Dartford Tunnel Act 1984

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ELIZABETH II



1984 CHAPTER xvii

An Act to repeal the Dartford Tunnel Act 1967 and to re-enact certain provisions of that Act with amendments; to confer further powers in connection with the works authorised by that Act and by Acts repealed by that Act; and for other purposes.

[26th July 1984]

WHEREAS—

(1) By virtue of the Dartford Tunnel Act 1967 (hereinafter referred to as "the Act of 1967") the Essex County Council and the Kent County Council (hereinafter referred to as "the Councils") maintain and operate tunnels for vehicular traffic under the river Thames between the borough of Thurrock in the county of Essex and the borough of Dartford in the county of Kent constructed in pursuance of that Act and of enactments repealed by that Act: 1967 c. xxxvii.

(2) The Councils exercise powers under the Act of 1967 with respect to the said tunnels and works connected therewith including power to demand and take tolls in respect of traffic passing through or into the said tunnels:

(3) By virtue of section 262 of the Local Government Act 1972 and the Non-metropolitan and Welsh Counties (Local Statutory Provisions) Order 1983 the Act of 1967 except certain provisions thereof will cease to have effect at the end of 1986:

1972 c. 70.
S.I. 1983/619.

(4) It is expedient that the Act of 1967 should be specifically repealed and re-enacted with amendments except the provisions thereof that are spent:

(5) It is expedient that the other provisions of this Act be enacted:

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

(7) In relation to the promotion of the Bill for this Act, the requirements of section 239 of the Local Government Act 1972 have been complied with:

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 title and commencement.

1. This Act may be cited as the Dartford Tunnel Act 1984 and shall come into force at the end of one month beginning with the date on which it is passed.

Interpretation.

2.—(1) In this Act, unless the subject or context otherwise requires—

1930 c. clxxxii. "the Act of 1930" means the Dartford Tunnel Act 1930;

1937 c. cxxvii. "the Act of 1937" means the Dartford Tunnel Act 1937;

1957 c. xxxiv. "the Act of 1957" means the Dartford Tunnel Act 1957;

1962 c. xl. "the Act of 1962" means the Dartford Tunnel Act 1962;

1967 c. xxxvii. "the Act of 1967" means the Dartford Tunnel Act 1967;

"the authorised works" means the works authorised by the Act of 1967 and by the enactments repealed by the Act of 1967;

"bicycles" includes tricycles and mechanically powered bicycles and tricycles;

"carriageway" has the meaning given by section 329 of the Highways Act 1980;

1980 c. 66.

"contravention" includes failure to comply;

PART I —*cont.*

"the Councils" means the Essex Council and the Kent Council and includes either of those councils;

"the Essex Council" means the Essex County Council;

"the excess sum" means the amount by which the cost of the works constructed by the Councils under the enactments repealed by the Act of 1967 exceeded the sum of £3,125,000;

"financial year" means the period of 12 months ending on 31st March;

"footway" has the meaning given by section 329 of the Highways Act 1980; 1980 c. 66.

"the Kent Council" means the Kent County Council;

"limits of deviation" means the limits of deviation specified in each of the Acts repealed by the Act of 1967 and in the Act of 1967 by which works were authorised by reference to the plans and sections deposited in connection with the Bills for those Acts;

"the 1930 deposited plans" and "the 1967 deposited plans" mean the plans deposited in connection with the Act of 1930 and the Act of 1967 respectively;

"port authority" means the Port of London Authority;

"the river" means the river Thames;

"street" has the meaning given by section 329 of the Highways Act 1980;

"telecommunication apparatus" has the same meaning as in Schedule 2 to the Telecommunications Act 1984; 1984 c. 12.

"the tunnel" means the tunnel authorised by the enactments repealed by the Act of 1967 and the tunnel authorised by the Act of 1967 together with so much of the highways forming the approaches to the said tunnels as lie between the line A–B shown on the 1967 deposited plans and drawn straight across the northern such approach and the line C–D so shown and drawn straight across the southern such approach the said lines being indicated by posts or other marks in accordance with section 8 (Posts or marks to show limits of tunnel) of this Act;

"the tunnel approaches" means so much of the highway passing through the tunnel as lies south of the junction of the road A.282 with the special road along the route described in Schedule 1 to the M.25 Motorway (A.13 to A.12 Section and Connecting Roads) Scheme 1975 S.I. 1975/1853. in the borough of Thurrock in the county of Essex

