230 metres east of the bridge carrying Chillingham Road over the said railway, the said bridge carrying Argyle Street over the intended railway and the said viaduct passing over Ouse Burn and the Riverside Loop Railway of the railways board from a point 42 metres west of Stepney Road to a point 54 metres east of the former Dalton Street:

PART II
—cont.

Work No. 2 A railway (2,387 metres in length), wholly in Newcastle, commencing by a junction with the railway between West Jesmond and Jesmond at a point 78 metres north of the junction of Osborne Road with Fernwood Road and terminating at a point 61 metres north-west of the junction of Close with Hanover Street: (Railway at Newcastle: Jesmond to river Tyne).

Work No. 3 A bridge over the river and a railway (367 metres in length), partly in Newcastle and partly in Gateshead, commencing by a junction with Work No. 2 at the termination thereof and terminating by a junction with Work No. 4 at the commencement thereof: (Bridge over river Tyne and railway).

Work No. 4 A railway (1,663 metres in length), wholly in Gateshead, including an interchange between road and rail traffic and a bus station between Ellison Street West and West Street, the said railway commencing at a point 165 metres north-east of the junction of Pipewellgate with Rabbit Banks Road and terminating by a junction with the railway between Gateshead East and Felling at a point 12 metres north-west of the bridge carrying St. James Road over the said railway: (Railway at Gateshead: river Tyne to Old Fold).

Work No. 5 A subway (54 metres in length) under Neville Street and Grainger Street, wholly in Newcastle, commencing at a point in Grainger Street 10 metres north of the junction of that street with Neville Street and terminating on the centre line of Work No. 2 at a point 36 metres south of the said junction of Grainger Street with Neville Street. (Subway at Central Station Newcastle).

In the county borough of Tynemouth—

Work No. 6 A railway (637 metres in length), commencing by a junction with the railway between Willington Quay and Percy Main at a point at the north-eastern end of the bridge carrying the said railway over the Tyne Tunnel approach road (A108) and terminating by a junction with the railway between East Howdon and High Flatworth at a point 115 metres north of the bridge carrying the last-mentioned railway under the railway between Howdon and North Shields: (Railways and bridge at Percy Main).

Work No. 7 A railway (280 metres in length), including a bridge, commencing by a junction with the said railway between Howdon and North Shields at a point 120 metres east of Brewers Lane Bridge and terminating by a junction with that railway at a

PART II
—cont.

point 12 metres west of the western end of Percy Main Station, the said bridge passing over the railway (Work No. 6).

In the urban district of Felling in the county of Durham—

(Railway and viaduct at Pelaw).

Work No. 8 A railway (1,061 metres in length), including a viaduct, commencing by a junction with the railway between Felling and Hebburn at a point 78 metres west of Green Lane Bridge and terminating by a junction with the said railway at a point 113 metres south of the junction of Hartforth Crescent with Richmond Road, the said viaduct passing over the railway between Central Station, Newcastle, and Sunderland:

(Interchange at Heworth).

Work No. 9 An interchange between road and rail traffic at Heworth near the junction of Shields Road with the road from Newcastle to Sunderland (A184) (hereafter in this section referred to as "the A184"), including a bus station, road vehicle lay-byes and car parks:

Work No. 9A A widening and improvement of the road known as Ellison Main Gardens, forming part of Work No. 9, including a widening of the bridge carrying that road over the railway between Felling and Pelaw, commencing at the junction of Ellison Main Gardens with Sunderland Road and terminating by a junction with the A184 115 metres north-west of the centre of the roundabout forming the said junction of Shields Road with the A184:

Work No. 9B A new road, including an underpass, forming part of Work No. 9, commencing by a junction with Work No. 9A 175 metres from the point of commencement thereof and terminating in an intended car park at a point 102 metres north-west of the centre of the said roundabout, the said underpass passing under the A184.

In the county borough of South Shields—

(Railway, viaduct and bridge works at South Shields).

Work No. 10 A railway (2,932 metres in length), including a viaduct and the widening of four bridges, commencing at a point 30 metres south of the southern end of the bridge carrying the railway between South Shields and Tyne Dock over King Street and terminating by a junction with the railway between Tyne Dock and Jarrow at a point 190 metres south of the southern end of the bridge carrying that railway over Boldon Lane, the said viaduct passing over Crossgate and the mineral railway of the National

Coal Board between St. Hilda's Sidings and Westoe Colliery, one such bridge widening being a widening of the bridge carrying the railway between South Shields and Tyne Dock over Smithy Street, one such bridge widening being a widening of the bridge carrying the last-mentioned railway over Keppel Street, one such bridge widening being a widening of the bridge carrying the mineral railway of the National Coal Board between St. Hilda's Sidings and Deans Sidings over Victoria Road, and the last such bridge widening being a widening of the bridge carrying the railway between Green Lane Sidings and Tyne Dock over Boldon Lane:

PART II
—cont.

Work No. 10A A new street and bridge, the said street commencing in Laygate at a point immediately west of the junction of Beaufront Terrace with Laygate and terminating in Chichester Road at the junction of Chichester Place with that road, and the said bridge passing over the railway (Work No. 10) and the last-mentioned mineral railway of the National Coal Board:

Work No. 10B A new street and bridge, the said street commencing in Dean Road at the junction of Beaufront Terrace with that street and terminating in Dean Road at a point 20 metres north-east of the junction of Ravensworth Terrace with that street, and the said bridge passing over the railway (Work No. 10) and the last-mentioned mineral railway of the National Coal Board.

In the urban district of Longbenton in the county of Northumberland—

Work No. 11 An interchange between road and rail (Interchange traffic at Four Lane Ends near the junction of Front Street with Benton Lane, including a bus station, road vehicle lay-byes, car parks and a pedestrian subway: at Four Lane Ends).

Work No. 11A A new road and bridge, forming part of Work No. 11, the said road commencing by a junction with Benton Lane 235 metres north-west of the said junction of Front Street with Benton Lane and terminating by a junction with Benton Lane 75 metres north-west of the said junction of Front Street with Benton Lane, and the said bridge passing over the railway between Longbenton and Benton 59 metres north-east of the bridge carrying Benton Lane over that railway:

Work No. 11B A link road, forming part of Work No. 11, commencing by a junction with Work No. 11A 91 metres north-east of the said junction of Front

PART II
—cont.

Street with Benton Lane and terminating by a junction with Front Street 77 metres east of the said junction of Front Street with Benton Lane:

Work No. 11c A new road and bridge, forming part of Work No. 11, the said road commencing by a junction with Work No. 11A at a point 46 metres from the commencement of that work and terminating by a junction with work No. 11A 105 metres north-east of the said junction of Front Street with Benton Lane and the said bridge passing over the railway between Longbenton and Benton 27 metres north-east of the said bridge carrying Benton Lane over that railway.

In the urban district of Gosforth in the county of Northumberland—

(Interchange
at Regent
Centre).

Work No. 12 An interchange between road and rail traffic at Regent Centre near the former West Gosforth Station, including a bus station, road vehicle lay-byes and car parks:

Work No. 12A A widening and improvement of Great North Road on both sides of that road, including the provision of reserved bus carriageways and a widening of the bridge carrying Great North Road over the railway between West Gosforth and South Gosforth, forming part of Work No. 12, commencing 50 metres south of the junction of Knightsbridge with Great North Road and terminating at the junction of Christon Road with Great North Road:

Work No. 12B A new road and two bridges, forming part of Work No. 12, the said road commencing in Great North Road at a point 66 metres south of the junction of Knightsbridge with that road and terminating at the junction of Hollywood Avenue with Great North Road, one such bridge passing over the railway between West Gosforth and South Gosforth 46 metres west of the bridge carrying Great North Road over that railway, and the other such bridge passing over that railway 14 metres east of the said bridge carrying Great North Road over that railway:

Work No. 12c A subway, forming part of Work No. 12, passing under Great North Road commencing at a point 96 metres north of the junction of Regent Farm Road with Great North Road and terminating at a point 134 metres north of the junction of Christon Road with Great North Road.

(2) Nothing in Part IV of the Town and Country Planning Act 1971 shall prevent the removal for the purposes of, or in connection with, the construction of the railway (Work No. 2)

of the structure known as the South African War Memorial included in a list compiled or approved by the Secretary of State under section 54 of that Act situated in the lands shown on the deposited plans numbered 92 in Newcastle.

PART II
—cont.

(3) Subject to the provisions of section 49 (For protection of National Coal Board) of this Act, the railway (Work No. 10) shall include such a line or lines of railway as may be determined in accordance with those provisions in substitution for the existing mineral railway of the National Coal Board in the county borough of South Shields between the bridge carrying that railway over Victoria Road and the junction of that railway with the existing railway of the railways board at Tyne Dock.

(4) The Executive shall construct good and sufficient fences on each side of any bridge forming part of Works Nos. 1, 10A, 10B, 11A, 11C or 12B and on the side of any bridge in respect of which a widening is carried out in pursuance of the bridge widenings forming part of Works No. 9A or 12A.

7. In the execution of the authorised works, or any part thereof, the Executive may deviate from the lines or situations thereof shown on the deposited plans to the extent of the limits of deviation, and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding 3 metres upwards and to such extent downwards as may be found necessary or convenient.

8. The following provisions shall apply to the construction of the underground railways:—

(1) The underground railways shall be constructed in separate tunnels for up and down traffic except at cross-overs, sidings and junctions where they may be constructed in single tunnels of enlarged dimensions:

General provisions as to construction of underground railways.

(2) The underground railways shall be approached by means of stairs, inclines, subways, electric or other lifts or escalators or moving pavements:

(3) (a) The tunnels of the underground railways (including the tunnels for stations forming part of those railways) shall be lined throughout with iron or other sufficient metal plates or with concrete or other suitable material;

(b) Every permanent shaft shall be constructed either by underpinning or by sinking and shall be lined with cast iron, brick, concrete or other equally suitable and durable material;

(c) The station tunnels of the underground railways shall have an internal height or diameter not exceeding

PART II
—cont.

9 metres; the cross-over, siding and junction tunnels shall have an internal height or diameter not exceeding 12 metres; the tunnels between the stations (except at cross-overs and junctions or where necessary for adjustment at curves or for other constructional purposes) shall have an internal height or diameter not exceeding 5 metres; the tunnels and shafts for stairs, inclines, subways, escalators and moving pavements shall have an internal height or diameter not exceeding 10 metres; and other shafts shall have an internal diameter not exceeding 12 metres;

(d) Any space between the lining of the tunnels (including station, cross-over, siding and junction tunnels) or shafts and the surrounding soil shall be properly filled up with suitable grouting material placed therein under pressure:

(4) If water is found to be present in the construction of the underground railways in such quantity as to necessitate the employment of compressed air, the Executive shall stop all excavating work at the point where the same is so found, and the further driving of the tunnels at the working face at that point, until air-compressing machinery shall have been provided to produce such a pressure of air as will prevent the inflow of any sand, water, gravel or soil, and such machinery shall be maintained in full working order, and the work at such working face carried on under compressed air, so long as may be necessary; alternatively, instead of the work being carried on under compressed air, the Executive may, in any case where it is expedient to staunch or limit any inflow of sand, water, gravel or soil into the tunnels, use chemicals to secure consolidation of the ground or may apply a freezing process for the freezing of the subsoil until the lining of the tunnel is fully erected or secured.

Plans, etc., to be approved by Secretary of State before works commenced.

9. The Executive shall from time to time submit for the approval of the Secretary of State plans, sections and other details of their proposals with respect to—

- (a) permanent-way, tunnels, platforms, stairs, lifts, escalators, moving pavements and other communications;
- (b) rolling stock;
- (c) lighting; and
- (d) ventilation;

and any rolling stock and work included in the said proposals shall be constructed and maintained only in accordance with plans, sections and other details approved by the Secretary of State.

PART II
—cont.

10. The following provisions shall apply to the use of electrical energy for the purposes of the rapid transit railway:—

- Provisions
as to use of
electrical
energy.
- (1) The Executive shall employ either insulated returns or uninsulated metallic returns of low resistance:
 - (2) The Executive shall take all reasonable precautions in constructing, placing and maintaining their electric lines and circuits and other works of all descriptions, and also in working the rapid transit railway, so as to prevent the discharge of electrical currents into the ground and so as not injuriously to affect by fusion or electrolytic action any gas, water or hydraulic power pipes, electric lines or other metallic pipes, structures or substances, or to interfere with, or with the working of, any wire, line or apparatus from time to time used for the purpose of transmitting electrical energy or of telegraphic, telephonic or electric signalling communication or the currents in such wire, line or apparatus:
 - (3) The electrical energy shall be used only in accordance with the regulations hereinafter referred to, and in such regulations provision shall be made for preventing fusion and injurious electrolytic action of or on gas, water or hydraulic power pipes, electric lines or other metallic pipes, structures or substances and for minimising so far as is reasonably practicable injurious interference with, and with the working of the electric wires, lines and apparatus of other persons, and the currents therein, whether such lines do, or do not, use the earth as a return:
 - (4) The Executive shall be deemed to take all reasonable and proper precautions against interference with, or with the working of, any wire, line or apparatus if and so long as they adopt and employ, at the option of the Executive, either such insulated returns, or such uninsulated metallic returns of low resistance and such other means of preventing injurious interference with, and with the working of the electric wires, lines and apparatus of other persons, and the currents therein, 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 section shall not operate to 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 and apparatus all reasonable and proper precautions, including the use of an insulated return,

PART II
—cont.

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 Executive and any other person with respect to anything in the foregoing provisions of this section, 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 regulations hereinbefore mentioned are any regulations made by the Secretary of State for the time being in force with respect to the railways comprised in the rapid transit railway, which regulations the Secretary of State is hereby authorised to make:
- (8) In this section reference to an insulated return includes 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:
- (9) The foregoing provisions so far as they apply to, or in respect of, any telegraphic line belonging to, or used by, the Post Office, or to communication by means of, or currents in, any such line, shall have effect subject to the provisions of paragraphs (1) to (3) of section 54 (For protection of Post Office) of this Act.

General provisions as to construction of Tyne bridge.

11. Notwithstanding the provisions of section 7 (Power to deviate) of this Act, in the construction of the bridge (Work No. 3)—

- (a) the piers in the river carrying the bridge shall be so placed that, on the centre line of the bridge as constructed, they shall be on the landward sides of the deep water quay or river lines of the port authority (as prescribed at 25th October, 1972) and any permanent fenders attached to the piers shall not extend more than one metre riverwards from the said deep water quay or river lines;
- (b) the bridge between the said piers shall be so constructed as to leave a headway thereunder of not less than 24.79 metres above the level of mean high-water springs;
- (c) the bridge shall be so constructed as to permit the river being dredged to provide a depth of not less than 10.05 metres at mean low-water springs along each of the said piers on the side nearest to the centre of the river.

12.—(1) Without prejudice to the powers conferred by the provisions of the Act of 1845 and the Act of 1863 incorporated with this Act, the Executive may, in connection with, and at or near, any river work, construct, place and maintain in the river and elsewhere within the limits of deviation, either permanently or temporarily, all such caissons, cofferdams, piles, piers, abutments, embankments, approaches, ways, access works, pumping works, wharves, walls, fences, drains, sewers, tunnels, fenders, mooring posts, bollards, booms, dolphins, pontoons, stagings, stairs, subways, buildings and other works and conveniences as they may find necessary or expedient for, or in connection with, the construction, maintenance or use of any river work:

Provided that—

- (a) the Executive shall ensure that any works constructed, placed or maintained under this section shall not unnecessarily narrow or obstruct the navigable waterway of the river, or otherwise unnecessarily interfere with or impede navigation, or unnecessarily obstruct the flow of water or the passage of fish;
- (b) no materials which have been excavated shall be deposited in any place below the level of mean high-water springs except after consultation with the port authority and in such a position and under such conditions and restrictions, as may be determined by the Secretary of State;
- (c) no fixed temporary works shall be placed in the river under this section so as to reduce the navigable waterway of the river between the deep water quay or river lines of the port authority (as prescribed at 25th October, 1972) by more than 10 metres.

(2) The Executive may occupy and use temporarily so much of the banks, bed and foreshores of the river as may be required for the purposes referred to in subsection (1) of this section and as lies within the limits of deviation.

(3) (a) The Executive may, with the consent of the port authority, which consent shall not be unreasonably withheld, and subject to such reasonable conditions as that authority may impose, for the purpose of the construction, maintenance or use of any river work, moor or anchor temporarily, or cause to be moored or anchored temporarily, vessels, barges, lighters or other craft in the river.

(b) Any difference arising between the Executive and the port authority under this subsection shall be determined by arbitration as if it were a difference arising under section 48 (For protection of Port of Tyne Authority and river users) of this Act.

(4) On the completion of the bridge (Work No. 3) the Executive shall remove all temporary works placed by them in the river under this section and shall, at their own expense, keep repaired any other works placed by them in the river under this section.

PART II
—cont.Further works
and powers.

13. Subject to the provisions of this Act (and, in so far as the same are shown on the deposited plans and sections, in the lines or situations, and according to the levels, so shown) the Executive may make and maintain the further works described in this section, with all necessary works and conveniences connected therewith, and may exercise the powers hereinafter mentioned:—

(1) In the city and county of Newcastle upon Tyne—

(a) they may stop up and discontinue so much of the street known as Northumberland Court and numbered 141 on the deposited plans as lies between the points marked “A” and “B” thereon and substitute therefor a new street between the points marked “B” and “C” on the sheet numbered 13 in the said plans;

(b) they may stop up and discontinue—

(i) so much of the street known as Back Argyle Street and numbered 409 on the deposited plans as lies between the points marked “D” and “E” thereon;

(ii) the street known as Stokoe Street and numbered 412 on the deposited plans;

(iii) the street known as Argyle Terrace and numbered 423 on the deposited plans;

(iv) the street known as Argyle Place and numbered 429 on the deposited plans;

(c) they may stop up and discontinue so much of the street known as Stephen Street and numbered 616 on the deposited plans as lies between the points marked “F” and “G” thereon and substitute therefor a new street between the points marked “G” and “H” thereon;

(d) they may stop up and discontinue—

(i) so much of the street known as Back Shields Road West and numbered 627 on the deposited plans as lies between the points marked “J” and “K” thereon;

(ii) so much of the unnamed street numbered 632 on the deposited plans as lies between the points marked “K” and “L” thereon;

(iii) so much of the street known as Back Byker Bank and numbered 666 on the deposited plans as lies between the points marked “M” and “N” thereon;

(iv) the street known as Clive Terrace and numbered 675 on the deposited plans;

(v) so much of the street known as Albion Row and numbered 680 on the deposited plans as lies between the points marked " P " and " Q " thereon;

(vi) so much of the street known as Dalton Street and numbered 683 on the deposited plans as lies between the points marked " R " and " S " thereon;

(vii) so much of the street known as Brinkburn Street and numbered 690 on the deposited plans as lies within the limits of deviation;

(viii) so much of the street known as Raby Street and numbered 693 on the deposited plans as lies within the limits of deviation;

(ix) so much of the street known as Warkworth Street and numbered 696 on the deposited plans as lies within the limits of deviation;

(x) so much of the street known as Back Headlam Street forming part of the lands numbered 698 on the deposited plans as lies within the limits of deviation;

(xi) so much of the street known as Headlam Street and numbered 699 on the deposited plans as lies within the limits of deviation;

(xii) so much of the street known as Potts Street and numbered 704 on the deposited plans as lies within the limits of deviation;

(xiii) so much of the street known as Back Union Road as lies between Potts Street and Bamborough Street and numbered 709 on the deposited plans;

(xiv) the unnamed street between Union Road and Fossway and numbered 725 on the deposited plans;

(xv) so much of the street known as Bamborough Street and numbered 714 on the deposited plans as lies within the limits of deviation;

(e) they may stop up and discontinue—

(i) so much of the street known as Back Chillingham Road and numbered 746 on the deposited plans as lies between the points marked " T " and " U " thereon;

(ii) so much of the street known as Back Shields Road and numbered 759 on the deposited plans as lies within the limits of deviation;

(iii) so much of the street known as Chapman Street and numbered 766 on the deposited plans as lies between the points marked " V " and " W " thereon;

PART II
—cont.

