ELIZABETH II



1987 CHAPTER xxviii

An Act to empower the British Waterways Board to construct works and to acquire lands for the restoration of the canal from Newtown to Frankton Junction; to make further provision with respect to such restoration; and for other purposes. [17th December 1987]

WHEREAS—

(1) By the Transport Act 1962 the British Waterways Board (hereafter referred to as "the Board") were established: 1962 c. 46.

(2) Under the Transport Act 1968 the inland waterways of the Board are divided into commercial waterways, cruising waterways and the remainder (commonly called "remainder waterways") and it is the duty of the Board to secure that every remainder waterway is dealt with in the most economical manner possible (consistent, in the case of a waterway which is retained, with the requirements of public health and the preservation of amenity and safety), whether by retaining and managing the waterway, by developing or eliminating it, or by disposing of it: 1968 c. 73.

(3) The remainder waterway of the Board from Newtown to Frankton Junction (now commonly known as the Montgomery Canal and hereafter referred to as "the canal") became unusable for navigation for much of its length in and after the year 1936 and, by the London Midland and Scottish Railway (Canals) Act 1944, provision was made for the closure of the canal to navigation except as therein provided: 1944 c. ii (8 & 9 Geo. 6).

(4) It is expedient that the canal should be restored for use for recreational navigation and that, in connection with such restoration, provisions should be made as to nature conservation:

(5) For the purposes aforesaid it is expedient that the Board should be empowered to construct the works authorised by this Act and to purchase or use the land referred to in this Act:

(6) It is expedient that the other powers in this Act contained should be conferred upon the Board and that the other provisions in this Act contained should be enacted:

(7) Plans and sections showing the lines or situations and levels of the works to be constructed under this Act, and plans of the land authorised to be purchased or used 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 land were duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the proper officers of the Powys County Council and the Shropshire County Council, 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:

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

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

Short and collective titles.

1.—(1) This Act may be cited as the British Waterways Act 1987.

(2) The British Waterways Acts 1963 to 1983 and this Act may be cited together as the British Waterways Acts 1963 to 1987.

Interpretation.

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

1944 c. ii (8 & 9 Geo. 6).
"the Act of 1944" means the London Midland and Scottish Railway (Canals) Act 1944;

1950 c. 39.
"the Act of 1950" means the Public Utilities Street Works Act 1950;

1961 c. 33.
"the Act of 1961" means the Land Compensation Act 1961;

1965 c. 56.
"the Act of 1965" means the Compulsory Purchase Act 1965;

1968 c. 73.
"the Act of 1968" means the Transport Act 1968;

"the Board" means the British Waterways Board;

"the canal" means the canal described in subsection (6) below;

"the county council" means the Powys County Council and the Shropshire County Council, or either of them, as the case may be;

"the district council" means the Montgomeryshire District Council, the North Shropshire District Council and the Oswestry Borough Council, or any of them, as the case may be;

"enactment" includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

"the limits of deviation" means the limits of deviation shown on the deposited plans;

PART I —*cont.*

"nature reserve" means an area established and maintained for the purposes of conserving and studying fauna, flora or geological or physiographical features;

"remainder waterway" means an inland waterway of the Board which is not for the time being a commercial waterway or a cruising waterway within the meaning respectively of paragraph (*a*) or (*b*) of subsection (1) of section 104 of the Act of 1968;

"telecommunication apparatus", "telecommunications code system" and "telecommunication system" have the same meanings as in Schedule 4 to the Telecommunications Act 1984 and "telecommunications operator" means the operator of a telecommunications code system; 1984 c. 12.

"the tribunal" means the Lands Tribunal;

"the undertaking" means the undertaking of the Board as authorised from time to time;

"the water authority" means the Severn-Trent Water Authority; and

"the works" means the works authorised by Part II (Works) of this Act and includes those works as altered, replaced or re-laid under subsection (2) of section 5 (Power to make works) of this Act.

(2) References in this Act to reference points shall be construed as references to Ordnance Survey National Grid reference points.

(3) All areas, directions, 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 area, direction, distance and length and distances between points on a waterway shall be taken to be measured along the centre line of the channel of the waterway.

(4) 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.

(5) References in this Act to points identified by letters shall be construed as references to the points so lettered on the deposited plans.

(6) References in this Act to the canal are to the canal of the Board which commences or is intended to commence at Newtown Pumping Station, in the community of Newtown and Llanllwchaiarn in the district of Montgomeryshire at reference point SO11820:92263 and terminates at Frankton Junction in the parish of Whittington in the borough of Oswestry at reference point SJ37020:31790 together with the Guilsfield and Weston arms and all works and conveniences provided in connection therewith, including those authorised by section 5 (Power to make works) of this Act.

Incorporation of Railways Clauses Consolidation Act 1845. 1845 c. 20.

3.—(1) The provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof are, so far as the same are applicable for the purposes and are not inconsistent with or varied by the provisions of this Act, incorporated with and form part of this Act.

(2) For the purposes of the said provisions as so incorporated, "the special Act" means this Act, "the railway" means the works, " the centre of the railway" means the centre lines of the works and "the company" means the Board.

(3) Wherever the said provisions as originally enacted confer powers exercisable within the period by the special Act limited for the completion of the railway, those provisions as incorporated with this Act shall be construed

PART I —*cont.*

as though their powers were expressed to be exercisable within a period of five years from the commencement of the construction of the work or part of a work in relation to which the powers are required to be exercised.

Application of Part I of Compulsory Purchase Act 1965. 1981 c. 67.

4.—(1) Part I of the Act of 1965 (except sections 4 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 the provisions thereof, shall apply to the compulsory acquisition of land under this Act as it applies to a compulsory purchase to which Part II of the Acquisition of Land Act 1981 applies and as if this Act were a compulsory purchase order under the said Act of 1981.

(2) In section 11 (1) of the Act of 1965 (which empowers the acquiring authority to enter on and take possession of land the subject of a notice to treat after giving not less than 14 days' notice) as so applied, for the words "fourteen days" there shall be substituted the words "three months".

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.

5.—(1) Subject to the provisions of this Act, the Board may, in the lines or situations shown on the deposited plans and within the limits of deviation and according to the levels shown on the deposited sections, make and maintain the works specified in Schedule 1 to this Act with all necessary works and conveniences connected therewith.

(2) Subject to the provisions of this Act, the Board may within the limits of deviation from time to time alter, replace or re-lay temporarily or permanently the works.

Further works and powers.

6. 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 as shown) the Board may make and maintain the further works, with all necessary works and conveniences connected therewith, and exercise the powers, described in column (2) of Schedule 2 to this Act in respect of the roads, footpaths, watercourse and other features or parts thereof specified therein by reference to the letters shown on the deposited plans in relation to the areas specified in column (1) of that schedule.

Fencing of bridges.

7. In constructing any of the works which consist of or include new bridges for carrying public carriage roads, the Board shall erect a good and sufficient fence on each side of those new bridges.

Provision of means of access.

8. The Board may—

(*a*) in relation to the works or to all or any of the lands within the limits of deviation; and

(*b*) in connection with the establishment and maintenance of nature reserves under this Act;

form and lay out means of vehicular access at the points or location specified in column (1) of Schedule 3 to this Act for the purposes mentioned in column (2) of that schedule.

Subsidiary powers.

9.—(1) Subject to the provisions of this Act and within the limits of deviation or within the lines marked on the deposited plans "Limit of land to be acquired" the Board, in connection with the works and for the purposes thereof, may—

PART II —*cont.*

(*a*) make junctions and communications between any of the works and any waterways, rivers, streams and watercourses and any existing streets, roads, bridleways, ways, bridges, towing paths and footpaths;

(*b*) stop, remove, alter or otherwise interfere with means of access between any premises and any highway which is diverted or stopped up or altered under this Act;

(*c*) make, provide, alter and maintain all necessary and convenient walls, banks, embankments, locks, piling, cofferdams, borrow pits, fences, facilities for watering cattle and other animals, culverts, drains, conduits, dykes, intakes, syphons, watercourses, cuttings, aqueducts, tunnels, weirs, sluices, valves, wharves, moorings, linings, mattresses, pitching, roads, bridges, towing paths and footpaths and all such mains, pipes, cables, wires, pumps, machinery, works and appliances as may be required;

(*d*) raise, widen, lengthen, alter, reconstruct, replace or remove the bridges over the canal or any watercourse and the approaches to such bridges and strengthen, underpin, widen and deepen the piers, arches and other supports, and the foundations of such bridges without acquiring the said bridges or any interest therein;

(*e*) carry out works to any towing path forming part of the canal including the removal of any towing path (not being a public footpath) through a bridgeway;

(*f*) execute any works for the protection of any adjoining lands, buildings or structures;

(*g*) temporarily or permanently use, strengthen, widen, improve, remove, alter or otherwise interfere with drains, sewers, intake or other channels, telegraphic, telephonic, water, gas, petroleum and other pipes, lines, wires, works and apparatus (all of which are hereafter in this section referred to as "apparatus") and streets and railways, providing where possible a proper substitute before interrupting the passage of sewage, gas, petroleum or water in or through any apparatus or the traffic on any such street;

(*h*) raise, lower or otherwise alter the level of any land;

(*i*) dispose of spoil or other material excavated in the execution of the works.

(2) In the exercise of the powers conferred by this section the Board shall cause as little detriment and inconvenience to any person as the circumstances permit and shall make reasonable compensation for any injury caused to any person by the exercise of such powers.

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

(4) In this section "street" has the same meaning as in the Act of 1950.

Power to deviate.

10. In the execution of any, or any part, of the works the Board may deviate from the lines or situations thereof shown on the deposited plans to the extent of the limits of deviation of those works and may deviate vertically from the levels shown on the deposited sections to any extent upwards or downwards.

Temporary stoppage of roads, rivers, etc.

11.—(1) The Board during and for the purpose of the execution of the works may temporarily stop up and divert and interfere with all or any part of any road, bridleway, towing path, footpath, waterway, river or navigation and may for any reasonable time divert the traffic therefrom and prevent all

PART II —*cont.*

persons other than those bona fide going to or from any land, house or building abutting on the road, bridleway, towing path or footpath from passing along and using the same.

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

(3) The Board shall not exercise the powers of this section in relation to any road, bridleway or footpath without the consent of the highway authority but such consent shall not be unreasonably withheld and any question as to whether such consent has been unreasonably withheld shall be determined by arbitration.

(4) The Board shall not exercise the powers of this section in relation to any waterway, river or nagivation other than the canal without the consent in writing of the water authority which consent shall not be unreasonably withheld and any question whether such consent has been unreasonably withheld shall be determined by arbitration.

(5) The Board shall not exercise the powers of this section with respect to any road unless they have given not less than 21 days' notice in writing of their intention so to do to—

1981 c. 14.

(*a*) the traffic commissioner, constituted for the purposes of the Public Passenger Vehicles Act 1981, in whose traffic area the road is situate;

1985 c. 67.

(*b*) the operator over that road of a local service as defined in the Transport Act 1985; and

(*c*) the highway authority for the road;

except in case of emergency when such notice as is practicable shall be given.

(6) The exercise by the Board of the powers of this section in relation to any road, bridleway or footpath shall not prejudice or affect the right of telecommunications operators to maintain, inspect, repair, renew or remove telecommunication apparatus or break open that road, bridleway or footpath for any of those purposes.

Stopping up roads and footpaths without providing substitute.

12.—(1) Where this Act authorises the stopping up of a road or footpath or portion thereof without providing a substitute, such stopping up shall not take place (except as to so much of the road or footpath or portion thereof authorised to be stopped up as is bounded on both sides by lands of the Board) without the consent of the owners, lessees and occupiers of the houses and lands abutting on both sides thereof.

(2) After any such stopping up as is referred to in subsection (1) above all rights of way over or along the road or footpath or portion thereof authorised to be stopped up shall be extinguished.

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

Stopping up roads and footpaths in case of diversion or substitution.

13.—(1) Where this Act authorises—

(*a*) the diversion of an existing road or footpath; or

(*b*) the making of a new road or footpath and the stopping up of an existing road or footpath or portion thereof;

the stopping up of the existing road or footpath shall not in any case take place until the highway authority are satisfied that the new road or footpath has been completed in accordance with their reasonable requirements and is open for public use or, in the case of any difference between the Board and the

PART II —*cont.*

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 arbitration.

(2) Before referring a matter to arbitration under this section, the Board shall give to the highway authority seven days' notice in writing of their intention to do so.

(3) As from the completion to the satisfaction of the highway authority of the new road or footpath, or as from the date of the determination by arbitration of any difference under subsection (1) above, as the case may be, all rights of way over or along the existing road or footpath or portion thereof authorised to be diverted or stopped up shall be extinguished.

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

Appropriating sites of roads and footpaths.

14. After a road or footpath or portion thereof is diverted or stopped up as mentioned in either section 12 (Stopping up roads and footpaths without providing substitute) or section 13 (Stopping up roads and footpaths in case of diversion or substitution) of this Act, the Board may, as far as the said road or footpath or portion thereof is bounded on both sides by lands of the Board, appropriate without making any payment therefor and use for the purposes of their undertaking the site thereof.

Repair of bridges, roads and footpaths.