(iv) so much of the street known as Back Chapman Street and numbered 778 on the deposited plans as lies between the points marked "U" and "X" thereon;

(f) they may stop up and discontinue so much of the link road between Percy Street and Northumberland Street and numbered 103 on the deposited plans as lies between the points marked "Y" and "Z" thereon;

(g) they may construct a new footpath and foot-bridge (with good and sufficient fences) over the railway between West Jesmond and Jesmond at Osborne Road between the points marked "AA" and "BB" on the deposited plans;

(h) they may make alterations to the embankments of the railway between Gosforth and West Jesmond at Ilford Road between the points marked "CC" and "DD" on the deposited plans:

(2) In the county borough of Gateshead—

(a) they may stop up and discontinue so much of the street known as Rabbit Banks Road and numbered 6 on the deposited plans as lies between the points marked "A" and "B" thereon;

(b) they may stop up and discontinue—

(i) so much of the street known as Wylam Street and numbered 20 on the deposited plans as lies between the points marked "C" and "D" thereon;

(ii) so much of the street known as Back Bensham Road and numbered 25 on the deposited plans as lies between the points marked "E" and "F" thereon;

(iii) so much of the street known as Hector Street and numbered 38 on the deposited plans as lies between the points marked "G" and "H" thereon;

(iv) so much of the street known as Back West Street and numbered 45 on the deposited plans as lies between the points marked "J" and "K" thereon;

(c) they may stop up and discontinue so much of the street known as Chaucer Street and numbered 126 on the deposited plans as lies between the points marked "L" and "M" thereon:

(3) In the county borough of Tynemouth—

they may stop up and discontinue so much of the road known as Brewers Lane and numbered 5 on the deposited plans as lies between the points marked “ A ” and “ B ” and “ A ” and “ C ” thereon:

(4) In the urban district of Felling, in the county of Durham—

(a) they may stop up and discontinue so much of the footpath at Pelaw Station south of and adjoining the railway between Pelaw and Boldon and numbered 4 on the deposited plans as lies between the points marked “ A ” and “ B ” thereon and substitute therefor a new footpath between the same points;

(b) they may stop up and discontinue so much of the footpath at Pelaw Station north of and adjoining the said railway between Pelaw and Boldon and forming part of the lands numbered 1 on the deposited plans as lies between the points marked “ C ” and “ D ” and “ D ” and “ E ” thereon and substitute therefor a new footpath between the points marked “ C ” and “ F ” and “ F ” and “ E ” thereon;

(c) they may stop up and discontinue so much of the street known as Station Road and numbered 19 on the deposited plans as lies between the points marked “ F ” and “ D ” thereon and substitute therefor a footpath, including a subway for pedestrians, between the same points:

(5) In the county borough of South Shields—

(a) they may stop up and discontinue the footpath between Bedford Avenue and Victoria Road forming part of the lands numbered 61 on the deposited plans and substitute therefor a new footpath between the points marked “ A ” and “ B ” thereon;

(b) they may stop up and discontinue—

(i) so much of the street known as Laygate and numbered 47 on the deposited plans as lies between the points marked “ C ” and “ D ” thereon;

(ii) so much of the street known as Chichester Place and numbered 106 on the deposited plans as lies within the limits of deviation;

(iii) so much of the street known as Dean Road (otherwise known as Dean Street) and numbered 43 on the deposited plans as lies between the points marked “ E ” and “ F ” thereon:

PART II
—cont.

- (6) In the urban district of Longbenton, in the county of Northumberland—

they may stop up and discontinue so much of the footpath between Skelder Avenue and Benton Lane and numbered 14 on the deposited plans as lies between the points marked “A” and “B” thereon:

- (7) In the urban district of Gosforth, in the county of Northumberland—

they may widen on both sides thereof the bridge carrying the railway between Kenton Bank Foot and South Gosforth over Wansbeck Road:

- (8) In the borough of Wallsend, in the county of Northumberland—

(a) they may alter the embankments of the railway at Wallsend Station between the points marked “AA” and “BB” on the deposited plans;

(b) they may widen the bridge carrying the railway between Walkergate and Hadrian Road over Park Road;

(c) they may construct new station platforms and alter the level of existing station platforms at Howdon Station:

- (9) In the urban district of Seaton Valley, in the county of Northumberland—

they may construct a new footpath and footbridge (with good and sufficient fences) over the railway between Benton and West Monkseaton together with a bus lay-bye at Shiremoor between the points marked “AA” and “BB” on the deposited plans.

Power to
open surface
of highways.

14.—(1) Subject to the provisions of this Act, the Executive may—

(a) for the purpose of constructing the authorised works, enter upon, open, break up, and interfere with, the surface of so much as is within the limits of deviation of the streets referred to in column (1) of Schedule 1 to this Act and marked with the letter “x” in column (2) thereof, and so much of any bridleway or footpath as is within the limits of deviation;

(b) for the purpose of providing access to the authorised works, make and maintain permanent openings in the carriageways and footways of so much as is within the limits of deviation of the streets referred to in column (1) of the said Schedule 1 and marked with the letter “y” in column (2) thereof.

(2) Not less than 28 days before entering upon, opening, breaking up or interfering with the surface of any street to which

subsection (1) (a) of this section applies the Executive shall post notices stating their intention to do so in conspicuous positions at each end of the part of the street so affected.

15.—(1) During and for the purpose of the execution of the authorised works the Executive may temporarily stop up and divert, and interfere with, so much as is within the limits of deviation of the streets referred to in column (1) of Schedule 1 to this Act and marked with the letter “z” in column (2) thereof, and so much of any bridleway or footpath as is within the limits of deviation; and the Executive may, for any reasonable time, divert the traffic therefrom and prevent all persons other than those bona fide going to or from any land, house or building abutting on the said part of the street, bridleway or footpath from passing along and using the same. Temporary stoppage of highways.

(2) The Executive shall provide reasonable access for foot passengers bona fide going to or from any such land, house or building.

16.—(1) Where by this Act the Executive are authorised to stop up a street, bridleway or footpath, or portion thereof, without providing a substitute, such stopping up shall not take place (except as to so much of the street, bridleway or footpath, or portion thereof, authorised to be stopped up as is situated upon, or bounded on both sides by, property of which the Executive are in possession) without the consent of the owners, lessees and occupiers of the houses and lands abutting on both sides of the street, bridleway or footpath, or portion thereof, as the case may be. Stopping up of highways without providing substitute.

(2) After such stopping up all rights of way over or along the street, bridleway or footpath, or portion thereof, authorised to be stopped up shall be extinguished and the Executive may, subject to the provisions of this Act and of the Act of 1845 incorporated with this Act with respect to mines lying under or near the railway, appropriate, without making any payment therefor, and use for the purposes of their undertaking the site of the street, bridleway or footpath, or portion thereof, so stopped up.

(3) Any person who suffers loss by the extinguishment of any private right under this section shall be entitled to be paid by the Executive compensation to be determined in case of dispute by the tribunal.

17.—(1) Where by this Act the Executive are authorised— Stopping up of highways in case of diversion or substitution.

(a) to divert an existing street, bridleway or footpath, or portion thereof; or

(b) to make a new street, bridleway or footpath and to stop up an existing street, bridleway or footpath, or portion thereof;

PART II
—cont.

the stopping up of the existing street, bridleway or footpath shall not, in either case, take place until the highway authority are satisfied that the new street, bridleway or footpath has been completed in accordance with their reasonable requirements and is open for public use or, in the case of difference between the Executive and the highway authority as to whether the said requirements have been complied with or as to their reasonableness, until the matter in dispute has been determined by the Secretary of State and he has certified that the new street, bridleway or footpath has been completed in accordance with his determination.

(2) Before applying to the Secretary of State for his determination, the Executive shall give to the highway authority 7 days' notice in writing of their intention to apply for the same.

(3) As from the completion to the satisfaction of the highway authority of the new street, bridleway or footpath, or as from the date of the said certificate (as the case may be), all rights of way over or along the existing street, bridleway or footpath, or portion thereof, authorised to be diverted or stopped up shall be extinguished, and the Executive may, subject to the provisions of the Act of 1845 incorporated with this Act with respect to mines lying under or near the railway, appropriate, without making any payment therefor, and use for the purposes of their undertaking the site of the street, bridleway or footpath, or portion thereof, diverted or stopped up so far as the same is bounded on both sides by lands in the possession of the Executive.

(4) Any person who suffers loss by the extinguishment of any private right under this section shall be entitled to be paid by the Executive compensation to be determined in case of dispute by the tribunal.

Provisions as to repair of streets, footpaths, etc.

18.—(1) Notwithstanding anything in section 46 of the Act of 1845, as incorporated with this Act, the Executive shall not be liable to maintain the surface of any road or public highway under or over which the authorised works shall be constructed, or the immediate approaches thereto.

(2) Any street, bridleway or footpath, or portion thereof, made, diverted or altered under this Act shall, when completed, unless otherwise agreed, be maintained by, and at the expense of, the Executive for a period of 12 months from the completion thereof and, at the expiration of that period, shall be maintained by, and at the expense of, the persons liable to maintain streets, bridleways or footpaths of the same nature and in the same area as the street, bridleway or footpath, or portion thereof, so made, diverted or altered.

1968 c. 73.

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

19.—(1) Where under this Act the Executive are authorised to alter or stop up or interfere with a street, bridleway or footpath, or portion thereof, they may enter into, and carry into effect, agreements with the persons having the charge, management or control of the street, bridleway or footpath concerning the construction, or a contribution towards the expense of the construction, of the alteration or of any new street, bridleway or footpath to be made under this Act, and concerning any other matters relating thereto.

PART II
—cont.
Agreements
with highway
authorities.

(2) The Executive may, by agreement with any such persons, delegate to them the power of constructing and, in any case where the Executive are responsible for maintaining the same, of maintaining all or any of such alterations or new street, bridleway or footpath, including any bridge over or under any railway.

(3) The purposes of this section shall be purposes for which a highway authority may incur expenditure and borrow money.

20.—(1) The Executive may at their own expense, subject as hereinafter provided, underpin or otherwise strengthen any house or building within 30 metres of the authorised works, and for this purpose the following provisions shall have effect:—

Underpinning
of houses
near works.

(a) At least 28 days' notice shall (except in case of emergency) be given to the owner, lessee and occupier of the house or building intended to be so underpinned or otherwise strengthened:

(b) Each such notice shall be served in manner prescribed by section 30 of the Act of 1965, as applied by this Act:

(c) If any owner, lessee or occupier of any such house or building shall, within 21 days after the giving of such notice, give a counter-notice in writing that he disputes the necessity of such underpinning or strengthening, the question of the necessity shall be settled by arbitration:

(d) In any case in which any house or building shall have been underpinned or strengthened under the powers of this section, the Executive may, from time to time after the completion of such underpinning or strengthening, and during the execution of the authorised work in connection with which such underpinning or strengthening was done, or within five years after the opening for traffic of that work, enter upon and survey such house or building and, after complying with the foregoing provisions of this section, do such further underpinning or strengthening as they may deem necessary or expedient:

(e) The Executive shall be liable to compensate the owner, lessee and occupier of every such house or building for any loss or damage which may result to them by reason of the exercise of the powers granted by this section,

PART II
—cont.

provided that the claim for compensation in respect of such loss or damage is notified in writing within 6 months from either the date upon which any such owner, lessee or occupier first discovers the loss or damage or the date by which he ought reasonably to have discovered it, whichever is the earlier:

(f) Nothing in this section nor any dealing with any property in pursuance of this section shall relieve the Executive from the liability to compensate under section 6 of the Act of 1845 or section 10 (2) of the Act of 1965, as incorporated or applied by this Act, or under any other enactment, in respect of loss or damage arising from the execution of any works, other than works of underpinning or strengthening authorised by this section:

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

1961 c. 33.

(2) Any person who wilfully obstructs any person acting in pursuance of the powers conferred by this section shall be liable on summary conviction to a fine not exceeding £10.

Temporary possession of lands for works.

21.—(1) The Executive may, for the purpose of using chemicals or applying a freezing process for the consolidation of ground or providing other treatment of ground to facilitate the construction of the underground railways, enter upon and take possession temporarily of any of the lands delineated on the deposited plans and described in the deposited book of reference after giving to the owner, lessee and occupier thereof (except in case of emergency) not less than 28 days' previous notice in writing specifying the part of the lands of which possession is so required, and may carry out therein such works as may be required for the aforesaid purpose without being obliged or compellable to acquire any interest in such land in respect of such temporary possession except as provided in subsection (2) of this section:

Provided that, subject to subsection (2) of this section—

(i) the Executive shall not, without the agreement of the owner, lessee and occupier thereof, remain in possession of any such land under the powers of this section after a period of 6 months from the date of entry thereon or enter upon or take possession of any such land under the powers of this section for more than one such period in respect of the construction of any of the works specified in section 6 (Power to make works) of this Act forming part of the underground railways;

(ii) the Executive shall compensate the owner, lessee and occupier of such land for any loss or damage which may result to them by reason of the exercise of the powers of this section in relation to such land; and

(iii) nothing in this section shall relieve the Executive from liability to compensate under section 6 or section 43 of the Act of 1845 or section 10 (2) of the Act of 1965, as incorporated or applied by this Act, or under any other enactment, in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under proviso (ii) to this subsection.

(2) (a) If the owner, lessee or occupier of a part of any lands in respect of which notice is given under subsection (1) of this section, by notice in writing served on the Executive within 56 days after the date on which the first-mentioned notice is given to him, claims that entry upon and occupation of, and the carrying out of works in, that part of the lands by the Executive in pursuance of the first-mentioned notice will cause material detriment to his interest in the lands, and states that he is willing and able to sell his interest in the lands, the Executive may be required to purchase the interest of the claimant in the lands in accordance with the provisions of this subsection.

(b) Unless within 56 days after the date on which notice of a claim is served on them under paragraph (a) of this subsection, the Executive serve on the claimant a counter-notice objecting to the claim and stating the grounds of objection they shall be deemed to have accepted the claim.

(c) Where counter-notice objecting to a claim is so served by the Executive, the claimant may, by a further notice in writing served on the Executive within 56 days after the date of the service of the counter-notice, require the objection to be referred to the tribunal.

(d) On any such reference the tribunal shall not uphold the claim unless the objection is withdrawn or they determine that the part of the lands to which the notice given under subsection (1) of this section relates cannot be entered and occupied by the Executive, and works carried out by them, in accordance with that notice without material detriment to the interest of the claimant in those lands.

(e) Where a claim under this subsection is accepted by the Executive or upheld by the tribunal the Executive shall be deemed to have served notice to treat in respect of the claimant's interest in the lands to which the notice given under subsection (1) of this section relates and to have entered into possession of those lands in pursuance of such notice to treat on the date on which they took possession of any part of those lands under subsection (1) of this section.

(f) Nothing in this subsection nor anything done thereunder shall affect the right of the Executive to enter upon and take possession of lands in pursuance of a notice given under subsection (1) of this section and to carry out works in those lands.

PART II
—cont.

(3) Upon giving up possession of any land upon which entry is obtained under this section, not being land in respect of which they are entitled to remain in possession in accordance with the provisions of subsection (2) (e) of this section, the Executive shall remove all works and structures erected by them thereon and shall reinstate the land to the reasonable satisfaction of the owner, lessee and occupier thereof.

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

1961 c. 33.

Use of
sewers, etc.,
for removing
water.

22.—(1) The Executive may use for the discharge of any water pumped or found by them during the construction of the authorised works any available stream or watercourse, or any sewer or drain of the local authority in or through whose area the authorised works may be constructed or may pass, and for that purpose may lay down, take up and alter conduits, pipes and other works and may make any convenient connections with any such stream, watercourse, sewer or drain within the limits of deviation:

Provided that—

- (a) the Executive shall not discharge any water into any sewer or drain vested in, or under the control of, the local authority except with the consent of the local authority, which shall not be unreasonably withheld, and subject to such terms and conditions as the local authority may reasonably impose; and
- (b) the Executive shall not make any opening into any such sewer or drain except in accordance with plans reasonably approved by, and under the superintendence (if given) of, the local authority.

1951 c. 64.

(2) (a) Notwithstanding anything in section 11 (7) of the Rivers (Prevention of Pollution) Act 1951, the discharge of any water under the powers of this section into any stream, as defined in that section, shall be subject to the provisions of section 2 of that Act.

(b) In the exercise of their powers under this section the Executive shall not, without the consent of the Northumbrian River Authority, which consent shall not be unreasonably withheld, damage or interfere with the bed of any watercourse forming part of a main river of the Northumbrian River Authority, or the banks thereof, within the meaning of section 81 of the Land Drainage Act 1930.

1930 c. 44

(3) The Executive shall take all such steps as may reasonably be required to secure that any water discharged by them under the powers of this section shall be as free as may be reasonably practicable from any gravel, soil or other solid substance or matter in suspension.

(4) Any difference arising between the Executive and the local authority or the Northumbrian River Authority (as the case may be) under this section shall be determined by arbitration.

(5) In this section “local authority” includes the Tyneside Joint Sewerage Board.

23.—(1) Subject as may be agreed in writing between the Executive and the railways board—

Agreements
with British
Railways
Board.

(a) the alteration or conversion of any part of any existing railways of the railways board to form part of the rapid transit railway and the maintenance, use and operation of the rapid transit railway shall, as between the Executive and the railways board, be carried out and regulated in accordance with such terms and conditions as may be agreed between the Executive and the railways board, and any such agreement may relate to the whole or any part or parts of the rapid transit railway and may contain such incidental, consequential or supplementary provisions as may be so agreed including provisions with respect to the defraying of, or the making of contributions towards, the cost of the matters aforesaid by the Executive, or the railways board, or by the Executive and the railways board jointly, and, without prejudice to the generality of the foregoing, any such agreement may provide for the exercise by the railways board or by the Executive, or by the Executive and the railways board jointly, of all or any of the powers of the Executive or the railways board (as the case may be) in respect of any part of such railways or of the rapid transit railway;

(b) the exercise by the railways board or by the Executive, or by the Executive and the railways board jointly, of the powers of any enactment in pursuance of any such agreement shall be subject to the like provisions in relation thereto as would apply if those powers were exercised by the Executive or the railways board (as the case may be) alone, and accordingly those provisions, with any necessary modifications, shall apply to the exercise of such powers by the railways board or by the Executive, or by the Executive and the railways board jointly, as the case may be.

(2) (a) The Executive and the railways board may enter into, and carry into effect, agreements for the transfer to, and vesting in, the railways board or the Executive, or the Executive and the railways board jointly, of any part of the rapid transit railway, together with the rights and obligations of the Executive or the railways board (as the case may be) in relation thereto.

PART-II
—cont.

(b) Any agreement entered into by the Executive under this subsection with respect to the transfer or vesting of any part of the rapid transit railway shall be subject to the approval of the Tyneside Passenger Transport Authority.

1968 c. 73.

(3) This section shall have effect without prejudice to the provisions of the Transport Act 1968 for the making of payments by the Executive to the railways board in respect of railway passenger services provided by the railways board and for entering into agreements between the Executive and the railways board for the provision of railway passenger services by the railways board.

(4) The provisions of this section shall apply to the railway (Work No. 6) and to any accommodation work included among the purposes specified in column (1) of Schedule 2 to this Act as if such works formed part of the rapid transit railway.

Transport
consultative
committees.

1962 c. 46.

24. On the opening of the rapid transit railway for passenger services operated by the Executive, or the Executive and the railways board jointly (as the case may be), section 56 of the Transport Act 1962 (which relates to the establishment and functions of transport consultative committees) shall apply and have effect in relation to the services and facilities provided upon the rapid transit railway as if for the references therein to the railways board, whether alone or in conjunction with other boards, there were substituted reference to the Executive, or to the Executive and the railways board jointly (as the case may be), but the provisions of the said section 56 and the provisions of section 54 of the Transport Act 1962 (which requires advance notice of discontinuance of certain services to be published) shall not apply in respect of the discontinuance of any existing railway passenger services from any station or on any line, or the discontinuance of any railway passenger or goods services provided by the railways board (as the case may be), for the purposes of, or in connection with, the construction of the authorised works or the alteration or conversion or the use or operation of any existing railways of the railways board to form part of the rapid transit railway.

Safety
arrangements
at public level
crossings.

25.—(1) The Executive may, with the consent in writing of the Secretary of State (which consent the Secretary of State may amend or revoke) and subject to such conditions and requirements to be observed by the Executive as shall, in the opinion of the Secretary of State, be expedient for the protection, safety and convenience of the public, provide at or near any or each of the level crossings specified in subsection (2) of this section, and maintain and operate so long as such consent continues in force, such barriers, lights, traffic signs and automatic or other devices and appliances as may be specified by the Secretary of State.

(2) The level crossings hereinbefore referred to are—

- (a) the level crossing known as the Howdon crossing in the borough of Wallsend in the county of Northumberland whereby the existing railway between Point Pleasant and North Shields crosses Howdon Lane;
- (b) the level crossing known as the Coxlodge crossing in the city and county of Newcastle upon Tyne whereby the existing light railway of the railways board between Kenton Bank Foot and Gosforth West Junction crosses the road connecting Edgefield Avenue, the Meadows and Fawdon Lane; and
- (c) the level crossing known as Bell's crossing in the city and county of Newcastle upon Tyne whereby the said existing light railway crosses the road from Ponteland Road to Fawdon Lane.

(3) On application to the Secretary of State for a consent under this section, the Executive shall, in the case of an application relating to the said Howdon crossing, notify the county council of the administrative county of Northumberland and the mayor, aldermen and burgesses of the borough of Wallsend, and, in the case of an application relating to the said Coxlodge crossing or the said Bell's crossing, notify the Newcastle Corporation, of the proposals submitted by the Executive for such consent, and before giving any such consent the Secretary of State shall take into consideration any representations with respect to the application for the consent made to him by any authority so notified within 56 days of the receipt by them of such notification.

(4) So long as any such consent as aforesaid continues in force the provisions (in so far as they are inconsistent with any such consent) of the Highway (Railway Crossings) Act 1839, of section 47 1839 c. 45. of the Act of 1845 and of section 6 of the Act of 1863, and any other provisions having the same or a similar effect incorporated with, or contained in, any enactment relating to any such level crossing, shall cease to apply to any level crossing to which the consent relates.

(5) Any traffic sign provided in pursuance of any such consent as aforesaid shall be deemed to be a traffic sign lawfully placed on or near a road in accordance with the provisions of the Road Traffic Regulation Act 1967, but nothing in this subsection shall 1967 c. 76. impose on a highway authority any liability in respect of any such traffic sign.

(6) Any barriers, lights, traffic signs and automatic or other devices and appliances provided in exercise of the powers conferred by this section (hereafter in this subsection referred to as "the specified apparatus") shall—

- (a) in any case where the specified apparatus is to be provided in, on or under any street or controlled land within the

PART II
—cont.
1950 c. 39.

meaning of the Public Utilities Street Works Act 1950, be deemed to be transport works for the purposes of Part II and Schedule 4 of that Act and accordingly the code in the said Part II shall have effect as if the construction or placing of any of the specified apparatus were specified in section 21 (1) (c) of that Act; and

(b) in any other case, be deemed to be authorised works for the purposes of section 53 (For protection of certain statutory undertakers) of this Act.

(7) On the stopping up or diversion under any other enactment of the part of the road crossed by a railway at any of the level crossings referred to in subsection (2) of this section so as to extinguish public rights of way over the crossing the provisions of this section shall cease to apply to that crossing.

Gosforth and
Ponteland
Light Railway.

26.—(1) Without prejudice to the operation of the railway authorised by the Gosforth and Ponteland Light Railway Order 1900 under the Light Railways Acts 1896 and 1912 in accordance with such provisions as may from time to time be agreed in accordance with the provisions of section 23 (Agreements with British Railways Board) of this Act, the part of the said railway between Kenton Bank Foot and its commencement at South Gosforth may be maintained, used and worked as part of the rapid transit railway in accordance with the Act of 1845 and Part I of the Act of 1863, as incorporated with this Act, and the provisions of the Railway Regulation Acts 1840 to 1893, and may, before the opening of the rapid transit railway for public traffic, be used and worked for the testing of, and training of persons in the operation of, the rapid transit system.

(2) Accordingly, the provisions of the said Order of 1900 with respect to—

(a) the motive power to be used;

(b) the radius of curves;

(c) signals;

(d) the giving of notice of the opening of the said railway for the public conveyance of passengers; and

(e) the weight of engines, carriages or trucks and the speed of trains or engines;

shall cease to apply to the part of the said railway to be worked as part of the rapid transit railway or for testing and training as aforesaid, as the case may be.

(3) Nothing in this section shall prejudice or affect the provisions of section 25 (Safety arrangements at public level crossings) of this Act.

27.—(1) Provision may be made by an order under this section for the extinguishment of all rights of way, other than a right of way on foot, over any level crossing to which this section applies and for the provision and maintenance by the Executive, on both sides of the railway at the level crossing, of wicket gates or stiles for the convenience of persons on foot.

(2) Except as provided by subsection (8) of this section, an order under this section shall be made by the Executive and confirmed by the Secretary of State.

(3) Where the Executive propose to make an order under this section relating to any level crossing they shall prepare a draft of the order and, before submitting the order to the Secretary of State for confirmation, or confirming it as an unopposed order, shall publish at least once in each of two successive weeks in one or more newspapers circulating in the area in which the level crossing is situated, and in the London Gazette, a notice—

- (a) stating the general effect of the proposed order;
- (b) specifying a place in the said area where a copy of the proposed order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times during a period of 56 days from the date of the first publication of the notice;
- (c) stating that within the said period any person may object to the confirmation of the order by sending notice of his objection and of the grounds thereof to the Executive, and by sending a copy thereof to the Secretary of State.

(4) Not later than the date on which the said notice is first published under subsection (3) of this section the Executive shall serve a copy of the notice on the owners and occupiers of the lands adjoining the railway entitled to use the level crossing to which the proposed order relates and on every local authority within whose area the level crossing is situated and shall post a copy of the notice in conspicuous positions at each side of the level crossing.

(5) If within the period of 56 days from the date of the first publication of notice under subsection (3) of this section, notice in writing of an objection is received by the Secretary of State from any person on whom notice is required to be served under subsection (4) of this section or from any other person appearing to the Secretary of State to be affected by the proposed order, and the objection is not withdrawn, the Secretary of State shall, before confirming the order, cause a local inquiry to be held or afford to any person by whom any objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by him for that purpose.

PART II
—cont.

(6) The Secretary of State may confirm an order under this section with or without modification but, where he proposes to make any alteration and considers that any persons are likely to be adversely affected by it, the Executive shall give and publish such additional notices in such manner as the Secretary of State may require.

(7) No order under this section authorising the extinguishment of any public rights of way over any level crossing shall be confirmed by the Secretary of State unless he is satisfied that another reasonably convenient route is available or will be provided before the rights of way are extinguished.

(8) If no objections are duly made, or if all objections so made are withdrawn, the Executive may, instead of submitting the order to the Secretary of State, confirm the order but without modification.

1961 c. 33.

(9) Any person who suffers loss by the extinguishment of any right of way under an order made under this section shall be entitled to be paid by the Executive compensation to be determined in case of dispute under, and in accordance with, the Land Compensation Act 1961.

(10) This section applies to any level crossing by which any right of way crosses the rapid transit railway, not being a crossing by which a public carriageway crosses the railway.

PART III
LANDSPower to
acquire
lands.

28.—(1) Subject to the provisions of this Act, the Executive may enter upon, take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as they may require for the purposes of the authorised works or for any purpose connected with, or ancillary to, their undertaking.

(2) Without prejudice to the generality of the powers conferred upon the Executive by subsection (1) of this section, the Executive may, subject to the provisions of this Act, enter upon, take and use for each of the purposes specified in column (1) of Schedule 2 to this Act all or any of the lands referred to in relation to that purpose in columns (2) and (3) of that schedule.

(3) Subject to the provisions of this Act, the Executive may enter upon, use and appropriate so much of the subsoil and under-surface of any public street, road, footway or place delineated on the deposited plans and described in the deposited book of reference as shall be necessary for the purposes of the authorised works without being required to purchase the same or any easement therein or thereunder or to make any payment therefor.

(4) Notwithstanding anything in this section or shown upon the deposited plans or described in the deposited book of reference—

PART III
—cont.

(a) the Executive shall not under the powers of this Act take or use any part of the premises specified in column (1) of Schedule 3 to this Act situated in the lands referred to in relation to those premises in columns (2) and (3) of that schedule; and

(b) the Executive shall not under the powers of this section take or use any part of the lands in the city and county of Newcastle upon Tyne numbered 140, 142, 144, 145 and 146 on the deposited plans, other than the subsoil and under-surface thereof below the level of the surface of the ground or an easement or right in such subsoil and under-surface, without the consent of the owners, lessees and occupiers of that part of the said lands.

29.—(1) The powers of the Executive for the compulsory acquisition of the lands and easements which they are authorised to acquire by this Act shall not be exercised after 31st December, 1978.

Period for compulsory purchase of lands or easements.

(2) The powers of the Executive for the compulsory acquisition of the said lands and easements shall, for the purposes of this section, be deemed to have been exercised if, before 31st December, 1978, notice to treat has been served in respect of those lands and easements.

30.—(1) If the deposited plans or the deposited book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the Executive, after giving not less than 10 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.

Correction of errors in deposited plans and book of reference.

(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 the fact 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, House of Commons, with the clerks of the county councils of the administrative counties of Durham and Northumberland, with the town clerk of the city and county of Newcastle upon Tyne, and with the town clerks of the county boroughs of Gateshead, South Shields and Tynemouth, and thereupon the deposited plans and the deposited book of reference shall be deemed to be

PART III
—cont.

corrected according to the certificate, and it shall be lawful for the Executive to take the land or an easement therein (as the case may be) and execute the works in accordance with the certificate.

(4) A person with whom a copy of the certificate is deposited under this section shall keep it with the other documents to which it relates.

As to cellars under streets not referenced.

31. Nothing in this Act shall authorise the Executive to enter upon, take or use (except by agreement) any cellar, basement or vault in or under any street belonging to, or connected with, any building unless such cellar, basement or vault, or the building with which it is connected, is described in the deposited book of reference.

Power to acquire only subsoil or easements in certain cases.

32.—(1) Notwithstanding anything in this Act, the Executive may, for the purposes of constructing, altering, maintaining, protecting, renewing and using the authorised works, enter upon, take and use so much of the subsoil and under-surface of, or may create and acquire such easements or rights as they may require in, under or over any of the lands delineated on the deposited plans and described in the deposited book of reference, other than the lands specified in Schedule 4 to this Act, without being obliged or compellable to acquire any greater interest in, under or over the same respectively, and may give notice to treat in respect of such entry, taking and using and the creation and acquisition of any such easements or rights, describing the nature thereof; and (subject to the foregoing provisions of this section and to the other provisions of this Act) the provisions of Part I of the Act of 1965, as applied by this Act, shall extend and apply in relation to the creation and acquisition of such easements or rights as if it were the purchase of lands within the meaning of those provisions.

(2) If, in any case where the Executive enter upon, take and use the subsoil and under-surface of, or require an easement or right in or under, any of the lands aforesaid under subsection (1) of this section, they also require to take, use and pull down or open any cellar, basement, vault, arch or other construction forming part of any such lands, they may enter upon, take and use such cellar, basement, vault, arch or other construction for the purposes of the authorised works, and (subject to the provisions of this Act) the provisions of the Act of 1965, as applied by this Act, shall extend and apply in relation to the purchase thereof as if such cellar, basement, vault, arch or other construction were lands within the meaning of those provisions:

Provided that section 34 (Acquisition of part only of certain properties) of this Act shall apply in respect of the acquisition by

the Executive under this subsection of any cellar, basement, vault, arch or other construction as if the same were a part of land to which that section applies.

PART III
—cont.

(3) Nothing in this section shall prejudice or affect the provisions of subsection (3) of section 28 (Power to acquire lands) of this Act.

33.—(1) Notwithstanding the provisions of subsection (1) of section 28 (Power to acquire lands) of this Act, the Executive shall not acquire compulsorily under the powers of this Part of this Act any interest in any part of the lands specified in Schedule 4 to this Act except as provided in subsection (2) of this section.

Only subsoil or easements to be acquired under certain lands.

(2) The Executive may, within the limits of deviation, enter upon, take and use so much of the subsoil and under-surface of the lands specified in the said Schedule 4 as they may require for the purpose of constructing, altering, maintaining, protecting, renewing and using the authorised works and any necessary works and conveniences connected therewith, or create and acquire such easements and rights in the subsoil and under-surface of the lands specified in the said Schedule 4 as they may require for the said purposes, without in either case being obliged or compellable to acquire any greater interest in, under or over the said lands, and may give notice to treat in respect of such entry, taking and using and the creation and acquisition of such easements or rights, describing the nature thereof; and (subject to the foregoing provisions of this section and to the other provisions of this Act) the provisions of Part I of the Act of 1965, as applied by this Act, shall extend and apply in relation to the creation and acquisition of such easements or rights as if it were the purchase of lands within the meaning of those provisions.

(3) For the purposes of this section the subsoil and under-surface of the lands specified in the said Schedule 4 shall not include any such subsoil or under-surface which is within 0.3 metres of the level of the surface of the ground or, in the case of a building on the said lands, the level of the surface of the ground adjoining the building, or, in the case of a river, dock, canal, navigation, watercourse or other water area, the level of the surface of the adjoining ground which is at all times above water level.

34.—(1) Where a copy of this section is endorsed on, or annexed to, a notice to treat served under the Act of 1965, as applied by this Act, the following provisions of this section shall apply to the land subject to the notice instead of section 8 (1) of that Act.

Acquisition of part only of certain properties.

(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,

PART III
—cont.

then, if the person on whom the notice is served, within 21 days after the day on which the notice is served on him, serves on the Executive a counter-notice objecting to the sale of the part and stating that he is willing and able to sell the whole (hereafter in this section referred to as “the land subject to the counter-notice”), the question whether he shall be required to sell the part shall, unless the Executive agree to take the land subject to the counter-notice, be referred to the tribunal.

(3) If the said person does not serve such a counter-notice as aforesaid within 21 days after the day on which the notice to treat is served on him, or if on such a reference to the tribunal the tribunal determine 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 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 tribunal, the tribunal determine 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 tribunal the tribunal determine 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 Executive are authorised to acquire compulsorily under this Act.

(6) If the Executive agree to take the land subject to the counter-notice, or if the tribunal determine 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 Executive are authorised to acquire compulsorily under this Act.

(7) In any case where, by virtue of a determination by the tribunal under subsection (4), (5) or (6) of this section, 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 Executive may, within 6 weeks after the tribunal make their determination, withdraw the notice to treat, and if they do so shall pay to the said person 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) Where a person is required under this section 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, the Executive shall pay him compensation for any loss sustained by him due to the severance of that part in addition to the value of his interest therein.

35.—(1) Any person empowered by the Act of 1965, as applied by this Act, to sell and convey or release lands may, if he thinks fit, subject to the provisions of the Act of 1965, grant to the Executive any easement or right required for the purposes of this Act in or over the lands:

Grant of easements by persons under disability.

Provided that nothing in this section shall be construed as empowering persons to grant any easement or right of water in which any other person has an interest, unless that other person concurs in the grant.

(2) The provisions of the Act of 1965 with respect to lands and rentcharges so far as they are applicable shall extend and apply to any such grant and to any such easement or right as aforesaid.

36. In determining a question with respect to compensation claimed in consequence of the compulsory acquisition of land under this Act, the tribunal shall not take into account any interest in land, or 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 erection, executing or making of the building, works, improvement or alteration, directly or indirectly concerned, if the tribunal are satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration (as the case may be) was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

Disregard of recent improvements and interests.

PART III
—*cont.*

Extinguishment
of private rights
of way.

37.—(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 Act of 1965, as applied by this Act, whichever is the sooner.

1961 c. 33.