15. Subject to section 32 (For protection of highway authorities) of this Act, any bridge, road 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 highway authority or such other person by whom the existing bridge, road or footpath was maintainable immediately before the coming into operation of this Act.

Agreements between Board and highway authorities.

16.—(1) When a bridge, road or footpath or portion thereof will be altered or stopped up or interfered with under this Act, the Board may enter into and carry into effect agreements with the highway authority in reference to the construction or contribution towards the costs of such alteration or of any new bridge, road or footpath to be made under this Act and in reference to any other matters relating thereto.

(2) The Board may by agreement delegate to the highway authority the power of constructing and maintaining all or any of such alterations or new bridge, road or footpath in which they may be interested including the structure of any bridge over or under any waterway.

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

Underpinning of buildings near works.

17.—(1) The Board at their own costs and charges may, subject as hereafter provided, underpin or otherwise strengthen any house or building within 35 metres of any of the works and the following provisions shall have effect:—

(*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 6 of the Acquisition of Land Act 1981; 1981 c. 67.

(*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

PART II —*cont.*

strengthening, the question of the necessity shall be determined 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 Board may from time to time after the completion of such underpinning or strengthening, and during the execution of the 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 Board shall be liable to compensate the owner, lessee and occupier of every such house or building for any loss or damage which may result to them by reason of the exercise of the powers of this section;

(*f*) Nothing in this section nor any dealing with any property under this section shall relieve the Board from the liability to compensate under section 10 (2) of the Act of 1965, as applied by this Act, or under any other enactment in respect of loss or damage arising from the execution of any works, 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 according to the provisions of the Act of 1961.

(2) The Board shall, so far as is reasonably practicable, so exercise the powers of this section as not to obstruct or render less convenient the access to any telecommunication apparatus belonging to, or used by, telecommunications operators.

Diversion of flow of water.

18. The Board may by means of the works divert, intercept, stop up or otherwise interfere with the waters of, or the flow of water in, the canal which may be intercepted by the works.

Provisions as to waterways rendered unnecessary.

19.—(1) Upon the opening to traffic of any new or altered length of waterway comprised in any of the works, but without prejudice to section 35 (For protection of Severn-Trent Water Authority) of this Act—

(*a*) all obligations of the Board to maintain so much of the existing canal as is not required for the purposes of the restoration of the canal (hereinafter called the superseded lengths) in consequence of the construction of such new or altered length of waterway shall be extinguished; and

(*b*) the Board may fill in with spoil and other materials and retain, appropriate or dispose of the site of the superseded lengths and adjoining lands in so far as the same are situate within the limits of deviation or within the lines marked on the deposited plans "Limit of land to be acquired", or they may if they think fit retain, appropriate or dispose of the superseded lengths in a watered condition.

(2) The Board shall not fill in so much of any superseded length as consists of or is comprised in a nature reserve established or to be established under the powers of this Act without the consent in writing of the Nature Conservancy Council.

Use of sewers, etc., for removing water.

20.—(1) In this section "relevant authority" means the water authority, the county council or the district council.

PART II —*cont.*

(2) The Board may use for the discharge of any water pumped or found by them during the construction of the works any available stream or watercourse, or any sewer or drain of a relevant authority, and for that purpose may lay down, take up and alter conduits, pipes and other works and may make any convenient connections with any such stream, watercourse, sewer or drain within the limits of deviation but—

(*a*) the Board shall not directly or indirectly discharge any water into any sewer or drain vested in or under the control of a relevant authority except with the consent of the relevant authority which consent shall not be unreasonably withheld and subject to such terms and conditions as the relevant authority may reasonably impose; and

(*b*) the Board shall not make any opening into any such sewer or drain save in accordance with plans approved by, and under the superintendence (if given) of, the relevant authority in whom the sewer or drain is vested, but approval of those plans by the relevant authority shall not be unreasonably withheld.

(3) (*a*) Section 31 of the Control of Pollution Act 1974 shall apply to, or to the consequence of, a discharge under the powers of this section into any relevant waters for the purposes of the said section 31 as if this section were excluded from the reference to any provision of a local Act mentioned in subsection (2) (*b*) (ii) of the said section 31 and as if no matter so discharged were trade or sewage effluent or other matter mentioned in subsection (2) (*e*) of the said section 31. 1974 c. 40.

(*b*) In the exercise of their powers under this section the Board shall not damage or interfere with the bed of any watercourse forming part of the main river of the water authority or the banks thereof within the meaning of section 116 of the Land Drainage Act 1976. 1976 c. 70.

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

(5) Any difference arising between the Board and a relevant authority, as the case may be, under this section shall be determined by arbitration.

PART III

LAND

Purchase of land.

21.—(1) The Board may purchase compulsorily and use such of the land delineated on the deposited plans and described in the deposited book of reference as they require for the purposes of the works or for any purpose connected with or ancillary to their undertaking.

(2) Without prejudice to the generality of subsection (1) above, the Board may purchase compulsorily and use for the purposes specified in column (3) of Schedule 4 to this Act all or any of the land referred to in columns (1) and (2) of that schedule.

(3) The Board may enter upon, use and appropriate so much of the subsoil and undersurface 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 subsection (1) above without being required to purchase the same or any easement or other right therein or thereunder or to make any payment therefor.

PART III
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Purchase of rights over land.

22.—(1) In this section references to the purchase by the Board of new rights are references to the purchase of rights to be created in favour of the Board and such rights may consist of or include rights restrictive of the user of land.

(2) The Board may for the purpose of constructing, maintaining, repairing, altering, renewing and using the works, or for the purpose of obtaining access to the works or for the purpose of doing any other thing necessary in connection with the works, purchase compulsorily such new rights as they require over any of the land delineated on the deposited plans and described in the deposited book of reference instead of purchasing that land under section 21 (Purchase of land) of this Act.

(3) The Board may also purchase compulsorily such new rights as they require—

(*a*) over the land numbered 15b in the district of Montgomeryshire in the community of Berriew, to provide means of drainage from Works Nos. 3 and 3A to the river Severn;

(*b*) over the lands numbered 77a, 77b and 77c in the district of Montgomeryshire in the community of Berriew, to provide an access way to the nature reserve at Penllwyn;

(*c*) over the lands numbered 36a in the district of Montgomeryshire in the community of Welshpool, to provide an access way to the nature reserve at Brithdir Lock;

(*d*) over the lands numbered 38a in the district of Montgomeryshire in the community of Welshpool, to provide an access way to the nature reserve at Gungrog;

(*e*) over the lands numbered 44, 45, 46, 47, 48, 49, 50, 51, 52, 53 and 54 in the district of Montgomeryshire in the community of Guilsfield (Without), to provide a pipeline between the canal and the river Severn;

(*f*) over the lands numbered 56a and 57 in the district of Montgomeryshire in the community of Guilsfield (Without), to provide an access way to the nature reserve at Cabin Lock;

(*g*) over the land numbered 21a and 30 in the district of North Shropshire in the parish of Llanymynech and Pant, to provide access to the sewer of the water authority.

(4) The Act of 1965, as applied by this Act, shall have effect with the modifications necessary to make it apply to the compulsory purchase of new rights under subsections (2) and (3) above as it applies to the compulsory purchase of land so that, in appropriate contexts, references in the Act of 1965 to land are read as referring, or as including references, to the new rights or to land over which the new rights are, or are to be, exercisable, according to the requirements of the particular context.

(5) Without prejudice to the generality of subsection (4) above, in relation to the purchase of new rights under subsections (2) and (3) above—

(*a*) Part I of the Act of 1965 shall have effect with the modifications specified in Schedule 5 to this Act; and

(*b*) the enactments relating to compensation for the compulsory purchase of land shall apply with the necessary modifications as they apply to such compensation.

Extinction or suspension of private rights of way.

23.—(1) All private rights of way over any land which may be purchased compulsorily under this Act shall be extinguished on the purchase of the land, whether compulsorily or by agreement or on the entry on the land under section 11 (1) of the Act of 1965, as applied by this Act, whichever is sooner.

PART III —*cont.*

(2) All private rights of way over any land of which the Board may take temporary possession under this Act shall be suspended and unenforceable against the Board for so long as the Board shall remain in lawful possession thereof.

(3) Any person who suffers loss by the extinguishment or suspension of any right under this section shall be entitled to be paid by the Board compensation to be determined in case of dispute under and in accordance with the Act of 1961.

Temporary possession of land and access.

24.—(1) In this section—

"the designated land" means any part of the land required by the Board for use as a working site in connection with the works and comprising the land situate within the lines marked "Limit of land to be temporarily used" on the deposited plans;

"the relevant land" means any part of the land situate within the lines marked "Limit of land to be temporarily used for access" on the deposited plans; and

"the specified land" means the designated land or the relevant land, as the case may be.

(2) The Board, in connection with the construction of the works and after giving to the owners and occupiers of the specified land not less than 28 days' notice in writing, may—

(*a*) (i) enter upon and take possession temporarily of the designated land;

(ii) construct or place on the designated land such temporary works or structures as may be required by the Board; and

(*b*) use the relevant land for the purpose of obtaining access from and to the designated land; and

(*c*) remove any structures and vegetation on the specified land.

(3) On the exercise of the powers conferred by subsection (2) above, the following provisions shall have effect:—

(*a*) The Board shall not be empowered to purchase compulsorily or be required to purchase any part of the specified land;

(*b*) The Board shall not, without the agreement of the owners and occupiers of the specified land, remain in possession of any part thereof after a period of two years from the completion of the works;

(*c*) Before giving up possession of the specified land the Board shall remove all temporary works or structures and restore the specified land to the reasonable satisfaction of the owners and occupiers thereof;

(*d*) The Board shall compensate the owners and occupiers of the specified land for any loss or damage which may result to them by reason of the exercise of the powers of subsection (2) above;

(*e*) Nothing in this section shall relieve the Board from liability to compensate under section 43 of the Railways Clauses Consolidation Act 1845 or section 10 (2) of the Act of 1965, as incorporated with 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 paragraph (*d*) above; 1845 c. 20.

(*f*) Any dispute as to a person's entitlement to compensation under paragraph (*d*) above or as to the amount thereof shall be determined by the tribunal.

PART III —*cont.*

Power to use bed and banks of rivers.

25.—(1) The Board may for the purposes of the works enter upon and use so much of the bed, shore, bank and embankment of any waterway, river, stream, brook and watercourse as is within the limits of deviation or within the lines marked on the deposited plans "Limit of land to be acquired" as may be required for those purposes and they may also, for the purposes of executing and placing temporary works and conveniences in connection with the works, occupy and use temporarily so much of such bed, shore, bank and embankment within the said limits or lines as may be required for the purposes of the works.

(2) Before exercising the powers of this section in relation to any waterway, river, stream, brook or watercourse other than the canal the Board shall obtain the consent in writing of the water authority which consent shall not be unreasonably refused and any question whether such consent has been unreasonably refused shall be determined by arbitration.

Correction of errors in deposited plans and book of reference.

26.—(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 Board 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.

(2) If on any such application it appears to the justices that the misstatement or wrong description arose from mistake, 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 of the House of Commons, and with the proper officer or chairman of a local authority with whom a copy of the deposited plans (or so much thereof as includes the land to which the certificate relates) has been deposited in accordance with the Standing Orders of the Houses of Parliament, or who has the custody of any such copy so deposited; and thereupon the deposited plans and the deposited book of reference shall be deemed to be corrected according to the certificate, and it shall be lawful for the Board to take the land or such new rights thereover as they may require 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.

Purchase of part of certain properties.

27.—(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 and, in case of agricultural land, instead of sections 53 to 56 of the Land Compensation Act 1973.

1973 c. 26.

(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, or part only of an agricultural unit, 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 Board 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 Board agree to take the land subject to the counter-notice, be referred to the tribunal.

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(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 Board are authorised to purchase compulsorily under this Act.

(6) If the Board 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 the land is land which the Board are authorised to purchase compulsorily under this Act.

(7) In any case where, by virtue of a determination by the tribunal under subsection (4), (5) or (6) above, a notice to treat is deemed to be a notice to treat for part of the land specified in the notice or for more land than is specified in the notice, the Board may, within six 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, or of an agricultural unit, the Board 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.

(9) In this section, "agricultural land" and "agricultural unit" have the meanings given by section 109 of the Agriculture Act 1947. 1947 c. 48.

PART III —*cont.*

Disregard of recent improvements and interests.

28. In determining a question with respect to compensation claimed in consequence of the compulsory purchase of land under this Act, the tribunal shall not take into account—

(*a*) any interest in land; or

(*b*) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made (whether on the land purchased or on any other land with which the claimant is, or was at the time of the 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.

Set-off for enhancement in value of retained land.

29.—(1) In assessing the compensation payable to any person on the acquisition by the Board from him of any land, the tribunal shall—

(*a*) have regard to the extent to which the remainder of the land or the remaining contiguous lands belonging to the same person may be benefited by any of the works or by the restoration of the canal; and

(*b*) set off against the value of the land acquired any increase in value of the remainder of the land or the remaining contiguous lands belonging to the same person which will accrue to him by reason of the construction of any of the works or of the restoration of the canal.

(2) The Act of 1961 shall have effect subject to the provisions of this section.

Grant of rights by persons under disability.

30.—(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 Board any right required for the purposes of this Act in, under or over the lands:

Providing that nothing in this section shall be construed as empowering persons to grant any 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 rent charges so far as they are applicable shall extend and apply to any such grant and to any such right as aforesaid.

Time for purchase of land and rights over land.

31.—(1) (*a*) The powers of the Board for the compulsory purchase of land and rights over land under this Act shall cease on 31st December 1992.

(*b*) The powers of the Board for the compulsory purchase of land and rights over land shall, for the purposes of this section, be deemed to have been exercised if notice to treat has been served in respect of those lands and rights.

(2) (*a*) The Secretary of State may by order extend the period for the exercise of the powers of the Board for the compulsory purchase of land under this Act.

(*b*) An order made under this subsection shall be subject to special parliamentary procedure.

PART IV

PROTECTIVE PROVISIONS

For protection of highway authorities.

32. For the protection of the Secretary of State and the county council the following provisions shall, unless otherwise agreed in writing between the Board and the Secretary of State, or the county council (as the case may be) apply and have effect:—

(1) In this section—

"highway" means any highway vested in or repairable or maintainable by the highway authority;

"highway authority", in relation to any highway or bridge, means whoever of the Secretary of State or the county council is or will be highway authority for that highway or for the highway carried or to be carried by the bridge, as the case may require;

"the new bridge" means any bridge the construction or alteration of which is authorised by this Act for carrying any existing, new or altered highway for which the Secretary of State or the county council is or will be highway authority;

"the new highway" means any new or altered highway the construction or alteration of which is authorised by this Act for which the Secretary of State or the county council is or will be highway authority;

"plans" includes sections and particulars; and

"specified works" means the new bridges, the new highways, and so much of the works as may in any way affect any highway:

(2) (*a*) In carrying out any of the further works authorised, or exercising any of the powers conferred on the Board, by section 6 (Further works and powers) of this Act, the Board shall comply with the requirements specified in column (3) of Schedule 2 to this Act in respect of such work or power described in column (2) of that schedule;

(*b*) In column (3) of the said schedule any reference to width shall be construed as a reference to the width measured at right angles to the centre line of the road or footpath, as the case may be, and any part of the footpath which is to be carried by a bridge shall be so measured:

(3) (*a*) This paragraph applies to the new bridge or the new highway for which the Secretary of State will be highway authority;

(*b*) Before inviting tenders for the construction of the new bridge or the new highway, the Board shall submit to the Secretary of State for his approval, which shall not be unreasonably withheld, the names of the contractors who are to be invited to submit tenders and the Board shall not invite tenders from any contractors who are not approved by the Secretary of State:

Provided that, if within 56 days after the submission to him of the names of contractors under this paragraph the Secretary of State does not signify his approval or disapproval of them and the grounds for such disapproval, he shall be deemed to have approved them:

(4) Before commencing the construction of any of the specified works, the Board shall furnish plans thereof to the highway authority for their approval, which shall not be unreasonably withheld, and, notwithstanding anything shown on the deposited plans and the deposited

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—*cont.*

sections, the work to which those plans relate shall not be constructed otherwise than in accordance with such plans as may be approved by the highway authority as aforesaid, or, if such approval be refused, as may be determined by arbitration, and any part of the construction of the specified works which may involve interference with any highway or bridge shall be carried out under the supervision (if given) and to the reasonable satisfaction of the highway authority:

Provided that, if within 42 days after the submission to them of plans in accordance with the provisions of this paragraph the highway authority do not signify their approval or disapproval thereof and the grounds for such disapproval, they shall be deemed to have approved thereof:

(5) Notwithstanding anything in this Act or shown on the deposited plans the new bridges shall be designed and constructed so as to provide for loadings to be agreed in advance by the highway authority and the Board shall indemnify the highway authority against and make good to the highway authority all expenses which they may reasonably incur or sustain in the maintenance or repair of the highway and any drain or apparatus therein by reason of any non-compliance by the Board with the provisions of this paragraph:

(6) Before commencing to construct any part of the specified works which will involve interference with a highway for which the county council are highway authority the Board shall consult the county council as to the time when such part shall be commenced, as to the extent of the surface of the highway which it may be reasonably necessary for the Board to occupy in the construction of such part and as to the conditions under which such part shall be constructed so as to reduce so far as possible inconvenience to the public and to ensure safety of the public, and such parts shall not be constructed and the surface of the highway shall not be occupied by the Board except at the time, to the extent and in accordance with such reasonable conditions as may be agreed between the Board and the county council or, in default of agreement, determined by arbitration:

(7) In the construction of any part of the specified works under any 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 highway:

(8) The Board shall, at all reasonable times during the construction of any part of the specified works, afford to the highway authority or their duly authorised representatives access to that part of the specified works for the purposes of inspection:

(9) (*a*) The new bridge and highway, together with all works and conveniences connected therewith, shall be vested in and maintained by the highway authority and they shall have all such rights in relation to the subsoil and undersurface thereof as are necessary for the performance of their functions as highway authority for the new bridge and highway:

Provided that the Board shall be liable to the highway authority for the maintenance of the new bridge and highway together with all works and conveniences connected therewith for a period of 12 months after the date of completion;

(*b*) In this paragraph "the date of completion" means the date upon which the new bridge or, as the case may be, the new highway is

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completed in accordance with the requirements of this section and open for public use or in the case of a difference between the Board and the highway authority as to whether the said requirements have been complied with, until the matter in dispute has been determined by arbitration and the arbitrator has certified that the new bridge or, as the case may be, the new highway has been completed in accordance with his determination:

(10) The Board shall make compensation to the highway authority for any subsidence of, or damage to, the highway or any property of the highway authority, or under their control or repairable by them, which may be caused by, or in consequence of, any act or default of the Board, their contractors, servants or agents relating to the specified works and whether such subsidence or damage shall happen during the construction of the specified works or at any time thereafter:

(11) The Board shall keep the highway authority indemnified against all actions, costs, claims and demands whatsoever brought or made against the highway authority by any person in respect of loss or damage caused by, or in consequence of, the construction of any of the specified works and the fact that any act or thing may have been done in accordance with plans approved by the highway authority or in accordance with any requirement of the highway authority or under their supervision shall not (if it was done without negligence on the part of the highway authority) excuse the Board from liability under the provisions of this section:

Provided that the highway authority shall give to the Board reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the consent of the Board:

(12) The Board shall repay to the highway authority all costs, charges and expenses reasonably incurred by the highway authority in the examination of the plans submitted to the highway authority under this section in relation to any of their works:

(13) Any difference arising between the Board and the highway authority under this section (other than a difference as to the construction of this section) shall be determined by arbitration.

For protection of North West Water Authority.

33. Nothing in this Act affects prejudicially the operation of any written agreement between the Board and the North West Water Authority concerning the Llangollen Canal, the Hurleston Reservoir and the pumping and abstraction of water by the authority at Llantisilio, Fron and the Hurleston Reservoir.

For protection of drainage authorities.

34. For the protection of each of the drainage authorities the following provisions shall, unless otherwise agreed in writing between the Board and the relevant drainage authority, apply and have effect:—

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

"banks" has the same meaning as in the Land Drainage Act 1976; 1976 c. 70.

"construction" includes execution, placing and altering and in relation to temporary works, includes removal; and "construct" and "constructed" shall be construed accordingly;

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—*cont.*

"drainage authority" means the internal drainage board as respects a specified work in the area of such a board and except in relation to a main river or a sewer and in any other case means the water authority;

"drainage work" means any watercourse including the banks thereof and any structure or appliance constructed or used for land drainage purposes and under the control of the drainage authority;

"sewer" means a public sewer within the meaning of the Public Health Act 1936 vested in or under the jurisdiction or control of the drainage authority and includes any pumping stations connected therewith and any manholes, ventilating shafts, pumps or other accessories belonging to or forming part of a sewer;

1936 c. 49.

"specified work" means so much of the works or any work (whether temporary or permanent) forming part of, or constructed in connection with, those works under the powers of this Act as will or may—

(*a*) interfere with or affect (either directly or indirectly) any drainage work or with access to a drainage work; or

(*b*) be situated over or within 15 metres measured in any direction of any sewer of the drainage authority;

and includes the maintenance or renewal of any specified work; and

"watercourse" has the same meaning as in the Land Drainage Act 1976 but does not include the canal:

1976 c. 70.

(2) (*a*) No specified work shall be constructed so as to diminish the width between the banks or affect the capacity of any watercourse except with the consent in writing of the drainage authority which consent shall not be unreasonably withheld;

(*b*) In the construction of the specified works the Board shall provide, to the reasonable satisfaction of the drainage authority, such culverts and other drainage works as may be reasonably required for land drainage and the protection of drainage works in consequence of the specified works:

(3) The Board shall not commence any specified work until they shall have given to the drainage authority two months' notice in writing of their intention to commence the same, by leaving such notice at the principal office of the drainage authority with plans as described in paragraph (4) below (in this section referred to as "the said plans") and until the drainage authority shall have signified their approval in writing of the said plans:

Provided that such approval shall not be unreasonably withheld and if within two months after the submission of the said plans, the drainage authority have not signified to the Board their approval or disapproval thereof and the grounds of such disapproval, they shall be deemed to have approved the said plans:

(4) The plans to be submitted to the drainage 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, any specified work is proposed to be constructed and shall as far as reasonably practicable accurately describe the position of any sewer or drainage work within the limits of deviation (for which purpose the drainage authority shall allow the Board access to plans in their possession in order to enable the

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—*cont.*

Board to obtain reliable information) and shall comprise detailed drawings of every alteration which the Board may propose to make in any sewer or drainage work:

(5) The drainage authority may require such modifications to be made in the said plans as may be reasonably necessary to secure any sewer or drainage work against interference or risk of damage and to provide and secure proper and convenient means of access to any sewer or drainage work:

(6) (*a*) The Board shall comply with all reasonable requirements of the drainage authority in the execution of any specified work and shall provide or, if the drainage authority reasonably require, permit the drainage authority to provide at the expense of the Board new, altered or substituted drainage works or sewers, and works for the protection of any drainage works or sewers and for securing convenient means of access thereto, in such manner as the drainage authority shall reasonably require for the proper protection of, and for preventing injury or impediment to, any sewer or drainage work and for securing that the efficiency of any drainage work is not impaired by reason of any specified work;

(*b*) Any works carried out by the drainage authority under this paragraph shall be completed with all reasonable dispatch:

(7) (*a*) The specified works and all such new, altered, substituted and protective works constructed by the Board shall be constructed only in accordance with such plans as may be approved or be deemd to be approved by the drainage authority as aforesaid or determined by arbitration, subject however, to any modification of those plans from time to time agreed upon between the Board and the drainage authority in writing and shall be constructed to the reasonable satisfaction of the drainage authority who shall be entitled at their own expense by their officer to watch and inspect the construction and be given reasonable notice of the date and time on which any specified work and any new, altered, substituted or protective works are to be commenced;

(*b*) The Board shall indemnify the drainage authority in respect of all costs, charges and expenses which the drainage authority may reasonably incur or have to pay or which they may sustain in the preparation, examination or approval of plans or designs:

(8) When any such new, altered or substituted works or any work of defence connected therewith shall be completed under the provisions of this section, the same shall thereafter be as fully and completely under the direction, jurisdiction and control of the drainage authority as any sewer or drainage work now or hereafter may be:

(9) Nothing in this Act shall extend to prejudice, diminish, alter or take away any of the rights, powers or authorities vested or to be vested in the drainage authority in relation to any sewer or drainage work but all such rights, powers and authorities shall be as valid and effectual as if this Act had not been passed:

(10) (*a*) If by reason of the construction of a specified work or any new, altered, substituted or protective works provided by the Board under this section any injury or impediment is caused to any sewer or drainage work or the efficiency of any drainage work is impaired, the damage shall be made good by the Board to the reasonable satisfaction of the drainage authority or, if the drainage authority so decide, they may themselves take such action—

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—*cont.*

(i) If the case is one of emergency, as may be specified in a notice in writing given to the Board as soon as possible after the injury or impediment is caused;

(ii) in any other case, as may be agreed in writing between the Board and the authority, or in default of agreement, determined by arbitration;

as may be reasonably required to remedy the damage or remove the impediment or impairment;

(*b*) The Board shall be responsible for and make good to the drainage authority all costs, charges, expenses and losses which may be occasioned to, suffered by or reasonably incurred by the drainage authority in taking action in accordance with this paragraph:

(11) The Board shall indemnify the drainage authority against all claims, demands, costs, expenses, damages or loss which may be made on or against the drainage authority or which the drainage authority may incur or have to pay or which they may sustain in consequence of the construction, maintenance or renewal of a specified work or of the failure or want of repair thereof or any subsidence caused by the construction of any specified work or in consequence of any act or omission of the Board, their contractors, agents, workmen or servants, whilst engaged upon the specified work and any new, altered, substituted and protective works:

Provided that—

(i) the drainage authority shall give to the Board reasonable notice of any such claim or demand as aforesaid and no settlement or compromise thereof shall be made without the agreement in writing of the Board; and

(ii) nothing in this paragraph shall impose any liability on the Board with respect to any claim, demand, costs, expenses, damage or loss which is attributable to the act, neglect or default of the drainage authority or their servants or agents:

(12) In the exercise of the powers conferred on them by section 20 (Use of sewers, etc., for removing water) of this Act the Board shall not (without prejudice to their obligations under subsection (3) (*b*) of the said section 20) damage or interfere with the bed or banks of any watercourse (other than main river):

(13) Notwithstanding the temporary stopping up or diversion of or interference with any road, bridleway, towing path, footpath, waterway, river or navigation under the powers of section 11 (Temporary stoppage of roads, rivers, etc.) of this Act, the drainage authority shall be at liberty at all times to execute and do all such works and things in, upon or under any such road, bridleway, towing path, footpath, waterway, river or navigation as may be reasonably necessary or desirable to enable them to inspect, repair, maintain, renew, remove or use any sewer which at the time of the stopping up or diversion or interference was in that road, bridleway, towing path, footpath, waterway, river or navigation:

(14) It shall be lawful for an officer of the drainage authority duly appointed for the purpose at any reasonable time to enter upon and inspect any specified work or any other work constructed under the powers of this section:

(15) The fact that any specified work has been executed in accordance with a plan approved or not objected to by the drainage authority or

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to their satisfaction or in accordance with any directions or award of an arbitrator shall not relieve the Board from any liability under the provisions of this section:

(16) As soon as practicable after the completion of the construction of a specified work the Board shall deliver to the drainage authority a plan and section showing the position and level of that work as constructed and all new, altered, substituted or protective works of the drainage authority provided under this section:

(17) Any difference arising between the Board and the drainage authority under this section (other than a difference as to the construction of this section) shall be determined by arbitration:

(18) Nothing in this section shall be deemed to prejudice or affect the provisions of any agreement regulating the relations between the Board and the drainage authority in respect of any sewer.