(2) Any person who suffers loss by the extinguishment of any right under this section shall be entitled to be paid by the Executive compensation to be determined in case of dispute under, and in accordance with, the Land Compensation Act 1961.

PART IV

PROTECTIVE PROVISIONS

Compensation
for damage
by working
of under-
ground
railways.

38.—(1) In addition to the provisions of any enactments incorporated with, or applied by, this Act with respect to compensation for lands taken or injuriously affected, the Executive shall make compensation to the owner, lessee and occupier of any land, house or building which shall be injuriously affected by reason of the working of the underground railways (including the working of lifts, escalators and any other works in connection therewith), notwithstanding that no part of the property of such owner, lessee or occupier is taken by the Executive:

Provided that all claims for compensation under this section shall be made within two years from the date of the opening for public traffic of that portion of the underground railways which is alleged to cause such injurious affection and, failing agreement, shall be settled by arbitration.

(2) An arbitrator under this section may, with the consent of all parties concerned, hear together any class or group of claims under this section.

Compensation
in respect of
depreciation in
value of interest
in land subject
to mortgage.

39. Where an interest in land is subject to a mortgage—

- (a) any compensation which is payable under this Act in respect of the depreciation in value of that interest shall be calculated as if the interest were not subject to the mortgage;
- (b) a claim for the payment of any such compensation may be made by any mortgagee of the interest under a mortgage made before the happening of the event giving rise to the compensation, but without prejudice to the making of a claim by any other person;
- (c) a mortgagee shall not be entitled to claim any such compensation in respect of his interest as such; and
- (d) any such compensation payable in respect of the interest subject to the mortgage shall be paid to the mortgagee

or, where there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

PART IV
—cont.

40. For the protection of the railways board the following provisions shall, unless otherwise agreed in accordance with the provisions of section 23 (Agreements with British Railways Board) of this Act or otherwise agreed in writing between the Executive and the railways board for the purposes of this section, apply and have effect:—

For
protection
of British
Railways
Board.

(1) In this section—

“ 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 lands held or used by the railways board for the purposes of such railway or works;

“ the specified works ” means so much of the authorised works as may be situated upon, across, under or over railway property or may in any way affect railway property;

“ construction ” includes reconstruction and for the purposes of paragraphs (11) and (13) of this section includes maintenance and repair of the specified works;

“ the engineer ” means an engineer to be appointed by the railways board;

“ plans ” includes sections, drawings, particulars and schedule of construction:

- (2) The Executive shall not under the powers of this Act acquire compulsorily any property of the railways board (not being property specified in Schedule 4 to this Act) but they may create and acquire such easements and rights as they may reasonably require for the purposes specified in section 28 (Power to acquire lands) of this Act in any such property as aforesaid delineated on the deposited plans and described in the deposited book of reference:
- (3) In the exercise of the powers of section 21 (Temporary possession of lands for works) of this Act the Executive shall ensure access to, and egress from, any station or depot of the railways board for vehicles and pedestrians:
- (4) The Executive shall, before commencing the construction of the specified works, furnish to the railways board such proper and sufficient plans thereof as may reasonably be required for the reasonable approval of the

PART IV
—cont.

engineer and shall not commence the specified works until plans thereof have been approved in writing by the engineer or settled by arbitration:

Provided that, if within 28 days after such plans have been furnished to the railways board the 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:

- (5) If within 28 days after such plans have been furnished to the railways board the railways board give notice to the Executive that the railways board desire themselves to construct any part of the specified works, other than the underground railways, which in the opinion of the engineer will or may affect the stability of railway property and the safe operation of the railways of the railways board, then, if the Executive 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 Executive in accordance with the plans approved or deemed to be approved or settled as aforesaid:
- (6) Upon signifying his approval or disapproval of the plans the engineer may specify any protective works, whether temporary or permanent, which in his opinion should be carried out before the commencement of the construction of the specified works to ensure the stability of railway property and the safe operation of the railways of the railways board, 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 Executive shall not commence the construction of the specified works until the engineer shall have notified the Executive that the protective works have been completed:
- (7) The Executive shall give to the engineer not less than 28 days' notice of their intention to commence the construction of any of the specified works and also, 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:
- (8) 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, 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 and the use by passengers of railway property, and if any damage to railway property or any such interference shall be caused by the carrying out of the specified works, the Executive shall, notwithstanding any such approval as aforesaid, make good such damage and shall 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:

PART IV
—cont.

Provided that nothing in this paragraph shall impose any liability on the Executive with respect to any damage, costs, expenses or loss which is attributable to the act, neglect or default of the railways board or their servants, contractors or agents:

- (9) The Executive shall at all times afford reasonable facilities to the engineer for access to the specified works during their construction and shall supply him with all such information as he may reasonably require with regard to the specified works or the method of construction thereof:
- (10) The railways board shall at all times afford reasonable facilities to the Executive and their agents for access to any works carried out by the railways board under this section during their construction, and shall supply the Executive with such information as they may reasonably require with regard to such works or the method of construction thereof:
- (11) If any alterations or additions, either permanent or temporary, to railway property shall be reasonably necessary during the construction of the specified works, or during a period of 12 months after the completion thereof, in consequence of the construction of the specified works, such alterations and additions may be carried out by the railways board and, if the railways board give to the Executive reasonable notice of their intention to carry out such alterations or additions, the Executive 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:

PART IV
—cont.

Provided that 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 Executive to the railways board under this section:

- (12) The Executive 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 Executive as provided by paragraph (5) of this section or in constructing any protective works under the provisions of paragraph (6) of this section, 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 who it shall be reasonably necessary to appoint for inspecting, watching, lighting and signalling railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of the specified works;

(c) in respect of any special traffic working resulting from any speed restrictions which may, in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of the specified works, or from the substitution or diversion of services which may be reasonably necessary for the same reason;

(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 or failure of the specified works;

(e) in respect of the supervision by the engineer of the construction of the specified works:

- (13) The Executive shall be responsible for, and make good to the railways board, costs, charges, damages and expenses not otherwise provided for in this section which may be occasioned to, or reasonably incurred by, the railways board—

(a) by reason of the construction of the specified works or the failure thereof; or

(b) by reason of any act or omission of the Executive, or of any person in their employ, or of their contractors or others whilst engaged upon the construction of the specified works;

PART IV
—cont.

and the Executive shall indemnify the railways board from and against claims and demands arising out of, or in connection with, the construction of the specified works as aforesaid or any such failure, act or omission as aforesaid, and the fact that any act or thing may have been done in accordance with plans approved by the engineer, or in accordance with any requirement of the engineer, 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 Executive from any liability under the provisions of this section:

Provided that the railways board shall give to the Executive reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Executive:

- (14) Any difference arising between the Executive and the railways board under this section (other than a difference as to the meaning or construction of this section) shall be determined by arbitration.

41.—(1) Any part of a river work which is on, under or over tidal waters or tidal lands below the level of mean high-water springs shall not be constructed, renewed or altered except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by him before the work is begun.

River work
to be subject
to approval
of Secretary
of State.

(2) If any such part of a river work is constructed, renewed, or altered in contravention of this section or of any condition or restriction imposed under this section—

- (a) the Secretary of State may by notice in writing require the Executive at their own expense to remove such part of the river 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 Executive they have failed to commence compliance with the requirements of the notice, the Secretary of State may execute the works specified in the notice; or

PART IV
—cont.

(b) if it appears to the Secretary of State urgently necessary so to do, he may remove such part of the river 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 Executive as a simple contract debt

Provision
against
danger to
navigation.

42.—(1) In case of injury to, or destruction or decay of, a river work, or any part thereof, the Executive shall forthwith notify the port authority, and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the port authority shall from time to time direct

(2) If the Executive fail to notify the port authority as required by this section, or to comply in any respect with a direction given under this section, they shall be liable on summary conviction to a fine not exceeding £100 and on conviction on indictment to a fine.

Abatement of
river work
abandoned
or decayed.

43.—(1) Where any part of a river work which is on, under or over tidal waters or tidal lands below the level of mean high-water springs is abandoned, or suffered to fall into decay, the Secretary of State or the port authority may by notice in writing require the Executive at their own expense either to repair and restore such part of the river work, or any part thereof, or to remove it and restore the site thereof to its former condition to such an extent and within such limits as the Secretary of State or the port authority (as the case may be) may think proper

(2) Where a river work consisting partly of works on or over land above the level of mean high-water springs is abandoned or suffered to fall into decay, and that part of the work on or over land above the level of mean high-water springs 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 river, the Secretary of State or the port authority (as the case may be) may include that part of the work, or any portion thereof, in any notice under this section.

(3) If there shall be any inconsistency between a requirement of the Secretary of State and a requirement of the port authority under this section, the requirement of the Secretary of State shall prevail.

(4) If, on the expiration of such reasonable period as may be specified in a notice served under this section upon the Executive, they have failed to comply with the requirements of the notice,

the Secretary of State or the port authority (as the case may be) may execute the works specified in the notice, and any expenditure incurred by the Secretary of State or the port authority (as the case may be) in so doing shall be recoverable from the Executive as a simple contract debt.

44. The Secretary of State may at any time, if he deems it expedient, order a survey and examination of any part of a river work which is on, under or over tidal waters or tidal lands below the level of mean high-water springs, or of the site upon which it is proposed to construct such part of the work, and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable from the Executive as a simple contract debt.

45.—(1) After the completion of the bridge (Work No. 3) the Executive shall exhibit every night from sunset to sunrise such lights (if any) and take such other steps for the prevention of danger to navigation therefrom as the port authority shall from time to time direct.

(2) If the Executive fail to comply in any respect with a direction given under this section they shall be liable on summary conviction to a fine not exceeding £100 and on conviction on indictment to a fine.

46.—(1) The Executive shall, at or near any part of a river work which is on, under or over tidal waters or tidal lands below the level of mean high-water springs, during the whole time of the construction or any renewal or alteration 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 and the port authority, or as, failing agreement between the Secretary of State and the port authority, the Secretary of State, shall from time to time direct.

(2) If the Executive fail to comply in any respect with a direction given under this section they shall be liable on summary conviction to a fine not exceeding £100 and on conviction on indictment to a fine.

47. Nothing in section 42 (Provision against danger to navigation) or section 45 (Permanent lights on Tyne bridge) of this Act shall prejudice or derogate from the powers, rights and privileges of the Corporation of Trinity House of Deptford Strond.

PART IV
—cont.

For
protection
of Port of
Tyne
Authority
and river
users.

48. For the protection of the port authority and river users the following provisions shall, unless otherwise agreed in writing between the Executive and the port authority, apply and have effect:—

- (1) In this section, unless the subject or context otherwise requires—

“construction” includes execution, placing and maintenance and, in relation to temporary works, includes removal;

“plans” means plans in duplicate and—

(i) in relation to permanent works, includes sections, specifications, particulars and schedule of construction; and

(ii) in relation to temporary works, includes sections:

- (2) The Executive shall not in constructing any river work place any permanent work in the navigable waterway of the river, other than the piers carrying the bridge (Work No. 3) together with suitable fenders:

- (3) (a) Before the Executive commence the construction of the bridge (Work No. 3) they shall—

(i) submit to the port authority for their reasonable approval plans relating thereto (including therein details of the positions of the bridge piers, the strata through which and the depth to which it is proposed to carry down the foundations thereof and the manner in which it is proposed to construct those foundations), and subject to sub-paragraph (e) of this paragraph, the bridge shall not be constructed except in accordance with such plans as may be so approved or, if approval is withheld, as may be settled by arbitration;

(ii) on the site upon which they propose to construct the piers of the bridge, cause such borings to be made and taken down to such a depth as may be agreed between the Executive and the port authority as being necessary (in addition to the borings previously made by the Executive), or failing agreement, as may be determined by arbitration, and thereafter shall give to the port authority the particulars obtained from any such borings;

- (b) Before the Executive commence the construction of any other river work, they shall submit to the port authority for their reasonable approval plans relating thereto and, subject as aforesaid, the river work shall

- not be constructed except in accordance with such plans as may be so approved or, if approval is withheld, as may be settled by arbitration;
- (c) If the port authority do not notify their disapproval of any plans so submitted to them within 28 days after the submission of those plans, they shall be deemed to have approved the plans as submitted;
- (d) If the port authority disapprove of any plans so submitted to them, they shall state in writing their reason for such disapproval;
- (e) If there shall be any inconsistency between any plans approved by the port authority under this section and the plans and sections approved by the Secretary of State under section 41 (River work to be subject to approval of Secretary of State) of this Act, the work in question shall be executed in accordance with the plans and sections so approved by the Secretary of State:
- (4) Notwithstanding anything in this Act the Executive shall not construct in, upon or over the river or the banks, bed and foreshore thereof any temporary works or conveniences or do any acts or things which shall totally obstruct the navigation of the river, and in the execution of any such works or conveniences or the doing of any acts or things which shall partially obstruct or interfere with the navigation of the river, the Executive shall comply with all the requirements of the port authority, in so far as such requirements do not conflict with those of the Secretary of State, and refund to the port authority the expenses incurred by them in carrying out such special regulations as the port authority may, with the approval of the Secretary of State, make for control of the traffic on the river during the construction, existence or removal of such works or conveniences as aforesaid:
- (5) All materials placed on or in the banks, bed or foreshore of, or carried or suspended over, the river in the construction of any river work, and not required permanently, shall be removed with all practicable expedition by, and at the expense of, the Executive and shall not be allowed to fall or to be washed into the river:
- (6) All responsibility in connection with the construction of any river work and for any damage caused thereby shall remain with the Executive, and the port authority shall not be liable for any damage or injury to any such work caused by any of the operations of the port authority for the improvement of the river or arising from the navigation of any craft, vessel or dredger belonging to the port authority, unless such damage or injury

PART IV
—cont.

shall arise from the wilful or negligent act or misconduct of the port authority, or their agents or servants:

Provided that the port authority shall not commence any operations for the improvement of the river which may affect any river work without giving at least 28 days' notice to the Executive with full particulars of the proposed operations:

- (7) The Executive shall be liable for all injury or loss (including loss of revenue) suffered by the port authority by reason of any act, neglect, failure or default by the Executive or by their servants or agents in connection with, or by reason or in consequence of, the construction of any river work or occasioned by any failure of any river work; and the Executive shall indemnify the port authority and their officers and servants against claims, demands and costs of third parties in respect of any accidents, damages and injuries happening through any such act, neglect, failure or default:

Provided that the port authority shall not, without the consent in writing of the Executive, make any admission, offer, promise or payment in connection with any claim or matter in respect of which the Executive may under this paragraph be required to indemnify the port authority, or compromise any action or proceedings taken or instituted against the port authority relating to any such claim or matter:

- (8) The Executive shall allow the port authority's engineer or his authorised representative at all reasonable times to inspect or survey any river work while in course of construction and shall give reasonable facilities for so doing:
- (9) Without prejudice to section 42 (Provision against danger to navigation) and section 45 (Permanent lights on Tyne bridge) of this Act, the Executive shall, in consultation with the port authority, ensure that permanent lights upon the bridge (Work No. 3) after its completion are not of such character as to interfere with, or otherwise be prejudicial to, the safe navigation of the river:
- (10) No approval given by the port authority under this section shall impose any liability on the port authority:
- (11) Any difference arising between the Executive and the port authority under this section (other than a difference as to the meaning or construction of this section) shall, except as provided by paragraph (3) (e) thereof, be determined by arbitration.

49. For the protection of the National Coal Board, the following provisions shall, unless otherwise agreed in writing between the Executive and the board, apply and have effect:—

PART IV
—cont.

For protection
of National
Coal Board.

(1) In this section unless the subject or context otherwise requires—

“ the board ” means the National Coal Board;

“ coal ” has the meaning given to it by section 63 (1) of the Coal Industry Nationalisation Act 1946;

1946 c. 59.

“ mine ” has the meaning given to it by section 180 (1) of the Mines and Quarries Act 1954;

1954 c. 70.

“ plans ” includes sections, drawings, particulars and schedule of construction;

“ the specified works ” means so much of the authorised works as may be situated upon, across, under or over, or may in any way affect surface property of the board, and includes the substituted line or lines of railway referred to in paragraph (4) of this section;

“ surface property of the board ” means any mineral railway or other property or lands of the board on or above the level of the surface of the ground and held and used by them for the purposes of their undertaking:

- (2) (a) Whenever any unworked coal vested in the board is encountered in the course of the construction or maintenance of the authorised works the Executive shall give notice thereof to the board;
- (b) The Executive may take and carry away any coal in respect of which they have given such notice and if, within 7 days of the giving of such notice the board so require, shall make the coal available to the board at a place convenient for the purpose;
- (c) The Executive may dispose of any coal which the board have not, within the said period of 7 days, required to be made available to them, but, except as aforesaid, shall not under the powers of this Act acquire, take, carry away or use any coal vested in the board:
- (3) The Executive shall discharge all duties and obligations of the board under section 151 of the Mines and Quarries Act 1954 relating to shafts and outlets of mines where such shafts and outlets are in or on land entered upon, taken or used under the powers of this Act or are encountered in the course of the construction or maintenance of the authorised works:
- (4) (a) In the construction of so much of the railway (Work No. 10) in the county borough of South Shields as lies

PART IV
—cont.

between the bridge carrying the mineral railway of the board over Victoria Road and the junction of that mineral railway with the existing railway of the railways board at Tyne Dock, the Executive shall, as part of that work, construct a line of railway, or such lines of railway as may be reasonably required by the board, in substitution for any part of the said mineral railway which may be displaced by the construction of so much of the said railway (Work No. 10) as is required for the rapid transit railway;

- (b) On the completion of the construction of such substituted line or lines of railway in accordance with the following provisions of this section, the same shall be maintained by, and at the expense of, the Executive for a period of 12 months, and at the expiration of that period shall be maintainable by, and at the expense of, the board;
- (c) On the expiration of the said period of 12 months the Executive shall pay to the board such reasonable capital sum as shall represent any increase in the costs which may be expected to be reasonably incurred by the board in maintaining, operating and, when necessary, renewing any such substituted line or lines of railway:

Provided that if the cost of maintaining, operating or renewing the said mineral railway is reduced in consequence of the construction of any such substituted line or lines of railway, a capitalised sum representing such saving may be set off against any sum payable by the Executive to the board under this section:

- (5) (a) The Executive shall, before commencing the construction of the specified works, furnish to the board such proper and sufficient plans thereof as may reasonably be required for the reasonable approval of the board and shall not commence the specified works until plans thereof have been approved in writing by the board or settled by arbitration:

Provided that, if within 28 days after such plans have been furnished to the board they shall not have notified their disapproval thereof and the grounds of their disapproval, they shall be deemed to have approved the plans as submitted;

- (b) (i) Upon signifying their approval or disapproval of the plans of any specified works which may affect any of the mineral railways of the board in the county borough of South Shields, the board may specify any protective works, whether temporary or permanent, which in their opinion should be carried out before the commencement of the construction of the specified works to ensure the

safety or stability of any such mineral railway, and such protective works as may be reasonably necessary for those purposes shall be constructed by the board with all reasonable dispatch, and the Executive shall not commence the construction of the specified works until the board shall have notified the Executive that the protective works have been completed;

- (ii) If the board do not proceed with the construction of any protective works under this sub-paragraph, or, having commenced the construction thereof, do not complete the same within such time as may be reasonably required for the purpose, the Executive may themselves construct the works in question, or such part thereof as may remain to be completed, as the case may be;
- (c) The Executive shall give to the board not less than 28 days' notice of their intention to commence the construction of any of the specified works and also, 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 surface property of the board;
- (d) The construction of the specified works shall, when commenced, be carried out with all reasonable dispatch in accordance with the approved plans and under the supervision (if given), and to the reasonable satisfaction, of the board, and in such manner as to cause as little damage to surface property of the board as may be and as little interference as may be with the conduct of traffic on any such mineral railway of the board, and if any damage to surface property of the board or any such interference shall be caused by the carrying out of the specified works, the Executive shall, notwithstanding any such approval as aforesaid, make good such damage and pay to the 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:

Provided that nothing in this sub-paragraph shall impose any liability on the Executive with respect to any damage, costs, expenses or loss which is attributable to the act, neglect or default of the board or their servants, contractors or agents;

- (e) The Executive shall at all times afford reasonable facilities to the board for access to the specified works during their construction and shall supply them with all

PART IV
—cont.

such information as they may reasonably require with regard to the specified works or the method of construction thereof;

(f) The board shall at all times afford reasonable facilities to the Executive and their agents for access to any works carried out by the board under sub-paragraph (b) of this paragraph during their construction, and shall supply the Executive with such information as they may reasonably require with regard to such works or the method of construction thereof;

(g) The Executive shall repay to the board costs reasonably incurred by the board—

(i) in constructing any protective works under the provisions of sub-paragraph (b) of this paragraph including, in respect of any permanent protective works, a capitalised sum representing the costs which may be expected to be reasonably incurred by the board in maintaining and renewing such works;

(ii) in respect of the employment of any inspectors, signalmen, watchmen and other persons who it shall be reasonably necessary to appoint for inspecting, watching, lighting and signalling any such mineral railway and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident, arising from the construction or failure of the specified works;

(iii) in respect of any special traffic working resulting from any restrictions which may be reasonably required by reason or in consequence of the construction or failure of the specified works, or from the diversion of traffic which may be reasonably necessary for the same reason:

(6) The board shall not be liable under the Coal-Mining (Subsidence) Act 1957 or otherwise for any damage to the authorised works caused at any time by the withdrawal of support from land in connection with the following operations carried out before 27th November, 1972:—

(a) the working or getting of coal;

(b) the working or getting of coal and other minerals worked therewith;

(c) the getting of any product from coal in the course of working it:

(7) The board shall not be liable to the Executive in respect of any escape of gas or water directly or indirectly

from any mine of coal (whether or not vested in the board), being an escape which would not have occurred but for the construction of the authorised works, and, subject to paragraph (10) of this section, the Executive shall indemnify the board against all losses, costs, charges, damages, claims, demands and expenses which may be occasioned to, or reasonably incurred by, the board by reason of any such escape:

- (8) The Executive shall be responsible for and make good to the board costs, charges, damages and expenses not otherwise provided for in this section which may be occasioned to, or reasonably incurred by, the board by reason of the construction of the specified works or the failure thereof, or by reason of any act or omission of the Executive, or of any person in their employ, or of their contractors or others whilst engaged upon the construction of the specified works, and, subject to paragraph (10) of this section, the Executive shall indemnify the board from and against claims and demands arising out of, or in connection with, the construction of the authorised works or any failure thereof or any act or omission of the Executive or of any person in their employ or of their contractors or others whilst engaged upon the construction of the authorised works :
- (9) The fact that any act or thing may have been done in accordance with plans approved by the board, or in accordance with any requirement of the board or under their supervision, shall not (if it was not attributable to the act, neglect or default of the board, or of any person in their employ, or of their contractors or agents) excuse the Executive from any liability under the provisions of this section:
- (10) The board shall give to the Executive reasonable notice of any claim or demand in respect of which the Executive may be required to indemnify the board under paragraph (7) or (8) of this section and no settlement or compromise thereof shall be made without the prior consent of the Executive:
- (11) Any difference arising between the Executive and the board under this section (other than a difference as to the meaning or construction of this section) shall be determined by arbitration.

PART IV
—cont.As to
highways,
traffic, etc.

50. For the protection of certain highway authorities the following provisions shall, unless otherwise agreed in writing between the Executive and the highway authority concerned, apply and have effect:—

(1) In this section—

“highway” means a highway vested in, or repairable or maintained by, the highway authority:

(2) Wherever in this section 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) The Executive shall not, without the consent of the highway authority, construct any part of the authorised works which will be within 8 metres of the surface of any highway except in accordance with plans and sections submitted to, and approved by, the highway authority:

Provided that, 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:

(4) In the construction of any part of the authorised 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 2 metres to the surface of the highway:

(5) Before commencing to construct any part of the authorised works which will involve interference with a highway, or the traffic in any highway, or before temporarily stopping up any highway, the Executive shall consult the highway authority as to the time when such part shall be commenced, and as to the extent of the surface of the highway which it may be reasonably necessary for the Executive to occupy, or the nature of the interference which may be caused to the said traffic in the construction of such part, or as to the time during which, and the extent to which, such highway shall be stopped up (as the case may be), and as to the conditions under which such part shall be constructed, or such 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, and such part shall not be constructed and the surface of the highway shall not be occupied, or such highway shall not be stopped up by the Executive, and the said interference with traffic shall not be caused, except at such

time, to such extent, and in accordance with such conditions as may be agreed between the Executive and the highway authority or determined by arbitration:

PART IV
—cont.

- (6) At least 14 days before commencing to make any vertical holes from the surface of any part of any highway the Executive shall serve notice in writing on the highway authority of their intention to commence the same, and such notice shall describe the place or places at which the holes are intended to be made, and, if within 14 days after the receipt of such notice any objection is made by the highway authority, the matter shall (unless otherwise agreed) be determined by arbitration before the making of the hole is commenced, but if no such objection is made the Executive may proceed with the making of the hole:
- (7) Except with the consent of the highway authority the Executive shall not open or make any permanent openings or any ventilators, air shafts or other similar openings in, or erect or construct any structure or erection above, the surface of the carriageway or footway of any highway, and in constructing, maintaining and operating the said ventilators, air shafts or other similar openings the Executive shall take all steps which are reasonably practicable to avoid causing a nuisance:
- (8) (a) The Executive shall not without the approval of the highway authority construct any piers, abutments or other works in connection with a new bridge within a highway, and before commencing the construction of any new bridge, or the carrying out of any work in connection therewith, which involves interference with a highway the Executive shall submit to the highway authority for their reasonable approval plans relating thereto, and such new bridge shall not be constructed and such works shall not be carried out otherwise than in accordance with such plans as may be so approved by the highway authority or, if such approval be withheld, as may be settled by arbitration:
- Provided that if within 28 days after the submission to them of plans under this paragraph the highway authority do not signify to the Executive their approval or disapproval thereof they shall be deemed to have approved the plans as submitted;
- (b) Any part of the construction of a new bridge or any part of any work as aforesaid which involves interference with a highway shall be carried out in accordance with the plans approved, or deemed to be approved, or

PART IV
—cont.

- settled as aforesaid and under the supervision (if given) and to the reasonable satisfaction of the highway authority;
- (c) Each bridge which carries any part of the authorised works over any highway shall be constructed in such manner as to prevent so far as may be reasonably practicable the dripping of water therefrom;
- (d) The Executive in constructing any new bridge, or in the carrying out of any work in connection with any new bridge, which involves interference with any highway, shall make good all damage or injury which shall be caused to the highway by reason or in consequence of the construction of the new bridge or the carrying out of such work;
- (e) The highway authority may, at the cost of the Executive, 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 a new bridge and keep the highway sufficiently lighted during the construction of the new bridge;
- (f) In this paragraph “new bridge” means a bridge, or the extension or alteration of an existing bridge, carrying any part of the authorised works over a highway; or a bridge, or the extension of an existing bridge, for carrying a highway over any part of the authorised works:
- (9) The Executive shall secure that so much of the authorised works as is constructed under, or so as to affect, any highway shall be designed, constructed and maintained so as to carry the appropriate loading recommended, at the time of construction of such works by the Secretary of State for highway bridges, and the Executive 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 any non-compliance by the Executive with the provisions of this paragraph:
- (10) It shall be lawful for the engineer or surveyor or other officer of the highway authority duly appointed for the purpose at all reasonable times, on giving to the Executive such notice as may in the circumstances be reasonable, to enter upon and inspect any part of the authorised works which is in or under any highway, or which may affect any highway or any property or work of the highway authority, during the execution

thereof, and the Executive 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 such works is attended with danger to any highway or to any sanitary convenience, refuge, sewer, drain, lamp column, traffic sign, bollard, bin for refuse or road materials or apparatus connected therewith or any property or work belonging to, or under the jurisdiction or control of, the highway authority on or under any highway, the Executive shall adopt such measures and precautions as may be reasonably necessary for the purpose of preventing any damage or injury thereto:

- (11) The Executive shall not alter, disturb or in any way interfere with any sanitary convenience, refuge, sewer, drain, lamp column, traffic sign, bollard, bin for refuse or road materials or apparatus connected therewith or any property or work belonging to, or under the jurisdiction or control 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 sanitary convenience, refuge, sewer, drain, lamp column, traffic sign, bollard, bin for refuse or road materials or apparatus, property or work as aforesaid which may be necessary shall be made by the highway authority or the Executive as the highway authority shall think fit, and the costs, charges and expenses reasonably incurred by the highway authority in so doing shall be repaid to the highway authority by the Executive:
- (12) The Executive shall not remove any soil or material from any highway except such as must be excavated in the carrying out of the authorised works:
- (13) If the highway authority, after giving to the Executive not less than 28 days' notice (or, in case of emergency, such other notice as is reasonably practicable) of their intention to do so, incur any extra expense in the sign-posting 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 classification, in consequence of the construction of the authorised works, the Executive shall repay to the highway authority the amount of any such expense reasonably so incurred:
- (14) (a) The Executive shall not, except with the consent of the highway authority, deposit any soil, subsoil or materials or stand any vehicle or plant on or over any

PART IV
—cont.

highway so as to obstruct or render less safe the use of such highway by any person or, except with the like consent, deposit any soil, subsoil or materials on any such highway except within a hoarding;

(b) The costs, charges and expenses reasonably incurred by the highway authority in removing any soil, subsoil or materials deposited on any highway in contravention of this paragraph shall be repaid to the highway authority by the Executive:

(15) The Executive 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 Executive may occupy any part of a highway for the purpose of the construction of any part of the authorised works, temporary bridges and temporary ramps for vehicular traffic or pedestrian traffic, or both, over any part of the authorised works or in such other position as may be necessary to prevent undue interference with the flow of traffic in the highway:

(16) Where any part of any highway shall have been temporarily broken up or disturbed by the Executive, the Executive shall make good the subsoil, foundations and surface of such 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:

Provided that the reinstatement of such 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 costs, charges and expenses reasonably incurred by the highway authority in so doing shall be repaid to the highway authority by the Executive:

(17) It shall not be lawful for the Executive to place any hoardings on any part of any highway except for such period as may be necessary and then only in such manner as shall be reasonably necessary, and the provisions of sections 147 and 148 of the Highways Act 1959 shall apply to any hoarding erected on any part of any highway, and, for the purposes of the said section 147, any such hoarding shall be deemed to have been erected in compliance with subsection (1) of that section:

(18) The Executive shall make compensation to the highway authority for any subsidence of, or damage to, any

highway or any sanitary convenience, refuge, sewer, drain, lamp column, traffic sign, bollard, bin for refuse or road materials or apparatus connected therewith or any property or work belonging to, or under the jurisdiction or control of, the highway authority on or under any highway or maintainable by them which may be caused by, or in consequence of, any act or default of the Executive, their contractors, servants or agents and whether such damage or subsidence shall happen during the construction of the authorised works or at any time thereafter:

PART IV
—cont.

- (19) 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 Executive from any liability, or affect any claim for damages, under this section or otherwise:
- (20) The highway authority may require that the authorised works, 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 Executive shall take all such steps as may be reasonably necessary to reduce so far as possible the period of such interference:
- (21) Any difference arising between the Executive and the highway authority under this section (other than a difference as to the meaning or construction of this section) shall be determined by arbitration.

51. For the protection of certain local authorities the following provisions shall, unless otherwise agreed in writing between the Executive and the local authority concerned, apply and have effect:—

For further protection of local authorities.

(1) In this section—

“ the local authority ” means—

(a) until 1st April, 1974, the county council of the administrative county of Durham, the county council of the administrative county of Northumberland, the Gateshead Corporation, the Newcastle Corporation, the South Shields Corporation, the Tynemouth Corporation, the Felling Urban District Council, the Gosforth Urban District Council and the Longbenton Urban District Council, or any of them, as the case may be;

PART IV
—cont.

(b) on and after 1st April, 1974, the Tyne and Wear County Council, the Newcastle upon Tyne District Council, the North Tyneside District Council, the Gateshead District Council and the South Tyneside District Council, or any of them, as the case may be;

“highway” means a highway vested in, or repairable or maintained by, the local authority;

“plans” means plans, sections and particulars;

“specified works” means any authorised work in the area of the local authority:

- (2) Wherever in this section provision is made with respect to the approval or consent of the local authority, that approval or consent shall be in writing and subject to such reasonable terms and conditions as the local authority may require, but shall not be unreasonably withheld:
- (3) Before undertaking any of the specified works the Executive shall—
- (a) consult the local authority with regard to their programme for the construction of the specified works so as to secure, so far as may be reasonably practicable, that the duration of any disturbance occasioned by, or in connection with, such construction shall be reduced to a minimum;
- (b) consult the local authority with regard to the lands to be occupied and used by the Executive as temporary working sites for contractors’ plant and storage required for the purpose of constructing the specified works and any such consultation shall include consultation as to the period for which and the manner in which each site shall be used and the steps to be taken by the Executive to mitigate injury to amenity:
- (4) (a) The Executive shall consult the local planning authority as to the situation, design and external appearance of any ventilator, air shaft or other similar opening forming part of the specified works and shall comply with such reasonable requirements as the local planning authority may make with regard to the situation, design and external appearance thereof;
- (b) The Executive shall not without the consent of the local planning authority make any permanent public communication between the specified works and the interior of any building, other than a building used by the Executive for transport purposes;

(c) Any difference arising between the Executive and the local planning authority under this paragraph shall be determined by the Secretary of State:

PART IV
—cont.

(5) Without prejudice to anything in the Town and Country Planning Act 1971, the Executive shall submit to the local planning authority for their approval particulars of the routes in their area to be used by vehicles, machinery and plant, passing to or from any part of the specified works under construction, outside the limits of deviation and of the proposed manner and method of disposing of any spoil or waste material resulting from the carrying out of any operation in connection with the specified works, and no such spoil or waste material shall be disposed of otherwise than in such manner and method as shall be described in particulars approved by the local planning authority as aforesaid or, if such approval be withheld, as may be determined by the Secretary of State :

Provided that, if within 28 days after the submission to them of particulars under this paragraph the local planning authority do not signify to the Executive their approval or disapproval thereof, they shall be deemed to have approved thereof:

(6) The Executive shall consult the local planning authority for the purpose of securing that the specified works shall fit in with surrounding development:

(7) (a) The entrances and exits to and from any subway, booking hall or station constructed as part of the authorised works, including any permanent openings in any highway, shall be so designed and of such extent as to secure the least practicable inconvenience to public traffic in the adjoining highways, and, before the Executive commence to construct such entrances or exits within the area of a local authority, plans thereof shall be submitted to the local authority for their reasonable approval:

Provided that, if the local authority do not within 28 days from the submission to them of any such plans notify their approval or disapproval thereof, they shall be deemed to have approved the plans as submitted:

(b) The Executive shall consult the local authority on the layout of any subways, footbridges and stations and, where so agreed with the local authority, shall so design the specified works that the entrances to, and exits from, the underground railways and any footbridges

PART IV
—cont.

over other parts of the rapid transit railway may be used also as pedestrian ways or walkways across adjoining highways;

- (c) The Executive shall, if it is reasonably practicable to do so, permit the local authority without charge to connect any means of access to and from any lands in which the local authority have an interest to any subway of the Executive to which the public have free access during the operation of the rapid transit railway, and the Executive shall permit the use without charge of the subway by the local authority and any persons desiring access to, or egress from, the said lands:

Provided that any works to be constructed under the provisions of this sub-paragraph shall be constructed at the expense of the local authority and in such position and in such manner as the Executive shall reasonably approve:

- (8) Within 91 days after the completion of any of the specified works, or such longer period as the local authority may agree, the Executive shall remove, or to the reasonable satisfaction of the local authority demolish or otherwise dispose of, all temporary buildings and structures erected at, above or immediately below the level of the surface of the ground for the purposes of, or in connection with, the construction of that work, and shall remove all surplus materials, plant, machinery and appliances provided in connection therewith, and shall, so far as is reasonably practicable, to the like satisfaction restore and make good the surface of the ground on which any temporary buildings and structures or any surplus materials, plant, machinery and appliances as aforesaid have been placed or which may have been occupied for the purpose of, or in connection with, the construction of that work:
- (9) So soon as reasonably practicable after the completion of any part of the specified works the Executive shall furnish the local authority with a plan and section showing the position and level of that work as constructed:
- (10) (a) The Executive shall carefully preserve and remove all objects of geological or antiquarian interest discovered by them in the construction of the specified works and, subject to the rights of the Crown and except so far as the same may be proved to be the property of any other person, any such objects discovered within the area of the local authority shall be deposited with the local authority as the property of the local authority;

- (b) The Executive shall afford to any duly authorised officer of the local authority reasonable facilities to inspect any objects so discovered in the construction of the specified works:
- (11) (a) The Executive shall be responsible for, and make good to the local authority, costs, charges, damages and expenses not otherwise provided for in this Act which may be occasioned to, or reasonably incurred by, the local authority—
- (i) by reason of the construction of the authorised works or the failure thereof; or
 - (ii) by reason of any act or omission of the Executive or of any person in their employ, or of their contractors or others whilst engaged upon the construction of the authorised works;

and the Executive shall indemnify the local authority from claims and demands arising out of, or in connection with, the construction of the authorised works or any such failure, act or omission as aforesaid, or any subsidence caused thereby, and the fact that any act or thing may have been done in accordance with plans approved by the local authority or in accordance with any requirement of the local authority or under their supervision, shall not (if it was not attributable to the act, neglect or default of the local authority or of any person in their employ or of their contractors or agents) excuse the Executive from any liability under the provisions of this section:

Provided that the local authority shall give to the Executive reasonable notice of any claim or demand as aforesaid, and no settlement or compromise thereof shall be made without the prior consent of the Executive;

- (b) In this paragraph “construction” includes reconstruction, alteration, maintenance and repair:
- (12) Any difference arising between the Executive and the local authority under this section (other than a difference as to the meaning or construction of this section) shall be determined by arbitration.