For protection of Severn-Trent Water Authority.

35. For the protection of the water authority, the following provisions shall, unless otherwise agreed between the Board and the water authority, apply and have effect:—

(1) In this section "the adjacent watercourses" means any watercourse constructed by the Board or its predecessors adjacent to the canal and maintainable by the Board at the passing of this Act, including all existing culverts or pipes so constructed and maintainable under the canal or through the embankment of the canal for the purpose of carrying water from one side of the canal to the other:

(2) (*a*) The Board shall maintain the canal and the adjacent watercourses to the reasonable satisfaction of the water authority as an efficient part of the land drainage system of the catchment areas where the canal is situated provided that, without prejudice to any existing obligations of the Board, nothing in this sub-paragraph shall require the Board to carry out any improvement of the canal or any adjacent watercourse for the purposes of land drainage other than where necessitated by the execution of the works:

(*b*) The Board may cease so to maintain any part of the canal and the adjacent watercourses existing at the passing of this Act in respect of which they have made, with the consent in writing of the water authority (which consent shall not be unreasonably withheld) and whether by the construction of the works or otherwise, such reasonably suitable alternative provision for land drainage (if any) as may be necessary:

(3) Before draining or dewatering any part of the canal for the purpose of the construction of the works the Board shall at their own expense take such measures as may be reasonably required by the water authority for the rescue of any fish in that part:

(4) In the event of any part of the canal or an adjacent watercourse being transferred to any other person the provisions of this section shall apply to the part so transferred as if that person were referred to in this section in lieu of the Board:

(5) Any difference arising between the Board and the water authority under this section (other than a difference as to the construction of this section) shall be determined by arbitration.

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For further protection of Severn-Trent Water Authority.

36. For the further protection of the water authority the following provisions shall, unless otherwise agreed between the Board and the water authority, apply and have effect:—

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

"construct" includes execute, place and alter and "constructed" and "construction" shall be construed accordingly;

"plans" includes descriptions, drawings and specifications;

"protected fishery" means the rivers Severn, Tanat and Vyrnwy and migratory fish and trout in or proceeding to or from those rivers and the spawning grounds spawn or food of such fish in those rivers but does not include any part of the canal;

"protective works" means any works provided pursuant to paragraph (4) below; and

"specified work or operation" means so much of any of the works and any operation authorised by this Act as will or may—

(*a*) affect the flow or quality of water in the rivers Severn, Tanat or Vyrnwy, or in any tributary of those rivers, so as to injuriously affect in the months of October, November or December in any year a protected fishery; or

(*b*) cause obstruction to the free passage of fish in those rivers, and their tributaries during any part of those months; or

(*c*) cause any damage to salmonoid spawning grounds or young salmonoids within such grounds in those rivers and those tributaries:

(2) (*a*) So much of Works Nos. 1, 2, 3 and 5 and any overflow pipe which may be constructed to the river Severn from reference point SJ 26040:12985 as constitutes a specified work shall not be constructed in the months of October, November or December in any year without the consent of the water authority;

(*b*) The water authority shall not unreasonably withhold their consent under this paragraph but may grant their consent subject to reasonable conditions for the prevention of interference with migratory fish or trout:

(3) The Board shall maintain in full working order and to the reasonable satisfaction of the water authority—

(*a*) the fish passes on the Penarth and Carreghofa weirs which are situated respectively on the river Severn immediately downstream of the Penarth feeder and on the river Tanat immediately downstream of the Tanat feeder; and

(*b*) the gratings on the intakes to the Penarth and Tanat feeders to the canal:

(4) (*a*) The Board shall provide, maintain and operate at the boundary between the canal and any nature reserve such as is mentioned in sub-paragraph (*b*) below such works as may reasonably be required by the water authority to control and limit to rates to be specified by the water authority any flow of water from the canal to the reserve;

(*b*) This paragraph applies to any nature reserve established under the powers of this Act in the Guilsfield and Weston arms of the canal or on any other land which, at the date of the passing of this Act, does not form part of the main channel of the canal:

(5) (*a*) Before commencing to construct the protective works or any specified work or operation, the Board shall submit plans thereof to

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the water authority for their approval and shall not commence the same until such plans have been approved by the water authority:

Provided that such approval shall not be unreasonably withheld and if, within two months after the submission of such plans, the water authority have not signified to the Board their approval or disapproval thereof and the grounds of such disapproval, they shall be deemed to have approved the said plans;

(*b*) In the case of any specified work or operation carried out in an emergency the Board shall not be required to submit plans thereof before commencing the same but they shall give to the water authority such notice and such particulars thereof as may be practicable in the circumstances before the work or operation is commenced, with further particulars and plans as soon as reasonably practicable thereafter;

(*c*) Upon signifying their approval of the plans of any specified work or operation, or considering notice of any specified work or operation carried out in an emergency, the water authority may specify any steps reasonably required for the protection of the protected fishery which should be taken by the Board during the carrying out of the work or operation:

(6) Subject to the provisions of this section, the protective works and any specified work or operation shall be constructed only in accordance with such plans as may be approved or deemed to be approved by the water authority as aforesaid or determined by arbitration and in accordance with any requirement made by the water authority under paragraph (5) above or determined by arbitration and shall be constructed to the reasonable satisfaction of the water authority who shall be entitled to watch and inspect the construction and be given reasonable notice of the date and time when such works are to be commenced:

(7) The Board shall indemnify the water authority in respect of all costs, charges and expenses which the water authority may reasonably incur or have to pay or which they may sustain in the preparation, examination or approval of plans under this section:

(8) (*a*) If, in consequence of the execution of the works or of any act or omission of the Board, their contractors, workmen or servants in connection with such execution, or of the failure or want of repair of the works, damage to any protected fishery is anticipated or suffered, the water authority may take such action—

(i) if the case is one of emergency, as may be specified in a notice in writing given to the Board before or as soon as possible after the emergency is apprehended;

(ii) in any other case, as may be agreed in writing between the Board and the authority, or in default of agreement, determined by arbitration;

as may be reasonably required to prevent or remedy such damage:

(*b*) The Board shall be responsible for and make good to the water authority all costs, charges, expenses and losses which may be occasioned to, suffered by, or reasonably incurred by the water authority in taking action in accordance with this paragraph:

(9) The fact that any work or thing has been executed or done in accordance with a plan approved or deemed to be approved by the water authority or to their satisfaction or in accordance with any directions or award of an arbitrator shall not relieve the Board from any liability under the provisions of this section:

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—*cont.*

(10) It shall be lawful for an officer of the water authority duly appointed for the purpose at any reasonable time to enter upon and inspect the fish passes referred to in paragaph (3) above and also the protective works and any specified work or operation:

(11) Any difference arising between the Board and the water authority under this section (other than a difference as to the construction of this section) shall be determined by arbitration.

For protection of Powys County Council.

37.—(1) In this section "the relevant waterways" means so much of the Guilsfield Arm of the canal as is situated between reference points SJ 25210:14720 and SJ 22924:12515 and so much of the Tanat feeder of the canal as is situated between reference points SJ 25375:20283 and SJ 25300:21728.

(2) Notwithstanding section 44 (Application of enactments: miscellaneous provisions as to restoration of canal) of, and Schedule 6 to, this Act—

(*a*) sub-paragraphs (2) (*a*) to (*e*) of paragraph 4 of the said Schedule 6 shall not apply to the relevant waterways; and

(*b*) paragraphs (1) to (13) and (17) of section 10 (For protection of certain county councils and agricultural interests) of the Act of 1944 shall continue to apply to the relevant waterways.

(3) (*a*) The provisions of this paragraph shall have effect unless otherwise agreed in writing between the Board and Powys County Council.

(*b*) The duty of Powys County Council under paragraph (9) of section 10 of the Act of 1944—

(i) not to do any act, matter or thing which will interfere with or restrict the free passage of water along the canal under the bridges, embankments and works to which that paragraph applies; and

(ii) to make and maintain such culverts or openings through those bridges, embankments and works as may be reasonably required as mentioned in that paragraph for the purpose of ensuring the free passage of water along the canal;

shall extend and include a duty to make and maintain any such bridges, embankments and works over the relevant waterways in such a manner and in such condition as will permit such a flow of water as may be required for the purposes of navigation on the main navigable channel of the canal and, in addition, of any nature reserve provided in the relevant waterways under the powers of this Act.

(4) Before carrying out any works or operations in pursuance of section 10 of the Act of 1944 (as it has effect in accordance with this section) which may affect any nature reserve provided under the powers of this Act, Powys County Council shall consult the Nature Conservancy Council.

For protection of electricity, gas and water undertakers.

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

(1) In this section—

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

"apparatus" means—

(*a*) in the case of electricity undertakers, electric lines or works (as respectively defined in the Electricity (Supply) Acts

1882 to 1936) belonging to or maintained by such undertakers; or

(*b*) in the case of gas or water undertakers, any mains, pipes or other apparatus belonging to or maintained by such undertakers;

(not being in either case apparatus in respect of which the relations between the Board and the undertakers are regulated by the provisions of Part II of the Act of 1950) and includes any building, structure or works for the lodging therein of apparatus;

"construction" includes placing and laying and "construct" and "constructed" shall be construed accordingly;

"functions" includes powers and duties;

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

"the undertakers" means any person authorised to carry on an undertaking for the supply of electricity, gas or water within any area within which the Board are by this Act authorised to purchase land or execute works and, in relation to—

(*a*) water undertakers, includes a water authority in their capacity as an authority authorised to carry on an undertaking for the supply of water within their area;

(*b*) any apparatus, means the undertakers to whom the apparatus belongs or by whom the apparatus is maintained:

(2) Notwithstanding the temporary stopping up or diversion of any road, bridleway, towing path, footpath, waterway, river or navigation under the powers of section 11 (Temporary stoppage of roads, rivers, etc.) 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 road, bridleway, towing path, footpath, waterway, river or navigation as may be reasonably necessary or desirable to enable them to inspect, repair, maintain, renew, remove or use any apparatus which at the time of the stopping up or diversion was in that road, bridleway, towing path, footpath, waterway, river or navigation:

(3) The Board, in the case of the powers conferred by section 17 (Underpinning of buildings near works) of this Act, shall, so far as is reasonably practicable, so exercise those powers as not to obstruct or render less convenient the access to any apparatus and if by reason or in consequence of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of the undertakers or any interruption in the supply of electricity, gas or water, as the case may be, by the undertakers shall be caused, the Board shall bear and pay the cost reasonably incurred by the undertakers in making good such damage or restoring the supply; and shall—

(*a*) make reasonable compensation to the undertakers for any loss sustained by them; and

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

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

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—*cont.*

Provided that—

(i) nothing in this paragraph shall impose any liability on the Board with respect to any damage or interruption to the extent that such damage or interruption may be attributable to the act, neglect or default of the undertakers or their contractors or workmen;

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

(4) Notwithstanding anything in section 20 (Use of sewers, etc., for removing water) of this Act, no use shall be made by the Board in the construction of the works of pumping or other like modes of removing water except where reasonably necessary or in the case of emergency or unforeseen accident or for the purpose of removing rainwater or other small amounts of water, and the provisions of section 26 of the Act of 1950 shall apply to, and in relation to, the laying down, taking up or altering of conduits, pipes or other works under the said section 20 as if executed by the Board as operating undertakers within the meaning of the said section 26 for purposes other than the purposes of a railway undertaking:

(5) Notwithstanding anything in this Act or shown on the deposited plans the Board shall not acquire any apparatus under the powers of this Act otherwise than by agreement:

(6) Nothing in section 9 (Subsidiary powers) of this Act shall be construed as authorising the Board to interfere in any way with any apparatus of the water authority otherwise than in accordance with the requirements of this section or without providing a proper substitute therefor:

(7) If the Board, in the exercise of the powers of this Act, acquire any interest in any land in which any apparatus is placed, that apparatus shall not be removed under this section and any right of the undertakers to maintain, repair, renew or inspect that apparatus in that land shall not be extinguished until adequate alternative apparatus shall have been constructed and be in operation to the reasonable satisfaction of the undertakers:

(8) If the Board, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Act, require the removal of any apparatus placed in that land, and shall give to the undertakers written notice of such requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed so as to provide adequate alternative apparatus in lieu of the apparatus to be removed, or if, in consequence of the exercise of any of the powers of this Act, the undertakers shall reasonably require to remove any apparatus, the Board shall afford to the undertakers the necessary facilities and rights for the construction of such alternative apparatus in other land of the Board and thereafter for the maintenance, repair, renewal and inspection of such apparatus:

Provided that, if the alternative apparatus or any part thereof is to be constructed elsewhere than in other land of the Board, and the Board are unable to afford such facilities and rights as aforesaid in the land in which the alternative apparatus or such part thereof is to be constructed, the undertakers shall, on receipt of a written notice to

that effect from the Board, forthwith use their best endeavours to obtain the necessary facilities and rights in such last-mentioned land:

(9) (*a*) Any alternative apparatus to be constructed in land of the Board under this section shall be constructed in such manner and in such line or situation as may be agreed between the undertakers and the Board or in default of agreement determined by arbitration;

(*b*) The undertakers shall, after the alternative apparatus to be provided or constructed shall have been agreed or determined by arbitration as aforesaid and after the grant to the undertakers of any such facilities and rights as are referred to in paragraph (8) above, proceed with all reasonable dispatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the Board to be removed under the provisions of this section:

(10) Notwithstanding anything in paragraph (9) above, if the Board give notice in writing to the undertakers that they desire themselves to execute any part of so much of the work necessary in connection with the construction of the alternative apparatus, or the removal of the apparatus required to be removed, as will be situate in any land of the Board, such work, in lieu of being executed by the undertakers, shall be executed by the Board with all reasonable dispatch under the superintendence, if given, and to the reasonable satisfaction of the undertakers:

Provided that nothing in this paragraph shall authorise the Board to execute the actual placing, installation, bedding, packing, removal, connection or disconnection of any apparatus or any filling around any apparatus extending (where the apparatus is laid in a trench) to 300 millimetres or more above the apparatus:

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

Provided that—

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

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

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

(*b*) if the facilities and rights to be afforded by the Board in respect of any alternative apparatus and the terms and conditions subject to which the same are to be granted are in the opinion of the arbitrator less favourable on the whole to the undertakers than

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—*cont.*

the facilities and rights enjoyed by them in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator shall make such provision for the payment of compensation by the Board to the undertakers in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the particular case:

(12) (*a*) Not less than 28 days before commencing to execute any such works as are referred to in paragraph (8) above and are near to or will or may affect any apparatus the removal of which has not been required by the Board under the said paragraph (8), the Board shall submit to the undertakers a plan, section and description of the works to be executed;

(*b*) Such works shall be executed only in accordance with the plan, section and description submitted as aforesaid and in accordance with such reasonable requirements as may be made by the undertakers for the alteration or otherwise for the protection of the apparatus or for securing access thereto and the undertakers shall be entitled by their officer to watch and inspect the execution of such works:

Provided that—

(i) if the undertakers within 14 days after the submission to them of any such plan, section and description shall, in consequence of the works proposed by the Board, reasonably require the removal of any apparatus and give written notice to the Board of such requirement, the foregoing provisions of this section shall apply and have effect as if the removal of such apparatus had been required by the Board under the said paragraph (8);

(ii) nothing in this sub-paragraph shall preclude the Board from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any such works, a new plan, section and description thereof in lieu of the plan, section and description previously submitted, and thereupon the provisions of this paragraph shall apply to and in respect of such new plan, section and description;

(*c*) The Board shall not be required to comply with sub-paragraph (*a*) above in a case of emergency but in such a case they shall give to the undertakers notice as soon as reasonably practicable and a plan, section and description of the works as soon as reasonably practicable thereafter and shall comply with sub-paragraph (*b*) above so far as reasonably practicable in the circumstances:

(13) Where, in consequence of this Act, any part of any street, road or footpath in which any apparatus is situate ceases to be part of a street, road 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 Board or of the undertakers to require removal of such apparatus under this section or the power of the Board to execute works in accordance with paragraph (12) above:

(14) If in consequence of the exercise of the powers of this Act the access to any apparatus is materially obstructed, the Board shall provide reasonable alternative means of access to such apparatus:

(15) The Board shall pay to the undertakers the costs, charges and expenses reasonably incurred by the undertakers in or in connection with the inspection, removal, alteration or protection of any

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apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph (8) above, less the value of any apparatus removed under the provisions of this section (such value being calculated after removal) and shall also make compensation to the undertakers—

(*a*) for any damage caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal in accordance with the provisions of this section); and

(*b*) for any other expenses, loss, damages, penalty or costs incurred by the undertakers;

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

(16) Where, by reason or in consequence of the stopping up of any street, road or footpath under the powers of this Act, any apparatus belonging to the undertakers and laid or placed in such street, road or footpath or elsewhere is rendered derelict or unnecessary, the Board shall pay to the undertakers the then value of such apparatus (which shall thereupon become the property of the Board) and the reasonable cost of and incidental to the cutting off of such apparatus from any other apparatus, and of and incidental to the execution or doing of any works or things rendered necessary or expedient by reason or in consequence of such apparatus being so rendered derelict or unnecessary:

Provided that the Board shall not under the provisions of this paragraph be required to pay to the undertakers the value of any apparatus rendered derelict or unnecessary if, to the reasonable satisfaction of the undertakers, other apparatus shall at the expense of the Board have been provided and laid and made ready for use in substitution for the apparatus so rendered derelict or unnecessary:

(17) Any difference arising between the Board and the undertakers under this section (other than a difference as to the construction of this section) shall be determined by arbitration:

(18) Nothing in this section shall be deemed to prejudice or affect the provisions of any enactment or agreement regulating the relations between the Board and the undertakers in respect of any apparatus laid or erected in land belonging to the Board at the date of the passing of this Act.

For protection of British Railways Board.

39. For the protection of the British Railways Board (in this section referred to as "the railways board") the following provisions shall, unless otherwise agreed in writing between the Board and the railways board, apply and have effect:—

(1) In this section—

"construction" includes reconstruction and for the purposes of paragraphs (9), (12) and (14) below includes maintenance and repair of the works;

"the engineer" means an engineer to be appointed by the railways board;

"plans" includes sections, drawings and particulars;

"the railway" means the Shrewsbury to Chester railway of the

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—*cont.*

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; and

"the works" means so much of the works as may be situated upon, across, under or over or may in any way affect the railway and includes the construction of such works:

(2) The Board shall not under the powers of this Act acquire compulsorily any property of the railways board comprised in or held in connection with the railway but they may in accordance with the provisions of section 22 (Purchase of rights over land) of this Act acquire such easements and rights as they may reasonably require for the purposes of the works in any such property delineated on the deposited plans:

(3) The Board shall, before commencing the works (other than works of maintenance or repair), furnish to the railways board proper and sufficient plans thereof for the approval of the engineer, which approval shall not be unreasonably withheld, and shall not commence the works until plans thereof have been approved in writing by the engineer or determined by arbitration:

Provided that, if within 56 days after such plans have been furnished to the railways board the engineer shall not have intimated his disapproval thereof and the grounds of his disapproval, he shall be deemed to have approved the same:

(4) If within 28 days after such plans have been furnished to the railways board the railways board shall give notice to the Board that the railways board desire themselves to construct any part of the works which in the opinion of the engineer will or may affect the stability of railway property and the safe operation of the railway then if the Board desire such part of the works to be constructed the railways board shall construct it with all reasonable dispatch on behalf of and to the reasonable satisfaction of the chief engineer of the Board in accordance with plans approved or deemed to be approved or determined as aforesaid:

(5) In the event of any of the works necessitating the alteration, widening or renewal of any bridge carrying the railway over the canal the railways board may if they so desire at the expense of the Board design such altered, widened or renewed bridge:

(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 works to ensure the safety or stability of the railway 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 Board shall not commence the construction of the works until the engineer shall have notified the Board that the protective works have been completed:

(7) The Board shall give to the engineer 28 days' notice of their intention to commence the construction of any of the 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 works in so far as such works of repair or maintenance affect or interfere with the railway:

(8) The works shall when commenced be carried out with all reasonable dispatch in accordance with the approved plans and under the

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—*cont.*

supervision (if given) and to the reasonable satisfaction of the engineer and in such manner as to cause as little damage to the railway 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 the railway and if any damage to the railway or any such interference shall be caused by the carrying out of the works the Board shall, notwithstanding any such approval as aforesaid, make good such damage and shall on demand pay to the railways board all 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 paragraph shall impose any liability on the Board 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 Board shall at all times afford reasonable facilities to the engineer for access to the works during their construction and shall supply him with all such information as he may reasonably require with regard to the works or the method of construction thereof:

(10) The railways board shall at all times afford reasonable facilities to the Board and their agents for access to any works carried out by the railways board under this section during their construction and shall supply the Board 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 the railway shall be reasonably necessary during the construction of the works or during a period of 12 months after the completion thereof in consequence of the construction of the works, such alterations and additions may be effected by the railways board after notice has been given to the Board and the Board shall pay to the railways board on demand the cost thereof as certified by the engineer including, in respect of permanent alterations and additions, a capitalised sum representing the increased or additional cost of maintaining, working and, when necessary, renewing any such alterations or additions:

Provided that if the cost of maintaining, working or renewing the railway is reduced in consequence of any such alterations or additions, a capitalised sum representing such saving may be set off against any sum payable by the Board to the railways board under this section:

(12) The Board shall repay to the railways board all costs, charges and expenses reasonably incurred by the railways board—

(*a*) in constructing any protective works under the provisions of paragraph (6) above including, in respect of any permanent protective works, a capitalised sum representing the cost to the railways board of maintaining and renewing such works;

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

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(*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 and which may be due to the construction or failure of the works or from the substitution or diversion of services which may be necessary for the same reason;

(*d*) in respect of any additional temporary lighting of the railway in the vicinity of the works, being lighting made reasonably necessary during and by reason of the construction or failure of the works;

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

(13) Any additional expense which the railways board shall reasonably incur after giving 28 days' notice to the Board in altering, reconstructing or maintaining the railway in pursuance of any powers existing at the passing of this Act by reason of the existence of the works shall be repaid by the Board to the railways board:

(14) The Board shall be responsible for and make good to the railways board all 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 works or the failure thereof; or

(*b*) by reason of any act or omission of the Board or of any persons in their employ or of their contractors or others whilst engaged upon the construction of the works;

and the Board shall effectively indemnify and hold harmless the railways board from and against all claims and demands arising out of or in connection with the construction of the works or any such failure, act or omission as aforesaid and the fact that any act or thing may have been done by the railways board on behalf of the Board, or 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 done without negligence on the part of the railways board or of any person in their employ or of their contractors or agents whilst engaged upon the construction of the works) excuse the Board from any liability under the provisions of this section:

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

(15) Any difference arising between the Board and the railways board under this section (other than a difference as to the construction of this section) shall be determined by arbitration.

For protection of telecommunications operators.