52. For the protection of certain sewerage authorities the following provisions shall, unless otherwise agreed in writing between the Executive and the sewerage authority concerned, apply and have effect:—

- (1) In this section—

“public sewer” has the same meaning as in the Public Health Act 1936;

For protection of public sewers.
1936 c. 49.

PART IV
—cont.

“ the sewerage authority ” means the local authority in which are vested any public sewers to which this section applies and includes the Tyneside Joint Sewerage Board;

“ specified works ” has the meaning assigned by paragraph (3) of this section:

- (2) Wherever in this section provision is made with respect to the approval of the sewerage authority such approval shall be in writing, but shall not be unreasonably withheld:
- (3) (a) Not less than 56 days before commencing the construction of any of the authorised works in the area of any sewerage authority the Executive shall furnish to the sewerage authority a map on a scale of not less than 6 inches to 1 mile showing so much of the proposed work as will be situate in that area;
- (b) The sewerage authority shall within 28 days from the receipt of any such map, by notice in writing to the Executive, specify any public sewer affected by the proposed work in relation to which the submission of plans, sections and particulars of the work under paragraph (4) of this section is required, and any authorised works in relation to which it is agreed between the Executive and the sewerage authority, or determined by arbitration, that the submission of plans, sections and particulars as aforesaid is reasonably required shall be specified works for the purposes of this section:

Provided that where any part of the authorised works will or may be situated within 15 metres measured in any direction of any public sewer the submission of plans, sections and particulars as aforesaid shall be deemed to be reasonably required:

- (4) The Executive shall not commence the construction of the specified works until they have given to the sewerage authority 28 days' notice in writing of their intention to commence the same together with plans as described in paragraph (10) of this section (in this section referred to as “ the said plans ”) for their reasonable approval, and until the sewerage authority have signified their approval of the said plans:

Provided that, if within 28 days after the submission of the said plans the sewerage authority have not approved or disapproved them, they shall be deemed to have approved the said plans as submitted:

- (5) The Executive shall comply with, and conform to, all reasonable orders, directions and regulations of the sewerage authority in the construction of the said works

and shall provide new, altered or substituted works in such manner as the sewerage authority shall reasonably require for the protection of, and for preventing injury or impediment to, such sewer by reason of the specified works, and shall indemnify the sewerage authority against expenses occasioned thereby:

PART IV
—cont.

- (6) Such new, altered or substituted works shall, where so required by the sewerage authority, be done by the sewerage authority, or under the direction, superintendence and control of an officer of the sewerage authority duly appointed for the purpose, at the cost of the Executive, and the costs, charges and expenses reasonably incurred by the sewerage authority by reason of such works, whether in the execution thereof, or in the preparation or examination of plans or designs, or in such direction, superintendence or control as aforesaid, or otherwise, shall be repaid to the sewerage authority by the Executive:
- (7) When any such new, altered or substituted works or any protective work connected therewith shall be completed by, or at the cost of, the Executive under the provisions of this section, the same shall thereafter be as fully and completely under the direction, jurisdiction and control of the sewerage authority as any sewers or works now or hereafter may be:
- (8) The sewerage authority may require the Executive, in constructing the specified works, to make any reasonable deviation within the limits of deviation from the line or levels shown upon the said plans for the purpose of avoiding injury or risk of injury to their public sewers, and the Executive shall in constructing such works deviate accordingly:
- (9) It shall not be lawful for the Executive in the exercise of the powers of section 11 (3) of the Act of 1965, as applied by this Act, to make any trial holes so as to interfere with any public sewer:
- (10) The plans to be submitted to the sewerage authority for the purposes of this section shall be detailed plans, drawings, sections and specifications which shall describe the exact position and manner in which, and the level at which, the specified works are proposed to be constructed and shall accurately describe the position of all public sewers of the sewerage authority within the limits of deviation (for which purpose the sewerage authority shall allow the Executive access to plans in their possession and to any of their sewers in order to

PART IV
—cont.

enable the Executive to obtain reliable information), and shall comprise detailed drawings of every alteration which the Executive may propose to make in any such sewer:

- (11) The sewerage authority may require such modifications to be made in the said plans as may be reasonably necessary to secure their main drainage system against interference or risk of damage and to provide and secure a proper and convenient means of access to the said sewers:
- (12) The Executive shall be liable to make good, or, if the sewerage authority so decide, to bear any expense reasonably incurred by the sewerage authority in making good, injury or damage to any sewers, drains or works vested in the sewerage authority caused by, or resulting from, the construction of the specified works:
- (13) If the Executive, in the construction of the specified works, or any new, altered or substituted works, or any protective work connected therewith provided in accordance with this section, damage or, without the consent of the sewerage authority, alter or in any way interfere with any existing public sewer of the sewerage authority, the Executive shall—
 - (a) repay to the sewerage authority any additional expense which may reasonably be incurred by the sewerage authority in the maintenance, management or renewal of any new, altered or substituted sewer which may be necessary in consequence of the said construction; and
 - (b) give to the sewerage authority full, free and uninterrupted access at all times to any such new, altered or substituted sewer and every reasonable facility for the inspection, maintenance, alteration and repair thereof:
- (14) It shall be lawful for an officer of the sewerage authority duly appointed for the purpose at any reasonable time, on giving to the Executive such notice as may in the circumstances be reasonable, to enter upon and inspect the specified works or any other works constructed under the powers of this section:
- (15) The approval by the sewerage authority of any plans, or the superintendence by them of any work, under the provisions of this section shall not exonerate the Executive from any liability, or affect any claim for damages, under this section or otherwise:

- (16) Any difference arising between the Executive and the sewerage authority under this section (other than a difference as to the meaning or construction of this section) shall be determined by arbitration.

PART IV
—cont.

53. For the protection of certain statutory undertakers, the following provisions shall, unless otherwise agreed in writing between the Executive and the undertakers concerned, apply and have effect:—

For
protection
of certain
statutory
undertakers.

- (1) In this section, unless the subject or context otherwise requires—

“ the undertakers ” means the British Gas Corporation, the Central Electricity Generating Board, the Newcastle and Gateshead Water Company, the North Eastern Electricity Board, the Sunderland and South Shields Water Company and the Tynemouth Corporation, or any of them, as the case may be;

“ apparatus ” means—

(a) electric lines and works (as respectively defined in the Electric Lighting Act 1882) belonging to, or maintained by, the Central Electricity Generating Board or the North Eastern Electricity Board; or

(b) mains, pipes or other apparatus belonging to, or maintained by, the British Gas Corporation, the Newcastle and Gateshead Water Company, the Sunderland and South Shields Water Company or the Tynemouth Corporation;

(not being in any case apparatus in respect of which the relations between the Executive 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;

“ adequate 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 Executive shall not acquire any apparatus under the powers of this Act otherwise than by agreement:
- (3) If the Executive in the exercise of the powers of this Act acquire any interest in any lands in which any apparatus is placed, that apparatus shall not be removed

PART IV
—cont.

under this section and any right of the undertakers to maintain, repair, renew or inspect that apparatus in those lands shall not be extinguished, until any necessary adequate alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the undertakers:

- (4) If the Executive, for the purpose of constructing any authorised work in, on or under any lands acquired, held, appropriated or used under this Act, require the removal of any apparatus placed in those lands, and give to the undertakers not less than 28 days' written notice of such requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed so as to provide adequate alternative apparatus instead of the apparatus to be removed, or if, in consequence of the exercise of any of the powers of this Act, the undertakers shall reasonably require to remove any apparatus, the Executive shall afford to the undertakers the necessary facilities and rights for the construction of any necessary adequate alternative apparatus in other lands of the Executive 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 lands of the Executive and the Executive are unable to afford such facilities and rights as aforesaid, the undertakers shall, on receipt of a written notice to that effect from the Executive, forthwith use their best endeavours to obtain the necessary facilities and rights:

- (5) (a) Any alternative apparatus to be constructed in lands of the Executive in pursuance of paragraph (4) of this section shall be constructed in such manner, and in such line or situation, as may be agreed between the undertakers and the Executive, or, in default of agreement, determined by arbitration;
- (b) 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) of this section, proceed with all reasonable dispatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the Executive to be removed under the provisions of this section and, in default, the Executive may remove the apparatus:

- (6) Notwithstanding anything in paragraph (5) of this section, if the Executive give notice in writing to the undertakers that they desire themselves to execute any part of so much of the work necessary in connection with the construction of the alternative apparatus, or the removal of the apparatus required to be removed, as will be situate in any lands of the Executive, such work, instead of being executed by the undertakers, shall be executed by the Executive with all reasonable dispatch under the superintendence (if given) and to the reasonable satisfaction of the undertakers:

PART IV
—cont.

Provided that nothing in this paragraph shall authorise the Executive to execute the actual placing, erection, installation, bedding, packing, removal, connection or disconnection of any apparatus or any filling around the apparatus extending (where the apparatus is laid in a trench) to within 30 centimetres above the apparatus:

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

Provided that—

(a) in determining such terms and conditions as aforesaid in respect of alternative apparatus to be constructed across or along the authorised works the arbitrator shall—

(i) give effect to all reasonable requirements of the Executive for ensuring the safety and efficient operation of the authorised works and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of the Executive or the traffic on the rapid transit railway; and

(ii) so far as it may be reasonable and practicable to do so in the circumstances of the case, give effect to any terms and conditions applicable to the apparatus (if any) constructed across or along the authorised works for which the alternative apparatus is to be substituted;

(b) if the facilities and rights to be afforded by the Executive in respect of any alternative apparatus, and

PART IV
—cont.

the terms and conditions subject to which the same 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 by the Executive 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:

- (8) (a) Not less than 28 days before commencing to execute any authorised works which are near to, or will or may affect, any apparatus the removal of which has not been required by the Executive under paragraph (4) of this section, the Executive shall submit to the undertakers a plan, section and description of the works to be executed;
- (b) Such works shall be executed in accordance with the plan, section and description submitted as aforesaid and in accordance with such reasonable requirements as may be made by the undertakers for the alteration or otherwise for the protection of the apparatus, or for securing access thereto, and the undertakers shall be entitled by their officer to watch and inspect the execution of such works:

Provided that—

- (i) if the undertakers, within 14 days after the submission to them of any such plan, section and description, shall, in consequence of the works proposed by the Executive, reasonably require the removal of any apparatus and give written notice to the Executive of such requirement, the foregoing provisions of this section shall apply and have effect as if the removal of such apparatus had been required by the Executive under paragraph (4) thereof; and
- (ii) nothing in this sub-paragraph shall preclude the Executive from submitting at any time, or from time to time, but in no case less than 28 days before commencing the execution of the works, a new plan, section and description thereof instead of the plan, section and description previously submitted, and thereupon the provisions of this paragraph shall apply to, and in respect of, such new plan, section and description;
- (c) The Executive shall not be required to comply with sub-paragraph (a) of this paragraph 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 comply with sub-paragraph (b) of this paragraph so far as reasonably practicable in the circumstances:

- (9) If in consequence of the exercise of the powers of this Act the access to any apparatus is materially obstructed the Executive shall provide alternative means of access to such apparatus:
- (10) Where, in consequence of this Act, any part of any street or footpath in which any apparatus is situate ceases to be part of a street or footpath, 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 Executive or of the undertakers to require removal of such apparatus under this section or the power of the Executive to execute works in accordance with paragraph (8) of this section:
- (11) The Executive 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 section;

(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 Executive of any of the powers of this Act:

Provided that subsections (3) and (4) of section 23 of the Public Utilities Street Works Act 1950 shall, 1950 c. 39. so far as applicable, extend and apply to any payment to be made by the Executive under this paragraph as if the works hereinbefore in this paragraph mentioned 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 section 53 (For protection of certain statutory undertakers) of the Tyneside Metropolitan Railway Act 1973":

- (12) If by reason or in consequence of the construction, user or failure of any of the authorised works or any subsidence resulting from any of those works any damage

PART IV
—cont.

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, shall be caused, the Executive shall (on a claim made, in the case of any such damage or interruption caused by reason or in consequence of the user of any of the authorised works, within two years from the date of the opening for public traffic of that portion of the rapid transit railway for the purpose of which, or in connection with which, the authorised work shall have been constructed) 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:

Provided that—

(i) nothing in this paragraph shall impose any liability on the Executive 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 other agents; and

(ii) the undertakers shall give to the Executive reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Executive:

- (13) Notwithstanding the temporary stopping up or diversion of any street under the powers of section 15 (Temporary stoppage of highways) of this Act, the undertakers shall be at liberty at all times to execute and do all such works and things in, upon or under any such street 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 street:
- (14) The Executive shall, so far as is reasonably practicable, so exercise the powers conferred by section 20 (Underpinning of houses near works) of this Act as not to obstruct or render less convenient the access to any apparatus:

(15) Nothing in this section shall prejudice or affect the provisions of any enactment or agreement regulating the relations between the Executive and the undertakers in respect of any apparatus in land of the Executive at the commencement of this Act:

PART IV
—cont.

(16) (a) Any difference arising between the Executive and the undertakers under this section (other than a difference as to the meaning or construction of this section) shall be determined by arbitration;

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

54. For the protection of the Post Office the following provisions shall, unless otherwise agreed in writing between the Executive and the Post Office, apply and have effect:—

For
protection of
Post Office.

(1) Any electrical works or equipment constructed, erected, laid, maintained, worked or used pursuant to the powers conferred by this Act shall be so constructed, erected or laid and so maintained, worked and used, and the rapid transit railway shall be so worked, that any electricity generated or conveyed by, or used in, or in connection with, any such works or equipment and the working of such railway does not cause interference (whether by induction or otherwise) with any telegraphic line belonging to, or used by, the Post Office or with telecommunication by means of any such line:

Provided that this paragraph, so far as it relates to the working of the rapid transit railway, shall not apply to any telegraphic line placed in or along any such railway in pursuance of the powers conferred on the Post Office by section 6 of the Telegraph Act 1878 1878 c. 76. or to any telegraphic line so placed in or along any railway immediately connected or communicating with any such railway:

(2) (a) If any telegraphic line belonging to, or used by, the Post Office situate within one mile of any part of the authorised works is injuriously interfered with and the Post Office is of opinion that such injurious interference is or may be due to the construction of the authorised works or to the working of the same, an engineer of the Post Office appointed by them in that behalf, or any person appointed in writing by him for the purpose of this section, may, by arrangement with the engineer of the

PART IV
—cont.

Executive, at any time when electrical energy is being generated or used by, or supplied to, the Executive, enter any of the authorised works for the purpose of inspecting the Executive's plant and the working of the same, and the Executive shall, in the presence of the engineer so appointed by the Post Office or the person so appointed by him, make such electrical tests as may reasonably be required by the Post Office and shall produce for the inspection of the Post Office the records kept by the Executive pursuant to any regulations made by the Secretary of State which may for the time being be in force with respect to the railways comprised in the rapid transit railway;

- (b) If any telegraphic line belonging to, or used by, the Post Office situate within one mile of any part of the authorised works is injuriously interfered with and the Post Office is unable to ascertain whether such injurious interference is caused by the Executive or by other persons generating or using electrical currents for traction purposes, the Post Office may, by such notice as may be reasonably required in the circumstances, require the Executive to make, at such reasonable times as the Post Office may specify, such reasonable experiments (by working their generating stations, running their carriages or cars, or otherwise working any part of the said railways or, in case of continuous working, by stopping the electricity generated for the purposes of the said railways at such times as would not interfere with the traffic thereon) as the Post Office may deem necessary to facilitate the discovery of the cause of the interference:
- (3) For the purposes of this section any telegraphic line belonging to, or used by, the Post Office shall be deemed to be injuriously interfered with by an act or work if telecommunication by means of such line is, whether through induction or otherwise, in any manner affected by such act or work or by any use made of such work:
- (4) (a) Where in pursuance of section 13 (Further works and powers) of this Act the Executive stop up and discontinue the whole or any part of any street or footpath the following provisions of this paragraph shall have effect in relation to so much of any telegraphic line belonging to, or used by, the Post Office as is in the land which by reason of the stopping up ceases to be a street or footpath or part of a street or footpath (in this paragraph referred to as "the affected line"), that is to say:—
- (i) The power of the Post Office to remove the affected line shall be exercisable notwithstanding the

stopping up, so however that the said power shall not be exercisable as respects the whole or any part of the affected line after the expiration of a period of 91 days from the date of the sending of the notice referred to in sub-paragraph (b) of this paragraph unless, before the expiration of that period, the Post Office has given notice to the Executive of its intention to remove the affected line, or that part thereof, as the case may be;

(ii) The Post Office may, by notice in that behalf to the Executive, abandon the affected line, or any part thereof, and shall be deemed, as respects the affected line, or any part thereof, to have abandoned it at the expiration of the said period of 91 days unless, before the expiration of that period, the Post Office has removed it or given notice of its intention to remove it;

(iii) The Post Office shall be entitled to recover from the Executive the expense of providing in substitution for the affected line, and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the affected line, a telegraphic line in such other place as the Post Office may reasonably require;

(iv) Where under sub-paragraph (ii) of this sub-paragraph the Post Office has abandoned the whole or any part of the affected line, it shall vest in the Executive and the provisions of the Telegraph Acts 1863 to 1916 shall not apply in relation to it as respects anything done or omitted after the abandonment thereof:

- (b) So soon as practicable after the whole or any part of a street or footpath has been stopped up under the powers referred to in sub-paragraph (a) of this paragraph, the Executive shall send to the Post Office a notice informing it of such stopping up:
- (5) The exercise of the powers conferred by section 15 (Temporary stoppage of highways) of this Act in relation to a street, bridleway or footpath shall not affect the powers of the Post Office under the Telegraph Acts 1863 to 1916 to maintain, inspect, repair, renew or remove telegraphic lines or to open or break up that street, bridleway or footpath for any of those purposes:
- (6) The Executive shall, so far as is reasonably practicable, so exercise the powers conferred by section 20 (Underpinning of houses near works) of this Act as not to obstruct or render less convenient the access to any telegraphic line belonging to, or used by, the Post Office:

PART IV

—cont.

1878 c. 76.