40. For the protection of telecommunications operators the following provisions shall, unless otherwise agreed in writing between the Board and a telecommunications operator, have effect for the protection of that operator:—

(1) (*a*) Where rights of way are extinguished over any road authorised to be stopped up by this Act as mentioned in either section 12 (Stopping up roads and footpaths without providing substitute) or section 13 (Stopping up roads and footpaths in case of diversion or substitution) the following provisions of this paragraph shall have effect in relation to so much of any telecommunication apparatus as is in the land which by reason of the stopping up ceases to be a

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—*cont.*

highway or part thereof (in this paragraph referred to as "the affected apparatus");

(*b*) The rights of the telecommunications operator of the system for the purposes of which the apparatus is used to remove the affected apparatus shall be exercisable notwithstanding the stopping up, but those rights shall not be exercisable as respects the whole or any part of the affected apparatus after the expiration of a period of 28 days from the date of the service of the notice referred to in sub-paragraph (*f*) below unless, before the expiration of that period, the operator has given notice to the Board of its intention to remove the affected apparatus, or that part of it, as the case may be;

(*c*) The operator of the system for the purposes of which the apparatus is used may, by notice in that behalf to the Board, abandon the affected apparatus, or any part of it, and shall be deemed, as respects the affected apparatus, or any part of it, to have abandoned it at the expiration of the said period of 28 days unless, before the expiration of that period, the operator has removed it or served notice of intention to remove it;

(*d*) (i) The operator of the system for the purposes of which the apparatus is used shall be entitled to recover from the Board the expense of providing, in substitution for the affected apparatus and any apparatus connected with it which is rendered useless in consequence of the removal or abandonment of the affected apparatus, alternative telecommunication apparatus in such other place as the operator may reasonably require;

(ii) In this sub-paragraph, "alternative telecommunication apparatus" means alternative apparatus reasonably required by the operator to operate the system in a manner not less efficient than previously;

(*e*) Where under sub-paragraph (*c*) above the operator of the system for the purposes of which the apparatus is used has abandoned the whole or any part of the affected apparatus, it shall vest in the Board and shall be deemed with its abandonment to cease to be kept installed for the purposes of a telecommunications code system;

(*f*) So soon as practicable after rights of way over or along any road are extinguished pursuant to section 12 (Stopping up roads and footpaths without providing substitute) of this Act the Board shall serve notice of the stopping-up on any telecommunications operator which has notified the Board of its interest in that road:

(2) The powers conferred by section 17 (Underpinning of buildings near works) of this Act shall, so far as reasonably practicable, be so exercised as not to obstruct or render less convenient the access to any telecommunication apparatus kept installed for the purposes of a telecommunications code system:

(3) (*a*) Subject to sub-paragraphs (*b*) and (*c*) below, if, by reason or in consequence of the construction of any of the works authorised by this Act or any subsidence resulting from any of those works, any damage to any telecommunication apparatus kept installed for the purposes of a telecommunications code system (other than apparatus the repair of which is not reasonably necessary in view of its intended removal), or any interruption in the service provided by that telecommunications system, shall be caused, the Board shall bear and pay the cost reasonably incurred by the telecommunications operator of that system in making good such damage or restoring that service and shall—

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—*cont.*

(i) make reasonable compensation to the operator for loss sustained by it; and

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

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

(*b*) Nothing in sub-paragraph (*a*) above shall impose any liability on the Board with respect to any damage or interruption affecting any telecommunications code system to the extent that such damage or interruption is attributable to the act, neglect or default of the operator of that system, its officers, servants, contractors or agents;

(*c*) The operator shall give to the Board reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the consent of the Board:

(4) Any difference arising between the Board and any telecommunications operator under this section (other than a difference as to the construction of this section) shall be determined by arbitration:

(5) Nothing in this section shall prejudice or affect any agreement regulating the relations between the Board and any telecommunications operators in respect of any apparatus installed in or over land belonging to the Board at the date of the passing of this Act.

Saving for nature conservation.

41.—(1) It shall be the duty of the Board in exercising the powers of this Act to—

(*a*) take reasonable steps to further the conservation of flora, fauna or geological or physiographical features of scientific interest; and

(*b*) carry out such consultation as may reasonably be required by the Nature Conservancy Council for the furtherance of nature conservation.

(2) Without prejudice to the generality of the foregoing, the duties in subsection (1) above shall be taken into account by the Board in reference particularly to the carrying out of their duties and functions under the following provisions of this Act:—

Section 11 (Temporary stoppage of roads, rivers, etc.);

Section 18 (Diversion of flow of water);

Section 24 (Temporary possession of land and access); and

Section 25 (Power to use bed and banks of rivers).

Crown rights.

42.—(1) Nothing in this Act affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing in this Act authorises the Board to take, use, enter upon or in any manner interfere with, any land or hereditaments or any rights of whatsoever description (including any portion of the shore or bed of any river, channel, creek or bay)—

(*a*) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those commissioners; or

(*b*) belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.

(2) A consent under subsection (1) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.

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PART V

MISCELLANEOUS AND GENERAL

Classification of highways.

43.—(1) In this section, "detrunked road" and "new trunk road" mean any road or proposed road specified as such in any certificate under subsection (2) below.

(2) The Secretary of State may by certificate given under this subsection provide—

(*a*) that any road forming part of the works shall become a trunk road on the date specified in the certificate; and

(*b*) that any road specified in the certificate as no longer being required as a trunk road in consequence of the completion of any new trunk road shall cease to be a trunk road on the date so specified.

(3) Before giving any certificate under subsection (2) above whereby any road or proposed road will be transferred to and maintainable by the county council, the Secretary of State shall consult the county council.

(4) (*a*) The Secretary of State shall before the date specified in any certificate under subsection (2) above as the date upon which a detrunked road shall be transferred to and maintainable by the county council carry out to the reasonable satisfaction of the county council such works (if any) as may be necessary to ensure that the road is in a state of repair appropriate to its status, and to the use likely to be made of it, on its ceasing to be a trunk road in accordance with the certificate.

(*b*) Any difference between the Secretary of State and the county council under this subsection shall be determined by arbitration.

(5) On the date specified in any certificate under subsection (2) above—

(*a*) any new trunk road so specified shall become a trunk road as if it had become so by virtue of an order under section 10 (2) of the Highways Act 1980 specifying that date as the date on which it was to become a trunk road; and

1980 c. 66.

(*b*) any detrunked road so specified shall cease to be a trunk road and shall be transferred to and maintainable by the county council as if it had ceased to be a trunk road by virtue of an order under section 10 (2) of the Highways Act 1980 specifying that date as the date on which it was to cease to be a trunk road.

Application of enactments: miscellaneous provisions as to restoration of canal.

44.—(1) As from the coming into operation of this Act—

(*a*) the provisions of the Act of 1944 mentioned in Part I of Schedule 6 to this Act shall cease to apply to the canal and the transitional and saving provisions of Part II of that schedule shall have effect;

(*b*) the canal shall continue to be a remainder waterway subject, however, to any disposal under section 19 (Provisions as to waterways rendered unnecessary) of this Act or under any other powers available to the Board;

(*c*) notwithstanding anything in the Act of 1944 the Board may permit the canal to be used for navigation;

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(*d*) the Board may on any land in which they have a sufficient right or interest execute all such works, carry out all such operations and do all such other things as may be required for restoring, maintaining, repairing and using the canal.

(2) Upon the opening to traffic of any new or altered length of waterway comprised in the works, such new or altered length shall be deemed to be a remainder waterway.

(3) Nothing in this Act shall affect the powers of the Secretary of State to make orders under section 104 (2) and (3) of the Act of 1968 in respect of the canal.

(4) Nothing in this Act shall confer any public or private right of navigation over the canal or impose any duty on the Board to maintain the canal for the purpose of navigation or to supply, or maintain a supply of, water for the canal for that purpose.

(5) Subject to this section and to Schedule 6 to this Act, nothing in this Act shall impose or reimpose on the Board any obligation from which they or their predecessors have been relieved by virtue of the Act of 1944.

(6) For the avoidance of doubt it is hereby declared that—

(*a*) the Board are for all purposes the navigation authority in respect of the canal;

1967 c. 9.
1971 c. 78.
1976 c. 75.
1981 c. 64.

(*b*) for the purposes of the definitions of "operational land" in section 32 of the General Rate Act 1967, section 222 of the Town and Country Planning Act 1971, section 34 of the Development of Rural Wales Act 1976 and section 79 of the New Towns Act 1981, land, and any interest in land, held by the Board in connection with the canal shall be treated as land which is used or, as the case may be, an interest in land which is held, for the purpose of the carrying on of the undertaking of the canal, notwithstanding that the land in question is for the time being not in actual use for that purpose.

Nature reserves.

45.—(1) The Board may establish and maintain nature reserves, as well as on the land referred to in section 21 (2) of, and Schedule 4 to, this Act, on any other land forming part of or in the vicinity of the canal in which the Board have sufficient right or interest.

(2) For the purpose of establishing nature reserves pursuant to subsection (1) above, the Board may acquire land by agreement and such acquisition shall be deemed to be for the purposes of their business.

Financial provisions.

46.—(1) Notwithstanding anything in section 107 (2) (*a*) of the Act of 1968 (which makes provisions requiring the Board to secure that each remainder waterway is dealt with in the most economical manner possible), the Board may incur expenditure—

(*a*) on the acquisition of land and rights over land, the execution of works and the discharge of their other functions under this Act;

1944 c. ii (8 & 9 Geo. 6).

(*b*) on the payment of compensation to any authority or person in respect of rights under the London Midland and Scottish Railway (Canals) Act 1944 varied or extinguished by this Act; and

(*c*) (so far as not covered by paragraphs (*a*) and (*b*) above) on such other matters as may be requisite to secure the restoration of the canal.

(2) Nothing in subsection (1) above shall require the Board to expend any part of any grant provided under subsection (2) of section 43 of the Act of

PART V —*cont.*

1968 for the purposes of restoring or maintaining the canal to a standard higher than that which would have been appropriate to the canal but for the passing of this Act and the Secretary of State shall not approve the payment of any such grant for either of those purposes.

Saving as to certain agreements.

1949 c. 97.

47.—(1) For the purposes of this section a relevant agreement is one made or proposed to be made in relation to the canal under section 64 of the National Parks and Access to the Countryside Act 1949 or section 109 (1) (*a*) of the Act of 1968.

(2) Unless otherwise agreed in writing between the parties thereto, nothing in this Act shall alter or affect the operation of any relevant agreement in force at the date of the coming into operation of this Act.

(3) If, after the coming into operation of this Act, an order is made by the Secretary of State under section 104 (3) of the Act of 1968 adding the canal to either Part I or Part II of Schedule 12 to that Act—

(*a*) any relevant agreement in force at the date of the order shall unless otherwise agreed in writing between the parties thereto continue to have effect as if the order had not been made; and

(*b*) the Board and any other authority or body having powers to enter into relevant agreements in relation to remainder waterways shall continue to have such powers in relation to the canal as though it were still a remainder waterway.

Name of canal.

48. As from the coming into operation of this Act the canal as authorised to be restored in accordance with this Act may be referred to for all purposes as the Montgomery Canal.

Arbitration.

49. Where under any provision of this Act any difference (other than a difference as to the meaning or construction of any such provision) is to be determined by arbitration, then such 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.

Planning permission.

S.I. 1977/289.

50.—(1) In this section "Class XII development" means development authorised by article 3 of, and Class XII in Schedule 1 to, the Town and Country Planning General Development Order 1977 (which permit development authorised by private Act designating specifically both the nature of the development thereby authorised and the land on which it may be carried out).

(2) Subject to subsection (3) below, in its application to development authorised by this Act, the planning permission granted for Class XII development shall have effect as if the authority to develop given by this Act were limited to development begun within 10 years after the passing of this Act.

(3) Subsection (2) above shall not apply to the carrying out of any development consisting of the alteration, maintenance or repair of works or the substitution of new works therefor.

PART V —*cont.*

Repeals. 1944 c. i (8 & 9 Geo. 6).

51. The following provisions of the London Midland and Scottish Railway Act 1944 are hereby repealed:—

section 12 (For protection of River Severn Catchment Board Severn Commissioners and Board of Conservators of Severn Fishery District);

section 14 (For further protection of Severn Commissioners and Board of Conservators of the Severn Fishery District); and

section 16 (For protection of West Midlands Joint Electricity Authority).

Costs of Act.

52. 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 Board and may, in whole or in part, be defrayed out of revenue.

SCHEDULES

SCHEDULE 1

Section 5.

THE AUTHORISED WORKS

Works in the county of Powys—

In the community of Newtown and Llanllwchaiarn, district of Montgomeryshire—

Work No. 1. A new cut 2,500 metres in length, being a restoration and improvement of the canal between Newtown Pump Station and Freestone Lock, commencing at reference point SO11820:92263 and terminating at reference point SO13933:93062 including a new lock (Rock Lock) at Llanllwchaiarn and improvements to the existing Dolfor Lock and Freestone Lock;

Work No. 1A. A new bridge at Llanllwchaiarn to carry the road between Llanllwchaiarn Road (B.4568) and Rock Farm over Work No. 1;

Work No. 1B. A raising of the private access road at Dolfor leading to Newtown Water Reclamation Works including a bridge over Work No. 1;

Work No. 2. A new lifting or moveable bridge at Aberbechan, being a reconstruction of the existing bridge carrying the access road to Aberbechan from the road between Newtown and Bettws Cedewain (B.4389) over the canal;

In the community of Berriew, district of Montgomeryshire—

Work No. 3. A diversion, including a widening, deepening and realignment, of the canal, 512 metres in length at Red House commencing at reference point SO17170:96994 and terminating at reference point SO17577:97287;

Work No. 3A. A new road at Red House, being a diversion of the road between Swansea and Manchester (A.483), commencing at reference point SO17045:96960 and terminating at reference point SO17680:97326 including a bridge over Work No. 3;

Work No. 4. A new cut being a diversion of the canal 290 metres in length at Fron commencing at reference point SO18094:97750 terminating at reference point SO18326:97740;

Work No. 4A. A new bridge at Fron to carry the said A.483 over Work No. 4;

Work No. 5. A new cut being a diversion of the canal 727 metres in length at Garthmyl commencing at reference point SO19017:98636 and terminating at reference point SO19416:99160;

Work No. 5A. A new road at Garthmyl, being a diversion of the said A.483 commencing at reference point SO18720:98496 and terminating at reference point SO19446:99358 including a bridge over Work No. 5, together with a realignment of the former A.483 road including a lifting or moveable bridge over Work No. 5;

Work No. 6. A new cut being a diversion of the canal 378 metres in length at Refail commencing at reference point SO19232:99906 and terminating at reference point SJ19070:00232;

Work No. 6A. A new bridge at Refail to carry the road between the said A.483 and Berriew (B.4385) over Work No. 6;

SCH. 1
—*cont.*

In the community of Welshpool, district of Montgomeryshire—

Work No. 7. A new cut being a diversion of the canal 296 metres in length at Whitehouse commencing at reference point SJ22140:05966 and terminating at reference point SJ22318:06190;