(7) Section 7 of the Telegraph Act 1878 shall apply in respect of any work of construction or alteration authorised by an order made under section 57 (Moving pavements) of this Act as if the work were authorised by an Act of Parliament:

(8) If by reason or in consequence of the construction, user or failure of any of the authorised works or any subsidence resulting from any of those works any damage to any telegraphic line belonging to, or used by, the Post Office (other than a line the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or any property of the Post Office, or any interruption in telecommunication by means of any such line or property, shall be caused, the Executive shall (on a claim made, in the case of any such damage or interruption caused by reason or in consequence of the user of any of the authorised works, within two years from the date of the opening for public traffic of that portion of the rapid transit railway for the purpose of which, or in connection with which, the authorised works shall have been constructed) bear and pay the cost reasonably incurred by the Post Office in making good such damage, or restoring telecommunication, and shall—

(a) make reasonable compensation to the Post Office for loss sustained by it; and

(b) indemnify the Post Office against claims, demands, proceedings, costs, damages and expenses which may be made or taken against, or recovered from, or incurred by, the Post Office;

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

Provided that—

(i) nothing in this paragraph shall impose any liability on the Executive 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 Post Office, its officers, servants, contractors or other agents; and

(ii) the Post Office shall give to the Executive reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Executive:

(9) Any difference (including failure to agree) arising between the Executive and the Post Office under this section (other than a difference as to the meaning or construction of this section) shall be determined by arbitration:

55.—(1) In this section—

PART IV.
—cont.

“grave” includes a grave space, vault, niche or urn;

“the specified lands” means the lands numbered on the deposited plans 87 in the city and county of Newcastle upon Tyne excluding the parts of those lands specified in Schedule 3 to this Act.

Removal of
human
remains.

(2) (a) Before the Executive begin to use any part of the specified lands for the construction of any authorised works therein less than 9.3 metres below the surface of that part of those lands they shall remove, or cause to be removed, from that part of the specified lands the remains of all deceased persons interred therein and, before proceeding to remove any such remains, they shall give notice of their intention so to do stating the substance of subsections (3) to (8) of this section.

(b) The notice referred to in paragraph (a) of this subsection shall be published by the Executive once in each of two successive weeks in a newspaper circulating in Newcastle and shall be displayed in a conspicuous place on the specified lands.

(3) At any time within 56 days after the first publication of such notice, any person who is a personal representative or relative of any deceased person whose remains are interred in the specified lands, may give notice in writing to the Executive of his intention to undertake the removal of such remains, and thereupon he shall be at liberty to cause such remains to be removed to and re-interred in any burial ground or cemetery in which burials may legally take place, or to be removed to, and cremated in, any crematorium.

(4) If any person giving such notice as aforesaid fails to satisfy the Executive that he is such personal representative or relative as he claims to be, the question shall be determined on the application of either party in a summary manner by the county court, which shall have power to make an order specifying who shall remove the remains and as to the payment of the costs of the application.

(5) The expenses of such removal and re-interment or cremation (not exceeding the sum of £75 in respect of remains removed from any one grave) shall be defrayed by the Executive, such sum to be apportioned, if necessary, equally according to the number of deceased persons whose remains are in the grave.

(6) If within the said period of 56 days no such notice as aforesaid shall have been given to the Executive in respect of the remains in any grave, or if after such notice has been given the person giving the same shall fail within 28 days to cause such

PART IV
—cont.

remains to be removed in compliance with the provisions of this section, the Executive shall remove the remains of the deceased person and cause them to be re-interred in such other burial ground or cemetery in which burials may legally take place as the Executive think suitable for the purpose, or cremated in such crematorium as the Executive think fit.

(7) Upon any removal of remains from the specified lands a certificate of removal and re-interment or cremation shall be sent to the Registrar General by the Executive giving the dates of removal and re-interment or cremation respectively and identifying the place from which the remains were removed and the place in which they were re-interred or cremated, showing the particulars of each removal separately.

(8) The removal of the remains of any deceased person under this section shall be carried out in accordance with any directions which may be given by the Secretary of State.

Crown rights.

56.—(1) Nothing in this Act affects prejudicially any estate, right, power, privilege or exemption of the Crown, and, without prejudice to the generality of the foregoing, nothing in this Act authorises the Executive to take, use, or in any manner interfere with, any land or hereditaments, or any rights of whatsoever description, belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of those commissioners on behalf of Her Majesty or (as the case may be) the consent in writing of that government department first had and obtained for that purpose.

(2) Nothing in this section shall prejudice or affect the exercise by the Executive of statutory powers to carry out works in or affecting any highway vested in, or maintained by, the Secretary of State in relation to which section 50 (As to highways, traffic, etc.) of this Act applies.

PART V

MISCELLANEOUS AND GENERAL

Moving pavements.

57.—(1) The Secretary of State may, by order made upon the application of the Executive, authorise them to construct, alter, maintain and operate escalators or moving pavements and works connected therewith within their area.

(2) An order made under this section may contain such incidental, consequential and supplementary provisions as the Secretary of State thinks necessary or expedient.

(3) An order under this section may authorise the Executive to acquire compulsorily any land required for the construction, alteration, maintenance or operation of escalators or moving pavements or works connected therewith.

PART V
—cont.

(4) The provisions of Schedule 5 to this Act shall have effect with respect to applications and orders under this section:

Provided that where the powers applied for by an application under this section do not consist of or include any power to acquire compulsorily any land, Part II of the said Schedule 5 shall not have effect with respect to that application or to any order made thereon, and an order made on that application shall not confer any power to acquire compulsorily any land.

(5) Before making application to the Secretary of State for an order under this section the Executive shall consult the highway authority and the local planning authority.

58.—(1) The Executive may make byelaws regulating the use and working of, and travel on, the rapid transit railway, the maintenance of order on the rapid transit railway and their railway premises, including stations, the approaches to stations and any escalators and moving pavements constructed by them, and the conduct of all persons, including their officers and servants, while on those premises.

Byelaws
relating to
rapid transit
railway.

(2) Without prejudice to the generality of the foregoing subsection, byelaws under this section may contain provisions—

- (a) with respect to tickets issued for entry on railway premises or travel on the rapid transit railway or escalators or moving pavements, the payment of fares and charges and the evasion of payment of fares or charges;
- (b) with respect to interference with, or obstruction of, the working of the rapid transit railway or escalators or moving pavements;
- (c) with respect to the use of tobacco or other substances in railway vehicles and elsewhere and the prevention of nuisances;
- (d) for regulating the passage of bicycles and other vehicles on footways and other premises controlled by the Executive and intended for the use of persons on foot;
- (e) for the safe custody and redelivery or disposal of property found in railway premises or vehicles of the Executive, or elsewhere upon the rapid transit railway, and for fixing the charges which may be made in respect thereof.

PART V
—cont.

(3) Any byelaws made under this section may provide that any person contravening them shall be liable on summary conviction to a fine not exceeding £25 for each offence.

(4) Without prejudice to the taking of proceedings under subsection (3) of this section, if the contravention of any byelaw having effect under this section is attended with danger or annoyance to the public, or hindrance to the Executive in the lawful conduct of their railway, it shall be lawful for the Executive summarily to take action to obviate or remove the danger, annoyance or hindrance.

1962 c. 46.

(5) The provisions of subsections (5) to (12) of section 67 of the Transport Act 1962 shall apply to any byelaws made by the Executive under this section as if for references to the board or to the board in question, there were substituted references to the Executive.

Power to
contract for
police.

59.—(1) The Executive may from time to time make agreements with the chief officer of police and a police authority for the employment by the Executive of any members of the police establishment of that police authority for police duty within railway premises of the Executive or elsewhere upon the rapid transit railway.

(2) Any such agreement may contain such terms and conditions and provide for such payment or consideration as the Executive shall agree with the police authority.

1949 c. xxix.

(3) Where agreement under this section is made with the railways board, members of British Transport Police Force may act, in accordance with the terms of the agreement, as constables in, on and in the vicinity of any premises of the Executive notwithstanding the provisions of subsection (1) of section 53 (Appointment of constables) of the British Transport Commission Act 1949.

1964 c. 48.

(4) In this section “police authority” includes—

(a) a police authority within the meaning of the Police Act 1964; and

(b) the railways board.

Generation
of electricity.

60.—(1) The Executive may on any lands from time to time belonging or leased to them construct, lay down, maintain, work and use stations, boiler-houses, mains, pipes and other works for generating electricity and for transforming electricity, together with such buildings, boilers, engines, pumps, machinery, lifts

hoists, sidings, electric lines, matters and things of whatever description as may be required by the Executive for any such purpose and for the transmission of electricity.

PART V
—cont.

(2) (a) Before constructing works for the generation of electricity under this section the Executive shall consult the Central Electricity Generating Board and the said works shall not be commenced unless it is agreed between the Executive and the said board, or, failing agreement, determined by arbitration under paragraph (b) of this subsection, that they are reasonably necessary for the economic and safe operation of the rapid transit railway or any part thereof.

(b) Any difference arising between the Executive and the Central Electricity Generating Board under this subsection (other than a difference as to the meaning or construction of this subsection) shall be determined by an arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Mechanical Engineers.

(3) Notwithstanding anything in section 23 of the Electric Lighting Act 1909 or in any other enactment, the Executive 1909 c. 34. may enter into and carry into effect contracts or agreements with the Central Electricity Generating Board or the North Eastern Electricity Board for, or with respect to, the supply of electricity generated by the works authorised by this section at such price, and on such terms and conditions as may be agreed, and the Executive may supply electricity accordingly.

(4) For the purposes of the generation and transmission of electricity under this section the Executive may, within their area, lay down or erect electric lines and apparatus—

(a) in, under or over any street, subject however to the provisions of subsection (6) of this section; and

(b) with the consent of every owner and occupier of any land not forming part of a street in, on or over that land;

and may from time to time inspect, repair, alter or renew or may at any time remove any electric line or apparatus laid down or erected by them whether by virtue of this section or otherwise:

Provided that a consent required for the purposes of this subsection shall not be unreasonably withheld, and any question whether such a consent is, or is not, unreasonably withheld shall be determined by the Secretary of State.

(5) (a) Where the Executive in the exercise of the powers of this section lay down or erect any electric line or apparatus in, on or over any land not forming part of a street, or inspect,

PART V
—cont.

repair, alter, renew or remove any electric line or apparatus laid down or erected in, on or over any such land, they shall from time to time pay compensation to every person interested in that land for any damage done to, or injurious affection of, that land by reason of the laying down, erection, inspection, repair, alteration, renewal or removal of the electric line or apparatus.

(b) Any dispute as to the amount of compensation to be paid under this subsection shall be determined by arbitration.

1945 c. 42.

(6) The following provisions of the Third Schedule to the Water Act 1945 shall apply, with the necessary modifications, to the laying down, erection, inspection, repair, alteration, renewal or removal of electric lines and apparatus under this section, and for the purpose of such application the area of the Executive shall be deemed to be the limits of supply :—

Section 22 (Power to break open streets);

Section 25 (Protection for railway companies navigation authorities tramway undertakers etc.);

Section 27 (Remedies where undertakers fail to comply with foregoing requirements);

Section 28 (Application of Part VI to verges and streets and highways not maintainable at the public expense);

Section 93 (Protection for works of navigation authorities and for catchment boards and railways).

1888 c. 12.

(7) Without prejudice to the operation of section 4 of the Electric Lighting Act 1888, those provisions of the Electricity (Supply) Acts 1882 to 1936 as amended by the Electricity Act 1947 and in the schedule to the Electric Lighting (Clauses) Act 1899 which, as applied by the Post Office Act 1969, afford protection to the Post Office and its telegraphic lines shall, so far as applicable, extend and apply to any electric lines or apparatus laid down or erected under this section, and references in those provisions to the electricity board or the undertakers shall be construed as references to the Executive.

1947 c. 54.

1899 c. 19.

1969 c. 48.

Provision of
waiting-
rooms, etc.
1968 c. 73.

61.—(1) Without prejudice to the general powers of the Executive under section 10 (1) of the Transport Act 1968 to provide facilities and amenities for persons using the services and facilities provided by them, the Executive may provide and maintain, in connection with their undertaking, waiting-rooms, refreshment rooms, shelters, offices, information bureaux and displays, shops, kiosks, show or display cases, advertisement sites, automatic vending machines for the sale of goods and other facilities, and may let the same, or sites for the provision thereof on such terms and conditions as they think fit.

(2) The provisions of this section shall not be construed as authorising any act or omission which, apart from those provisions, would be actionable at the suit of any person on any grounds other than a limitation imposed by law on the capacity of the Executive by reason of its constitution.

PART V
—cont.

62.—(1) The Executive may make byelaws regulating the use of premises provided for, or in connection with, their bus services, the maintenance of order on such premises and the conduct of all persons, including their officers and servants, while on such premises. Byelaws relating to bus undertaking.

(2) Without prejudice to the generality of the foregoing subsection, byelaws under this section may contain provisions—

- (a) with respect to interference with, or obstruction of, premises or facilities provided in connection with their bus services;
- (b) with respect to the use of tobacco or other substances on premises and the prevention of nuisances on premises;
- (c) with respect to the receipt and delivery of goods and the payment of charges with respect to the conveyance, custody or handling of goods;
- (d) for regulating the passage of bicycles and other vehicles on footways and other premises controlled by the Executive and intended for the use of persons on foot;
- (e) for the safe custody and redelivery or disposal of property found on premises of the Executive and for fixing the charges which may be made in respect thereof.

(3) Any byelaws made under this section may provide that any person contravening them shall be liable on summary conviction to a fine not exceeding £25 for each offence.

(4) Without prejudice to the taking of proceedings under subsection (3) of this section, if the contravention of any byelaws having effect under this section is attended with danger or annoyance to the public, or hindrance to the Executive in the lawful conduct of their bus services, it shall be lawful for the Executive summarily to take action to obviate or remove the danger, annoyance or hindrance.

(5) The provisions of subsections (5) to (12) of section 67 of the Transport Act 1962 shall apply to any byelaws made by the Executive under this section as if for references to the board, or to the board in question, there were substituted references to the Executive. 1962 c. 46.

PART V
—cont.

Power to
raise money
abroad.
1968 c. 73.

63.—(1) Any method by which the Executive are empowered by any enactment to raise any money which they are authorised to borrow (including the raising of money by means of the issue of bearer bonds or other securities to bearer under the powers of section 12 (3) of the Transport Act 1968) shall, notwithstanding anything in such enactment, be deemed to include the raising of money either alone or jointly with a local authority by that method outside the United Kingdom or in any foreign currency.

(2) The powers conferred by the foregoing subsection shall be exercised only with the consent of the Treasury and subject to such conditions as the Treasury may impose.

(3) The enactments empowering the Executive to raise money shall have effect in relation to a transaction authorised by this section for the raising of money in a foreign currency as if—

(a) for any reference in those enactments to sterling there were substituted a reference to the foreign currency, and

(b) for any reference therein to a sum expressed in terms of sterling there were substituted a reference to the sum expressed in terms of the foreign currency (adjusted, where necessary, to produce an amount which the Executive consider appropriate having regard to all the circumstances of the transaction).

1946 c. 58.

(4) Nothing in this section shall be taken as exempting the Executive from the provisions of any order under section 1 of the Borrowing (Control and Guarantees) Act 1946, and for the purposes of that Act and any such order the Executive shall be deemed to be a local authority within the meaning of that Act.

1947 c. 14.

(5) It shall not be lawful to exercise the powers conferred by this section except in compliance with the Exchange Control Act 1947.

Saving for
town and
country
planning.
1971 c. 78.

64.—(1) Except as otherwise provided in subsection (2) of section 6 (Power to make works) of this Act, the provisions of the Town and Country Planning Act 1971, and any restrictions or powers thereby imposed or conferred in relation to land, shall apply and may be exercised in relation to any land notwithstanding that the development thereof is, or may be, authorised or regulated by or under this Act.

(2) Nothing in subsection (1) of this section shall prejudice or affect the application in relation to development authorised by this Act of any provision of any development order made, or having effect as if made, under section 24 of the Town and Country Planning Act 1971 permitting development authorised

by a local or private Act, but the planning permission granted by any such provision shall be subject to the condition that it shall cease to apply to any work authorised by this Act unless the construction of the Newcastle and Gateshead railways is begun before the expiration of ten years from the commencement of this Act.

PART V
—cont.

65. Where under this Act any difference (other than a difference to which the provisions of the Act of 1965, as applied by this Act, apply) is to be determined by arbitration, then, unless otherwise provided, the difference shall be referred to, and settled by, a single arbitrator to be agreed between the parties or, failing 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. Arbitration.

66. All costs, charges and expenses of, and incidental to, the preparing for, obtaining and passing of this Act, or otherwise in relation thereto, shall be paid by the Executive and may, in whole or in part, be defrayed out of revenue. Costs of Act.

SCHEDULES

Sections 14
and 15.

SCHEDULE 1

Street (1)	Marking (2)
In the city and county of Newcastle upon Tyne—	
Argyle Street ...	X Z
Back Argyle Street ...	X Z
Barras Bridge ...	X
Blackett Place ...	X Z
Blackett Street ...	X y
Brunswick Place ...	X Z
Burton Street ...	X Z
Byker Bank ...	X
Byker Bridge ...	X
Chillingham Road ...	X
Close ...	X
Eldon Lane ...	X Z
Eldon Square ...	X Z
Elizabeth Street ...	X
Eslington Road ...	X Z
Eslington Terrace ...	X Z
Fossway ...	X Z
Grainger Street ...	X y Z
Jesmond Road ...	X
Millers Road ...	X Z
Minden Street ...	Z
Neville Street ...	X y
New Bridge Street ...	X
Northumberland Street ...	X y
Ouseburn Road ...	Z
Shields Road ...	X Z
Shields Road West ...	X
Stepney Lane ...	X Z
Stepney Road ...	X Z
Stoddart Street ...	X Z
Strawberry Place ...	X Z
Trafalgar Street ...	X Z
Union Road ...	X Z
In the county borough of Gateshead—	
Lindisfarne Drive ...	X Z
Rabbit Banks Road ...	Z
In the county borough of Tynemouth—	
Brewers Lane ...	Z
In the urban district of Felling, in the county of Durham—	
Newcastle to Sunderland Road Trunk Road (A184) ...	X
Back Sunderland Road ...	X
Ellison Main Gardens ...	X Z
High House Gardens ...	X Z
Kirkwood Gardens ...	X Z
Shields Road ...	X
Sunderland Road ...	X
Unnamed road adjacent to Shields Road ...	Z

Street (1)	Marking (2)
In the county borough of South Shields—	
Back Chichester Road	Z
Beaufront Terrace	X Z
Bedford Avenue	X
Boldon Lane	X
Chichester Road	X
Crossgate	X
Derwentwater Terrace	X Z
Garden Lane	X Z
Keppel Street	X Z
Olive Street	X
Ravensworth Terrace	X Z
Smithy Street	Z
Unnamed street between Raynham Court and Downham Court	X
Victoria Road (otherwise known as Victoria Street) ..	X Z
West Way	X
In the urban district of Longbenton in the county of Northumberland—	
Benton Lane	X
Front Street	X
In the urban district of Gosforth in the county of Northumberland—	
Great North Road	X
Hollywood Avenue	X
Regent Farm Road	X

Section 28

SCHEDULE 2

LANDS REFERRED TO IN SUBSECTION (2) OF SECTION 28 (POWER TO ACQUIRE LANDS) OF THIS ACT

Purposes for which lands may be acquired or used (1)	Area (2)	No. on deposited plans (3)
For the provision of a working site at Manors for construction purposes	City and county of Newcastle upon Tyne	388 and 389
For the construction of a station at Osborne Road	City and county of Newcastle upon Tyne	471 to 474
For the provision of a working site and access thereto at Greensfield Railway Works for construction purposes	County borough of Gateshead	7, 7a and 7b
For the provision of working sites and access thereto at Percy Main for construction purposes	County borough of Tyne-mouth	1 to 6, 13 and 14 and 23 to 26
For the provision of working sites and access thereto at Pelaw for construction purposes	In the county of Durham— Urban district of Felling	1 and 8, 19 to 21 and 23 to 28
For the construction of station works and sidings at South Shields	County borough of South Shields	87 and 99 to 101
For the construction of a station and sidings at Wallsend	In the county of Northumberland— Borough of Wallsend	1 to 11
For the construction of a station at Hadrian Road	In the county of Northumberland— Borough of Wallsend	12 to 15
For the construction of a station at Howdon	In the county of Northumberland— Borough of Wallsend	16 to 19
For the construction of a station and sidings at Kenton Bank Foot	In the county of Northumberland— Parish of Woolsington in the rural district of Castle Ward	1 and 2

SCH. 2
—cont.

Purposes for which lands may be acquired or used (1)	Area (2)	No. on deposited plans (3)
For the construction of a station and sidings at Kenton Bank Foot	City and county of Newcastle upon Tyne	451 to 454
For the construction of a station at Wansbeck Road	In the county of Northumberland— Urban district of Gosforth	17 to 24
For the construction of a station at Bede Estate	In the county of Durham— Borough of Jarrow	1 to 5
For the construction of a station and access at Shiremoor	In the county of Northumberland— Urban district of Seaton Valley	1 to 11
For the construction of a station at Ilford Road	City and county of Newcastle upon Tyne	467 to 470
For the construction of a station at Coxlodge	City and county of Newcastle upon Tyne	461 to 466
For the construction of a station and accesses thereto at Fawdon	City and county of Newcastle upon Tyne	455 to 460
For the construction of a station at Smith's Park	County borough of Tyne-mouth	29 to 37
For the provision of a coal depot at Middle Engine Lane	County borough of Tyne-mouth	38 to 43

Section 28.

SCHEDULE 3

PREMISES REFERRED TO IN SUBSECTION (4) (a) OF SECTION 28 (POWER TO ACQUIRE LANDS) OF THIS ACT

Premises (1)	Area (2)	No. on deposited plans (3)
The church and basement of Jesmond Clayton Memorial Church	City and county of Newcastle upon Tyne	14
Buildings comprised in the Civic Centre	City and county of Newcastle upon Tyne	80
The Lord Armstrong Memorial	City and county of Newcastle upon Tyne	82
The church and crypt of the Church of St. Thomas the Martyr and the Tank Regiment War Memorial	City and county of Newcastle upon Tyne	87
The War Memorial (1914 to 1918)	City and county of Newcastle upon Tyne	88
The Earl Grey Monument	City and county of Newcastle upon Tyne	148
The church and crypt of the Church of St. John the Baptist	City and county of Newcastle upon Tyne	216
The main building of the Central Library	City and county of Newcastle upon Tyne	349
The Laing Art Gallery and Museum	City and county of Newcastle upon Tyne	358
The Church of St. Silas ...	City and county of Newcastle upon Tyne	676
The church and basement of the Church of St. Joseph	County borough of Gateshead	44

SCHEDULE 4

Section 33.

LANDS REFERRED TO IN SECTION 33 (ONLY SUBSOIL OR EASEMENTS TO BE ACQUIRED UNDER CERTAIN LANDS) OF THIS ACT

Area (1)	No. on deposited plans (2)
In the city and county of Newcastle upon Tyne	81, 82, 84, 88, 111 to 129, 242, 243, 245 to 248, 250 and 252 to 255.
In the county borough of Gateshead	11, 13, 14 and 16 to 18.

Section 57.

SCHEDULE 5

ORDERS RELATING TO ESCALATORS AND MOVING PAVEMENTS

PART I

1. In this Schedule the expression "area affected by the order" means the area of the Executive.

2. Before making application to the Secretary of State for an order under section 57 of this Act the Executive shall submit to the Secretary of State a draft of the order, and shall publish at least once in each of two successive weeks, in one or more newspapers circulating in the area affected by the order, a notice—

- (a) stating the general effect of the order as prepared in draft;
- (b) specifying a place in the said area where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times during the period of 28 days beginning with the date of the first publication of the notice; and
- (c) stating that any person may, within that period, by notice in writing to the Secretary of State object to the making of the order.

3. Not later than the date on which the notice is first published in pursuance of paragraph 2 of this Schedule the Executive shall serve a copy of the notice on every local authority and statutory undertakers authorised to carry on any undertaking for the supply of electricity, gas or water, being an authority or undertakers within whose area any escalator or moving pavement and other works are to be constructed; and on the Post Office.

4. The Executive shall also publish a notice in the London Gazette stating that the draft order has been submitted to the Secretary of State, naming every local authority on whom a notice is required to be served under paragraph 3 of this Schedule, specifying a place where a copy of the draft order and of any relevant map or plan may be inspected, and giving the name of the newspaper in which the notice under paragraph 2 of this Schedule was published and the date of an issue containing the notice.

5. The Executive shall, at the request of any person, furnish him with a copy of the draft order on payment of such charge, not exceeding 10p, as the Executive think reasonable.

6. The Secretary of State may make the order either in the terms of the draft order or in those terms as altered in such manner as he thinks fit; but where he proposes to make any alteration, and considers that any persons are likely to be adversely affected by it, the Executive shall give and publish such additional notices, and in such manner, as the Secretary of State may require.

7. If before the end of the period of 28 days referred to in paragraph 2 of this Schedule, or of 25 days from the publication in the London Gazette of the notice under paragraph 4 of this

Schedule, or of any period specified in notices under paragraph 6 of this Schedule, notice in writing of an objection is received by the Secretary of State from any person on whom a notice is required to be served under this Schedule, or from any other person appearing to the Secretary of State to be affected by the order as prepared in draft, or as proposed to be altered, and the objection is not withdrawn, the Secretary of State, before making the order, shall either—

SCH. 5
—cont.

- (a) cause a local inquiry to be held; or
- (b) afford to the objector and to the Executive an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

PART II

8.—(1) Besides serving a copy of the notice referred to in paragraph 3 of this Schedule on the local authorities therein referred to, the Executive shall, not later than the date on which the notice is first published in pursuance of paragraph 2 of this Schedule, serve a copy of the notice on every owner, lessee or occupier (except tenants for a month or for any period less than a month and statutory tenants within the meaning of the Rent Act 1968) of any land comprised in the draft order as land authorised to be compulsorily acquired. 1968 c. 23.

(2) Where any such land as aforesaid is ecclesiastical property (that is to say land belonging to any ecclesiastical benefice, or being or forming part of a church subject to the jurisdiction of the bishop of any diocese or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction) a copy of the notice aforesaid shall also be served as aforesaid on the Church Commissioners.

9. Where any objection received by the Secretary of State under paragraph 7 of this Schedule relates to any powers of compulsory acquisition, the Secretary of State may require the objector to state in writing the grounds of his objection; and if the Secretary of State is satisfied that the objection relates exclusively to matters that can be dealt with in the assessment of compensation, he may disregard the objection for the purposes of paragraph 7 of this Schedule.

10. Notwithstanding anything in paragraph 6 of this Schedule, the order shall not, unless all interested parties consent, confer on the Executive powers to acquire compulsorily any land which they would not have been empowered to acquire by virtue of the order if the order had been made in the terms of the draft submitted by them.

11. Part III of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946 (which makes special provision with respect to land of local authorities and statutory undertakers, common land, inalienable land of the National Trust and ancient monuments) shall apply to the order as it applies to a compulsory purchase order within the meaning of that Act. 1946 c. 49.

12. The order shall incorporate the Act of 1965 and that Act and the enactments relating to the compensation payable in respect of the compulsory acquisition of land shall apply accordingly subject to such exceptions and modifications (if any) as may be specified in the order.

SCH. 5
—cont.

13. As soon as may be after the order has been made, the Executive shall publish, in one or more newspapers circulating in the locality of the land in respect of which the powers of compulsory acquisition are conferred, a notice describing that land and stating that the order has been made conferring powers of compulsory acquisition in respect of that land, and naming a place where a copy of the order as made may be inspected at all reasonable hours, and the Executive shall serve a like notice and copy of the order on every such owner, lessee or occupier as is mentioned in paragraph 8 of this Schedule.

1946 c. 49.

14.—(1) In this paragraph “ the special land provisions ” means the provisions of Part III of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946, as applied by virtue of this Schedule, and “ the relevant requirements ”, in relation to an order or certificate, means any requirements of this Schedule or of the special land provisions which are applicable to that order or certificate.

(2) Subject to the provisions of sub-paragraph (6) of this paragraph, if any person aggrieved by the order, or by a certificate under the special land provisions, desires to question—

- (a) the validity of the order, or of any provision of the order, on the grounds that any powers of compulsory acquisition conferred by the order are not authorised by section 57 of this Act to be so conferred, or that any of the relevant requirements have not been complied with in relation to the order; or
- (b) the validity of the certificate, on the grounds that any of the relevant requirements have not been complied with in relation to the certificate;

he may, at any time before the end of the period of 6 weeks beginning with the date on which notice of the making of the order is first published in accordance with paragraph 13 of this Schedule or (as the case may be) notice of the giving of the certificate is first published in accordance with the special land provisions, make an application for the purpose to the High Court.

(3) On any application under this paragraph, the High Court—

- (a) may by interim order suspend the operation of the order, or any provision of the order, or of the certificate, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings;
- (b) if satisfied that any powers of compulsory acquisition conferred by the order are not authorised by section 57 of this Act to be so conferred, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation to the order or the certificate, may quash the order, or any provision of the order, or the certificate, either generally or in so far as it affects any property of the applicant.

(4) Except as provided by the foregoing provisions of this paragraph the validity of—

- (a) the order, in so far as it confers any powers of compulsory acquisition; or

- (b) any certificate given in connection with the order under the special land provisions;

SCH. 5
—cont.

shall not, either before or after the order or certificate has been made or given, be questioned in any legal proceedings whatsoever.

(5) Subject to the provisions of this paragraph, the order (except where it is subject by virtue of the special land provisions to special parliamentary procedure), and any certificate given in connection with the order under the special land provisions, shall become operative on the date on which notice of the making or giving thereof is published as mentioned in sub-paragraph (2) of this paragraph.

(6) Where the order is subject to special parliamentary procedure, sub-paragraphs (2) to (4) of this paragraph—

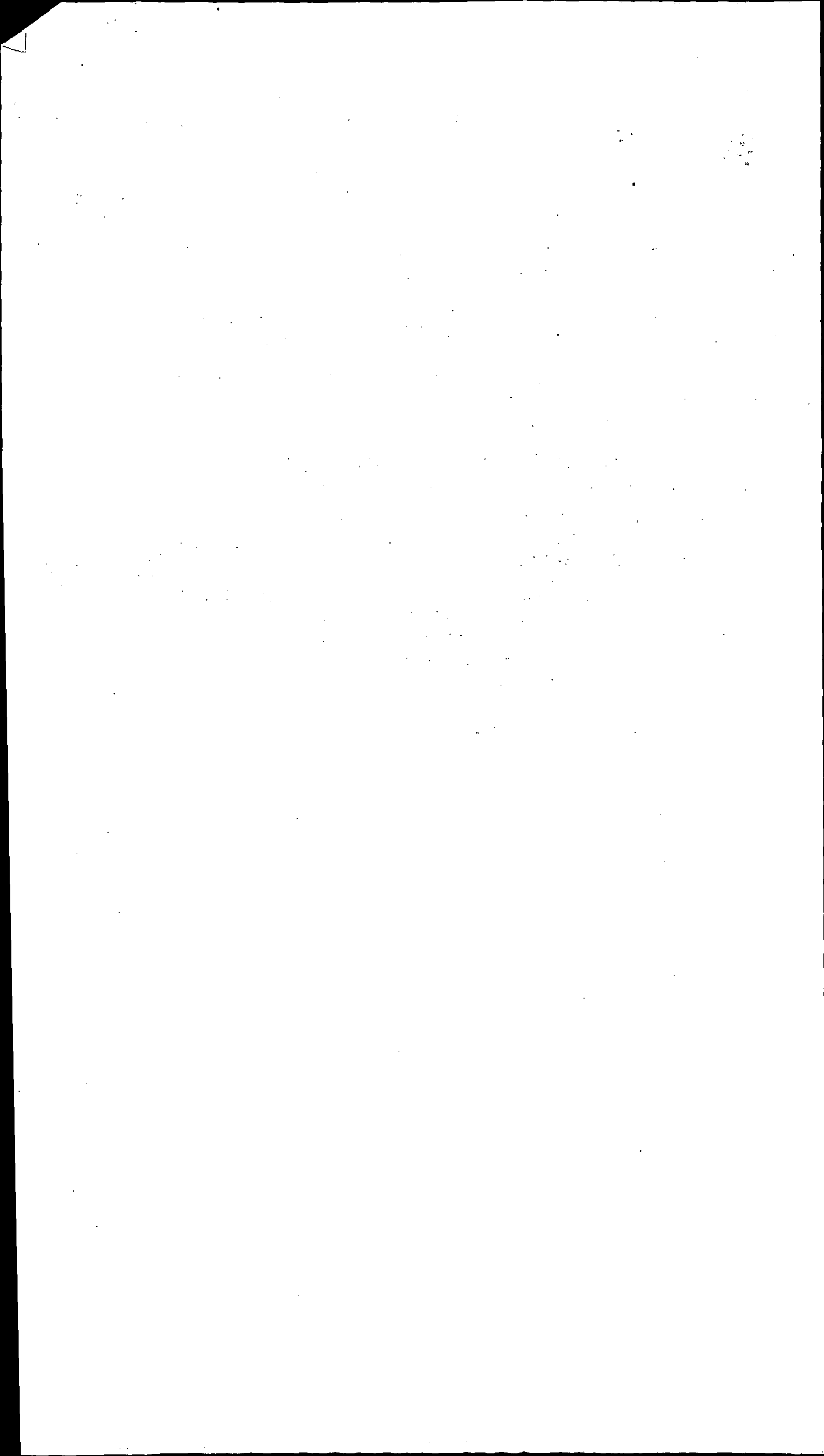
- (a) shall not apply to the order if it is confirmed by Act of Parliament under section 6 of the Statutory Orders (Special Procedure) Act 1945; and

1945 c. 18.
(9 & 10 Geo. 6.)

- (b) in any other case, shall have effect as if the reference in sub-paragraph (2) of this paragraph to the date on which notice of the making of the order is published as therein mentioned were a reference to the date on which the order becomes operative under the said Act of 1945.

PRINTED IN ENGLAND BY OYEZ PRESS LIMITED
FOR C. H. BAYLIS, C.B.

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament



Tyneside Metropolitan Railway Act 1973

CHAPTER xxxii

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title.
2. Division of Act into Parts.
3. Interpretation.
4. Incorporation of Railways Clauses Acts.
5. Application of Part I of Act of 1965.

PART II

WORKS

6. Power to make works.
7. Power to deviate.
8. General provisions as to construction of underground railways.
9. Plans, etc., to be approved by Secretary of State before works commenced.
10. Provisions as to use of electrical energy.

Section

11. General provisions as to construction of Tyne bridge.
12. Subsidiary works in river and elsewhere.
13. Further works and powers.
14. Power to open surface of highways.
15. Temporary stoppage of highways.
16. Stopping up of highways without providing substitute.
17. Stopping up of highways in case of diversion or substitution.
18. Provisions as to repair of streets, footpaths, etc.
19. Agreements with highway authorities.
20. Underpinning of houses near works.
21. Temporary possession of lands for works.
22. Use of sewers, etc., for removing water.
23. Agreements with British Railways Board.
24. Transport consultative committees.
25. Safety arrangements at public level crossings.
26. Gosforth and Ponteland Light Railway.
27. Accommodation crossings.

PART III

LANDS

28. Power to acquire lands.
29. Period for compulsory purchase of lands or easements.
30. Correction of errors in deposited plans and book of reference.
31. As to cellars under streets not referenced.
32. Power to acquire only subsoil or easements in certain cases.
33. Only subsoil or easements to be acquired under certain lands.
34. Acquisition of part only of certain properties.
35. Grant of easements by persons under disability.
36. Disregard of recent improvements and interests.
37. Extinguishment of private rights of way.

PART IV

PROTECTIVE PROVISIONS

38. Compensation for damage by working of underground railways.
39. Compensation in respect of depreciation in value of interest in land subject to mortgage.
40. For protection of British Railways Board.
41. River work to be subject to approval of Secretary of State.

Section

- 42. Provision against danger to navigation.
- 43. Abatement of river work abandoned or decayed.
- 44. Survey of river work.
- 45. Permanent lights on Tyne bridge.
- 46. Lights on river work during construction.
- 47. Saving for Trinity House.
- 48. For protection of Port of Tyne Authority and river users.
- 49. For protection of National Coal Board.
- 50. As to highways, traffic, etc.
- 51. For further protection of local authorities.
- 52. For protection of public sewers.
- 53. For protection of certain statutory undertakers.
- 54. For protection of Post Office.
- 55. Removal of human remains.
- 56. Crown rights.

PART V

MISCELLANEOUS AND GENERAL

- 57. Moving pavements.
- 58. Byelaws relating to rapid transit railway.
- 59. Power to contract for police.
- 60. Generation of electricity.
- 61. Provision of waiting-rooms, etc.
- 62. Byelaws relating to bus undertaking.
- 63. Power to raise money abroad.
- 64. Saving for town and country planning.
- 65. Arbitration.
- 66. Costs of Act.

SCHEDULES—

Schedule 1.

Schedule 2—Lands referred to in subsection (2) of section 28 (Power to acquire lands) of this Act.

Schedule 3—Premises referred to in subsection (4) (a) of section 28 (Power to acquire lands) of this Act.

Schedule 4—Lands referred to in section 33 (Only subsoil or easements to be acquired under certain lands) of this Act.

Schedule 5—Orders relating to escalators and moving pavements—

Part I.

Part II.

1000

1000