Work No. 7A. A raising of the said A.483 at Whitehouse between reference point SJ22174:05843 and reference point SJ22434:06520 including a bridge over Work No. 7 together with a raising of Red Lane from its junction with the said A.483 over a distance of 145 metres;

Work No. 8. A new cut being a diversion of the canal 203 metres in length at Gallowstree commencing at reference point SJ23320:07874 and terminating at reference point SJ23433:08050;

Work No. 8A. A new bridge to carry the said A.483 and the private access to Welshpool High School over Work No. 8;

In the communities of Guilsfield (Without) and Llandrinio, district of Montgomeryshire—

Work No. 9. A widening, deepening and realignment of the canal, 3,135 metres in length, between Burgeddin Locks and Maerdy commencing at reference point SJ25206:14646 and terminating at reference point SJ26392:17250 including a new lock (Maerdy Lock) at Maerdy, reconstruction of the existing Burgeddin Locks and a dam across the Guilsfield Arm of the canal;

In the said community of Guilsfield (Without)—

Work No. 9A. A new bridge being a reconstruction of the existing bridge to carry the access road between the road between Guilsfield and Ardd-lin, (B.4392) and Lower House (Perthi), over Work No. 9;

In the said community of Llandrinio—

Work No. 9B. A raising of the said A.483 at Maerdy including a bridge over Work No. 9;

In the community of Carreghofa, district of Montgomeryshire—

Work No. 10. A widening and realignment of the canal 112 metres in length at Yew Tree commencing at reference point SJ25382:19765 and terminating at reference point SJ25352:19872;

Work No. 10A. A new road at Yew Tree, being a diversion of the road between the bridge over the river Vyrnwy and Llanymynech (B.4398), commencing at reference point SJ25328:19632 and terminating at reference point SJ25432:19970 including a bridge over Work No. 10;

Work No. 11. A new cut, being a diversion of the canal 224 metres in length at Walls Bridge commencing at reference point SJ26254:20808 and terminating at reference point SJ26435:20925;

Work No. 11A. A new road at Walls Bridge, being in substitution for part of the C.99 between Walls Bridge and the road between Four Crosses and Llanymynech (B.4398), commencing at reference point SJ26078:20794 and terminating at reference point SJ26378:20833 including a bridge over Work No. 11.

SCH. 1
—*cont.*

Works in the county of Shropshire—

In the parishes of Llanymynech and Pant and Oswestry Rural, borough of Oswestry—

Work No. 12. A widening, deepening and realignment of the canal 5,609 metres in length, between Llanymynech and Redwith commencing at reference point SJ26982:21148 and terminating at reference point SJ30440:24636;

Work No. 12A. A new road at Old School House, being a diversion of the road between Llanymynech and Morton, commencing at reference point SJ28647:22947 and terminating at reference point SJ28667:23106 including a bridge over Work No. 12;

In the said parish of Oswestry Rural—

Work No. 12B. A new road at Redwith, being a realignment of part of the road between Llynclys and Shrewsbury (B.4396), commencing at reference point SJ30038:24120 and terminating at reference point SJ30384:24064 including a bridge over Work No. 12;

In the parishes of Oswestry Rural, West Felton and Whittington, borough of Oswestry, and in the parishes of Hordley and Ellesmere Rural, district of North Shropshire—

Work No. 13. A new cut being a diversion of the canal at Maesbury, 251 metres in length commencing at reference point SJ30452:24852 and terminating at reference point SJ30602:24946;

Work No. 13A. A new road at Maesbury, being a diversion of the road between Maesbury Marsh and Maesbury, commencing at reference point SJ30430:25018 and terminating at reference point SJ30528:24830 including a bridge over Work No. 13;

Work No. 14. A widening, deepening and realignment of the canal 6,947 metres in length between Aston Locks and Frankton commencing at reference point SJ33616:26452 and terminating at reference point SJ37020:31790 including a new lock at Frankton and improvements to the existing Aston Lock and Frankton Locks together with the reconstruction of the existing aqueduct over the river Perry;

In the said parish of West Felton—

Work No. 14A. A new bridge at Queen's Head to carry the existing road between London and Holyhead (A.5) over Work No. 14;

In the said parishes of Hordley and Ellesmere Rural—

Work No. 15. A widening, deepening and realignment of the Weston Arm of the canal 342 metres in length at Frankton commencing by a junction with Work No. 14 east of Lockgate Bridge at reference point SJ36860:31072 and terminating at reference point SJ37200:31113.

Sections 6 and 32 (2).

SCHEDULE 2

FURTHER WORKS AND POWERS REFERRED TO IN SECTION 6 OF THIS ACT

In this Schedule references to a sheet number are references to the sheet of that number of the deposited plans.

Area (1)	Description of work and power (2)	Requirements (3)
In the county of Powys— In the district of Montgomery-shire— Community of Newtown and Llanllwchaiarn (Sheets Nos. 1 & 2)	(*a*) Stop up and discontinue footpath between points "A", "B", "F" and "G" and substitute therefor new footpath between points "A", "C", "D", "H", "J" and "G".	—
(Sheet No. 1)	(*b*) Stop up private access road between points "A" and "E" and substitute therefor new private access road between points "A", "C", and "E".	—
Community of Berriew (Sheet No. 4)	(*a*) Stop up and discontinue trunk road (A.483) between points "V" and "W" and substitute therefor new road (Work No. 3A) to be carried over work No. 3.	The width of the new road (Work No. 3A) shall be 14·3 metres, comprising a carriageway having a width of 7·3 metres and a verge on each side of the carriageway having a width of 3·5 metres.
(Sheet No. 4)	(*b*) Stop up and discontinue footpath between points "S" and "R" and substitute therefor new footpath between points "S", "T", "A" and "E".	—
(Sheet No. 4)	(*c*) Provide private access road between points "E" and "F".	—
(Sheet No. 4)	(*d*) Provide field access at point "D".	—

SCH. 2
—*cont.*

Area (1)	Description of work and power (2)	Requirements (3)
Community of Berriew—*cont.* (Sheet No. 4)	(*e*) Provide field access between points "A" and "B" to pass under work No. 3A.	—
(Sheet No. 4)	(*f*) Provide access to new trunk road (Work No. 3A) at point "C".	—
(Sheet No. 5)	(*g*) Provide private means of access (incorporating a cattle creep) between points "G" and "H".	—
(Sheets Nos. 6 & 7)	(*h*) Stop up and discontinue trunk road (A.483) between points "X" and "Y" and between points "FF" and "GG" and substitute therefor new road (Work No. 5A) to be carried over Work No. 5.	The width of the new road (Work No. 5A) shall be 14·3 metres, comprising a carriageway having a width of 7·3 metres and a verge on each side of the carriageway having a width of 3·5 metres.
(Sheet No. 6)	(*i*) Fill in Llifior Brook between points "AA", "BB" and "CC" and substitute therefor new cut between points "AA", "DD", "EE" and "CC".	The new cut shall not be more than 3 metres wide at its bottom.
(Sheet No. 7)	(*j*) Stop up and discontinue road (B.4385) between points "HH" and "JJ" and substitute therefor new road between points "JJ" and "NN".	The width of the new road between points "JJ" and "NN" shall be 14·3 metres, comprising a carriageway having a width of 7·3 metres and a verge on each side of the carriageway having a width of 3·5 metres.
(Sheets Nos. 6 & 7)	(*k*) Stop up and discontinue road (former A.483) between points "FF" and "LL" and substitute therefor new road between points "FF" and "MM".	The width of the new road between points "FF" and "MM" shall be 7·5 metres comprising a carriageway having a width of 5·5 metres and a verge on each side of the carriageway having a width of 1 metre.
(Sheet No. 7)	(*l*) Provide access road between points "K" and "L".	—

SCH. 2 —*cont.*

Area (1)	Description of work and power (2)	Requirements (3)
Community of Berriew—*cont.* (Sheet No. 7)	(*m*) Stop up and discontinue road connecting to former A.483 at point "KK".	—
(Sheet No. 8)	(*n*) Field access roads to be provided between points "M" and "N" and between points "M" and "P".	—
Community of Welshpool (Sheets Nos. 9 & 10)	(*a*) Regrade private accesses at points "A", "AA", "B" and "C".	—
(Sheet No. 11)	(*b*) Stop up and discontinue lay-by and private access road to Welshpool High School between points "F", "G" and "H" and substitute therefor new private access road between points "D" and "E".	—
Community of Guilsfield (Without) (Sheet No. 47)	Stop up and discontinue footpath (No. FP239) between points "D" and "F" and substitute therefor new footpath between points "D", "E" and "F".	—
Community of Carreghofa (Sheet No. 15)	(*a*) Stop up and discontinue road (B.4398) between points "A" and "B" and substitute therefor new road (Work No. 10A) to be carried over Work No. 10.	The width of the new road (Work No. 10A) shall be 12·3 metres, comprising a carriageway having a width of 7·3 metres and a verge on each side of the carriageway having a width of 2·5 metres.
(Sheet No. 15)	(*b*) Stop up and discontinue footpath between points "C" and "D" and substitute therefor new footpath between points "C", "E" and "D".	—

SCH. 2
—*cont.*

Area (1)	Description of work and power (2)	Requirements (3)
Community of Carreghofa—*cont.* (Sheet No. 15)	(*c*) Regrade field accesses at points "F" and "G".	—
(Sheet No. 16)	(*d*) In connection with the construction of Work No. 11A, stop up and discontinue road (C.99) between points "H" and "J" and substitute therefor new road (Work No. 11A) to be carried over Work No. 11.	The width of the new road (Work No. 11A) shall be 10·5 metres, comprising a carriageway having a width of 5·5 metres and a verge on each side of the carriageway having a width of 2·5 metres.
(Sheet No. 16)	(*e*) Stop up and discontinue footpath between points "K" and "N" and substitute therefor new footpath between points "K", "L", "M" and "N".	—
(Sheet No. 16)	(*f*) Provide access to former road (C.99) at point "P".	—
In the county of Shropshire— In the borough of Oswestry— Parish of Llanymynech and Pant and parish of Oswestry Rural (Sheet No. 31)	(*a*) Stop up and discontinue road between Llanymynech and Morton between points "L" and "K" and substitute therefor new road (Work No. 12A) to be carried over Work No. 12.	The width of the new road (Work No. 12A) shall be 8 metres comprising a carriageway having a width of 5 metres and a verge on each side of the carriageway having a width of 1·5 metres.
(Sheet No. 31)	(*b*) Provide accesses at points "E" and "A".	—
Parish of Oswestry Rural (Sheet No. 32)	(*a*) Raise road (B.4396) to be carried over Work No. 12 (Work No. 12B).	The width of the new road (Work No. 12B) shall be 10·5 metres comprising a carriageway having a width of 6·5 metres and a verge on each side of the carriageway having a width of 2 metres.

SCH. 2
—*cont.*

Area (1)	Description of work and power (2)	Requirements (3)
Parish of Oswestry Rural—*cont.* (Sheet No. 32)	(*b*) Provide private accesses at points "D", "E", "F" and "G".	—
(Sheet No. 21)	(*c*) Stop up and discontinue road between Maesbury Marsh and Maesbury between points "M" and "N" and substitute therefor new road (Work No. 13A) to be carried over Work No. 13.	The width of the new road (Work No. 13A) shall be 8 metres comprising a carriageway having a width of 5 metres and a verge on each side of the carriageway having a width of 1·5 metres.
(Sheet No. 21)	(*d*) Provide private accesses to towpath at points "H" and "J".	
Parish of West Felton (Sheet No. 33)	(*a*) Realign private means of access between points "D" and "E".	—
	(*b*) Provide field access at point "A".	—

SCHEDULE 3

Section 8.

MEANS OF ACCESS REFERRED TO IN SECTION 8 OF THIS ACT

Description of access by reference to lettered point or location on numbered sheet of deposited plans (1)	Purpose for which access may be used (2)
Point "A" on Sheet No. 12.	For construction of Work No. 9.
Point "A" on Sheet No. 13.	For construction of Work No. 9
Points "B" and "C" on Sheet No. 14.	For construction of Work No. 9.
Point "A" on Sheet No. 17.	For construction of Work No. 12.
Points "B", "C" and "D" on Sheet No. 18.	For construction of Work No. 12.
Points "E" and "A" on Sheet No. 19.	For construction of Work No. 12 and thereafter for the general purposes of the Board.
Points "B" and "C" on Sheet No. 19.	For construction of Work No. 12.
Points "D", "E", "F" and "G" on Sheet No. 20.	For construction of Work No. 12 and thereafter for the general purposes of the Board.
Point "A" on Sheet No. 22.	For construction of Work No. 14 and thereafter for the general purposes of the Board.
Point "B" on Sheet No. 22.	For construction of Work No. 14.
Point "A" on Sheet No. 26.	For construction of Work No. 14.
Points "B" and "C" on Sheet No. 30.	For construction of Works Nos. 9 and 9B.
Point "F" on Sheet No. 46.	For establishment and maintenance of nature reserve at Brithdir Lock.
Point "G" on Sheet No. 46.	For establishment and maintenance of nature reserve at Gungrog.
Points "B" and "C" and, in addition, the north-eastern corner of the land numbered 58 on Sheet No. 47.	For establishment and maintenance of nature reserve at Cabin Lock and Bank Lock.

Section 21 (2).

SCHEDULE 4

LANDS REFERRED TO IN SECTION 21 (2) OF THIS ACT

Area (1)	No. on deposited plans (2)	Purposes for which land may be used (3)
In the county of Powys— District of Montgomeryshire— Community of Berriew	6a, 8a, 15a, 15c.	To carry out flood prevention works in association with Works Nos. 3 and 3A.
	26a.	To establish and maintain a nature reserve at Fron.
	68a, 75a.	To establish and maintain a nature reserve at Refail.
	77, 78, 79, 80.	To establish and maintain a nature reserve at Penllwyn.
Community of Welshpool	11a.	To establish and maintain a nature reserve at Whitehouse.
	36, 37.	To establish and maintain a nature reserve at Brithdir Lock.
	38.	To establish and maintain a nature reserve at Gungrog.
Community of Guilsfield (Without)	55, 56.	To establish and maintain a nature reserve at Cabin Lock.
	58.	To establish and maintain a nature reserve at Bank Lock.
	59, 60, 61, 62, 63, 65, 66.	To establish and maintain a nature reserve at Wern Clay Pit.
	67, 68, 69, 70, 71, 73, 74.	To establish and maintain a nature reserve on the Guilsfield Arm of the canal, at Guilsfield.
Community of Llandrinio	9, 10, 11, 20, 38a, 4	To provide areas of land for the deposit of spoil from Work No. 9.
Community of Carreghofa	8a.	To establish and maintain a nature reserve at Yew Tree.
	41, 42.	To establish and maintain a nature reserve at Carreghofa Locks.

SCH. 4
—*cont.*

Area (1)	No. on deposited plans (2)	Purposes for which land may be used (3)
In the county of Shropshire— Borough of Oswestry— Parish of Oswestry Rural	46a, 49a, 52a.	To provide areas of land for the deposit of spoil from Work No. 12.
	98.	To establish and maintain a nature reserve at Aston Top Lock.
	99, 100, 101, 102, 103, 104.	To establish and maintain a nature reserve at the former Rednal Bone Works.
Parish of West Felton	21.	To provide an area of land for the deposit of spoil from Work No. 14.
	32a.	To provide a car park.
Parish of Ellesmere Rural	4, 5.	To establish and maintain a nature reserve on the Weston Arm of the canal.
Parish of Hordley	8.	To provide a car park.

Section 22 (5).

SCHEDULE 5

1965 c. 56.

MODIFICATION OF PART I OF COMPULSORY PURCHASE ACT 1965

1. In the Compulsory Purchase Act 1965 (hereafter in this Schedule referred to as "the Act") for section 7 (which relates to compensation) there shall be substituted the following:—

"7.—(1) In assessing the compensation to be paid by the Board under this Act regard shall be had not only to the extent, if any, to which the value of the land over which the right is purchased is depreciated by the purchase but also to the damage, if any, to be sustained by the owner of the land by reason of injurious affection of other land of the owner by the exercise of the right.

1973 c. 26.

(2) The modifications subject to which subsection (1) of section 44 of the Land Compensation Act 1973 is to have effect, as applied by subsection (2) of that section to compensation for injurious affection under this section, are that for the words 'land is acquired or taken' there shall be substituted the words 'a right over land is purchased' and for the words 'acquired or taken from him' there shall be substituted the words 'over which the right is exercisable'."

2. For section 8 of the Act (which relates to cases in which a vendor cannot be required to sell part only of a building or garden) there shall be substituted the following:—

"8.—(1) Where in consequence of the service on a person in pursuance of section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (hereinafter in this subsection referred to as 'the relevant land')—

(*a*) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Lands Tribunal (hereafter in this section referred to as 'the Tribunal'); and

(*b*) before the Tribunal has determined that question the person satisfies the Tribunal that he has an interest which he is able and willing to sell in the whole of the relevant land and—

(i) where that land consists of a house, building or manufactory, that the right cannot be purchased without material detriment to that land; or

(ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs;

the British Waterways Act 1987 shall, in relation to that person, cease to authorise the purchase of the right and be deemed to authorise the purchase of that person's interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the Tribunal directs.

(2) Any question as to the extent of the land in which the British Waterways Act 1987 is deemed to authorise the purchase of an interest by virtue of the preceding subsection shall be determined by the Tribunal.

(3) Where, in consequence of a determination of the Tribunal that it is satisfied as mentioned in subsection (1) of this section, the British Waterways Act 1987 is deemed by virtue of that subsection to authorise the purchase of an interest in land, the Board may, at any time within the period of six weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the Board to withdraw the notice.

(4) The modifications subject to which subsection (1) of section 58 of the Land Compensation Act 1973 is to have effect, as applied by subsection (2) of that section to the duty of the Tribunal in determining whether it is satisfied as mentioned in subsection (1) of this section, are that at the beginning of paragraphs (*a*) and (*b*) there shall be inserted the words 'a right over', for the word 'severance' there shall be substituted the words 'right over the whole of the house, building or manufactory or of the house and the park or garden' and for the words 'part proposed' and 'part is' there shall be substituted respectively the words 'right proposed' and 'right is'."

1973 c. 26.

3. The following provisions of the Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), namely:—

section 9 (4) (failure of owners to convey);

paragraph 10 (3) of Schedule 1 (owners under incapacity);

paragraph 2 (3) of Schedule 2 (absent and untraced owners); and

paragraph 2 (3) and 7 (2) of Schedule 4 (common land);

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be purchased compulsorily is vested absolutely in the Board.

4. Section 11 of the Act (powers of entry) shall be so modified as to secure that, as from the date on which the Board have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on sheriff's warrant in the event of obstruction) of the Act shall be modified correspondingly.

5. Section 20 of the Act (compensation for short term tenants) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of the interests but taking into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right in question.

6. Section 22 of the Act (protection of acquiring authority's possession of land where by inadvertence an interest in the land has not been purchased) shall be so modified as to enable the Board in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right in question, subject to compliance with that section as respects compensation.

SCHEDULE 6

Section 44.

ENACTMENTS DISAPPLIED OR MODIFIED IN RELATION TO CANAL

PART I

PROVISIONS OF LONDON MIDLAND AND SCOTTISH RAILWAY (CANALS) ACT 1944 DISAPPLIED

1944 c. ii (8 & 9 Geo. 6).

Section 4 (Application of Land Drainage Act 1930). 1930 c. 20.

Section 5 (Application of Bridges Act 1929). 1929 c. 33.

Section 6 (Provision of fences).

Section 10 (For protection of certain county councils and agricultural interests).

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Section 17 (For protection of Much Wenlock Corporation and Urban District Council of Whitchurch).

Section 18 (For protection of Welshpool Corporation and Urban District Councils of Newtown and Llanllwchaiarn and Llangollen).

Section 24 (For protection of Great Western Railway Company).

Section 30 (For protection of Minister of War Transport).

Section 31 (For protection of Cheshire Rivers and other Catchment Boards).

PART II

TRANSITIONAL PROVISIONS AND SAVINGS

1.—(1) Any agreement made under subsection (4) of section 3 (Closing of canals) of the Act of 1944 shall continue to have effect except to the extent that its purposes are inconsistent with this Act.

(2) Any dispute between the Board and any other party to an agreement to which this paragraph applies as to whether the purposes of the agreement are inconsistent with this Act shall be determined by arbitration.

2.—(1) Subject to the provisions of this paragraph, the Board may remove any fences erected pursuant to section 6 (Provision of fences) of the Act of 1944 which will be rendered unnecessary by the restoration of the canal.

(2) The Board may not remove any fence under this paragraph until—

(*a*) they have provided suitable temporary fences or barriers (which shall be maintained by the Board for so long as may be necessary) in substitution for the fence which is to be removed; or

(*b*) the restoration of the canal has been completed to a sufficient extent to render the fence unnecessary.

3. Nothing in this Act shall prejudice or otherwise affect the operation of the protective provisions as defined in section 8 (Obligations to apply on transfer) of the Act of 1944 in relation to any property transferred, sold or disposed of by the Board or their predecessors before the coming into operation of this Act.

4.—(1) References in this paragraph to section 10 (For protection of certain county councils and agricultural interests) of the Act of 1944 include that section as applied by section 17 (For protection of Much Wenlock Corporation and Urban District Council of Whitchurch) and section 18 (For protection of Welshpool Corporation and Urban District Councils of Newtown and Llanllwchaiarn and Llangollen) of the Act of 1944.

(2) Notwithstanding the disapplication of section 10 of the Act of 1944—

(*a*) all bridges and other properties vested in either of the county councils by subsection (2) of section 10 shall continue to be so vested;

(*b*) the county councils shall remain liable—

(i) to repair, maintain and renew the approaches and works in connection therewith, and the bridges (including the roads thereby carried), mentioned respectively in section 10 (3) and (4); and

(ii) to indemnify and keep indemnified the Board from and against all claims, demands, actions, proceedings, damages, costs and expenses in respect of any failure by the county councils to comply with such liability;

(*c*) where the county councils have widened, improved, realigned, lowered or otherwise dealt with any bridge, or substituted for any bridge a solid embankment or a roadway, in accordance with section 10 (7)—

(i) all easements and other rights granted by the Board or their predecessors under section 10 (7) shall continue to have effect until

the date (in this paragraph called "the relevant date") of the commencement of so much of the works as affects that bridge, embankment or roadway;

(ii) the county councils shall continue to maintain all culverts, openings, accesses or roadways such as are referred to in section 10 (8) until the relevant date;

(iii) section 10 (9) shall continue to have effect until the relevant date;

(*d*) the county councils shall remain liable to pay to the Board any additional expenses which have accrued at the date of the coming into operation of this Act in accordance with section 10 (11);

(*e*) the county councils shall continue to be entitled to exercise any rights available to them on the date of the coming into operation of this Act to discharge into the canal the surface water drainage from any road for which they are the highway authority;

(*f*) the owners, lessees and occupiers of any land in respect of which use had been made of water from the canal before 21st December 1944 (being the date of the passing of the Act of 1944) shall (unless the length of the canal from which water has been taken is filled in or otherwise dewatered) continue to be entitled to such use subject to any agreement such as is referred to in section 10 (14) (*b*) and, in addition, to any enactment regulating the abstraction and impounding of water;

(*g*) the Board shall continue to maintain all boundary and other fences such as are referred to in section 10 (15) and paragraph 2 above shall apply to all such fences which will be rendered unnecessary by the restoration of the canal.

5. Notwithstanding the disapplication of section 24 (For protection of Great Western Railway Company) of the Act of 1944, all easements and other rights granted by the railways board or their predecessors to the Board and their predecessors under section 24 (1) shall continue to have effect.

6. Notwithstanding the disapplication of section 30 (For protection of Minister of War Transport) of the Act of 1944—

(*a*) all bridges and other property vested in the Minister by section 30 (2) shall continue to be so vested, and such bridges shall continue to be trunk bridges, and the roads thereby carried shall continue to be trunk roads;

(*b*) the Secretary of State shall remain liable—

(i) to repair, maintain and renew the approaches and works in connection therewith, and the bridges, mentioned respectively in sections 30 (3) and (4); and

(ii) to indemnify and keep indemnified the Board from and against all claims, demands, actions, proceedings, damages, costs and expenses in respect of any failure by the Secretary of State to comply with such liability;

(*c*) where the Secretary of State or his predecessors have widened, improved, realigned, lowered or otherwise dealt with any bridge, or substituted for any bridge a solid embankment or roadway, in accordance with section 30 (7)—

(i) all easements and other rights granted by the Board or their predecessors under section 30 (7) shall continue to have effect until the date (in this paragraph called "the relevant date") of commencement of so much of the works as affects that bridge, embankment or roadway;

(ii) the Secretary of State shall continue to maintain all culverts, openings, accesses or roadways such as are referred to in section 30 (8) until the relevant date;

SCH. 6
—*cont.*

(iii) section 30 (9) shall continue to have effect until the relevant date;

(*d*) the Secretary of State shall remain liable to pay to the Board any additional expenses which have accrued at the date of the coming into operation of this Act in accordance with section 30 (11);

(*e*) the Secretary of State shall continue to be entitled to exercise any rights available to him on the date of the coming into operation of this Act to discharge into the canal the surface water from any trunk road.

7.—(1) Notwithstanding the disapplication of section 31 (For protection of Cheshire Rivers and other Catchment Boards) of the Act of 1944 the Board shall maintain the canal and the adjacent watercourses as an efficient part of the land drainage system of the catchment areas where the canal is situated.

(2) Sub-paragraph (1) above shall have effect subject to the other provisions of this Act and, subject and pursuant to section 35 (For protection of Severn-Trent Water Authority) of this Act, the Board may make reasonably suitable alternative provision for the purposes of land drainage.

(3) The Board shall continue to maintain all boundary and other fences such as are referred to in section 31 (2) of the Act of 1944 and paragraph 2 above shall apply to all such fences which will be rendered unnecessary by the restoration of the canal as it applies to fences erected pursuant to section 6 of the Act of 1944.

(4) Paragraph 4 (2) (*f*) above shall apply to section 31 (3) (*b*) of the Act of 1944 as it applies to section 10 (14) (*b*) of that Act.

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CHAPTER xxviii

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