PART I —*cont.*

and north of the roads A.225 and A.296 in the borough of Dartford in the county of Kent together with—

(*a*) the two slip roads to the south of the roundabout forming the junction between the said highway and the Arterial Road, Purfleet and the Arterial Road, West Thurrock; and

(*b*) the two slip roads to the north of the roundabout forming the junction between the said highway and the said roads A.225 and A.296 (being the slip roads comprised in Works Nos. 5 and 6 authorised by the Act of 1962 as constructed);

but excluding—

(i) so much of the said highway as is comprised in the tunnel;

(ii) any part of either of the said roundabouts; and

(iii) so much of the said highway as lies to the south of a line drawn straight across the same at a point 41·14 metres measured in a southerly direction from the southern face of the abutments of the bridge carrying Watling Street (B.2200) over the said highway;

"the tunnel undertaking" means the authorised works and includes all the lands, works, erections, appliances, cash, investments, stocks, stores and other real and personal property, assets and effects, rights, powers, privileges, liabilities and obligations for the time being held or used by the Councils for the purpose of or in relation to the authorised works or to which they are for the time being subject for the purpose of or in relation to those works.

(2) Any reference in this Act to a proper officer of either of the Councils shall, in relation to any purpose, be construed as a reference to an officer appointed for that purpose by the Essex Council or the Kent Council as the case may be.

(3) Any reference in this Act to a road designated by a letter and number is a reference to that road as so designated by the Department of Transport at the date of the passing of this Act.

PART II

PROVISIONS RELATING TO AUTHORISED WORKS

Continuance and maintenance of authorised works.

3.—(1) Subject to the provisions of this section, the Councils may continue and maintain the authorised works and those parts of the authorised works which consist of roads shall be

PART II —*cont.*

highways and, except any parts which are for the time being trunk roads, shall continue to be under the jurisdiction and management of the Essex Council as highway authority so far as the same are within the county of Essex and of the Kent Council as highway authority so far as the same are within the county of Kent.

(2) For the purposes of this Act, the boundary between the counties of Essex and Kent shall as respects the tunnel be the boundary shown on the 1930 deposited plans and the boundary shown on the 1967 deposited plans respectively, and the Councils shall in the tunnel maintain a mark in each case indicating the point at which the tunnel passes over such boundary and the said boundary shall be deemed to be the boundary so indicated.

(3) On lands within the limits of deviation in which the Councils have sufficient interest or rights the Councils may in connection with and as part of the authorised works for which those limits of deviation have effect do any of the following things and carry out all other necessary or convenient, subsidiary and incidental works:—

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

(*b*) make junctions and communications (including the provision of steps or ramps for the use of persons on foot) with any existing streets intersected, crossed or interfered with by or contiguous to any of the authorised works and widen or alter the line or alter the level of any existing street for the purpose of connecting the same with the authorised works or any of them or with any existing street, or of crossing under or over the same;

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

(*d*) execute any works and do any things necessary for the protection of any adjoining land.

Subsidiary works affecting river.

4.—(1) Subject to the provisions of this Act—

(*a*) the Councils may, with the consent of the Anglian Water Authority or the Southern Water Authority, as the case may be (such consent not to be unreasonably

PART II —*cont.*

withheld) for the purpose of or in connection with the authorised works temporarily alter or interfere with the banks, bed and foreshores of the river and construct, place and maintain within the limits of deviation in the river and in or on the bed, banks and foreshores thereof all such temporary piles, fenders, booms, dolphins, pontoons, caissons, cofferdams, embankments, aprons, abutments, stagings, piers, wharves, walls, fences, drains, stairs, buildings and other works as they may deem expedient or necessary;

(*b*) the Councils may occupy and use temporarily so much of the banks, bed and foreshores of the river as may be required for the purposes referred to in paragraph (*a*) above and as lies within the limits of deviation;

(*c*) The Councils may, with the consent of the port authority (such consent not to be unreasonably withheld) and subject to such reasonable conditions as that authority may impose, for the purpose of the construction or maintenance of any of the authorised works moor or anchor temporarily, or cause to be moored or anchored temporarily, vessels, barges or other craft in the river.

(2) Any difference between the Councils and a water authority under paragraph (*a*) of subsection (1) above or between the Councils and the port authority under paragraph (*c*) of that subsection shall be settled by arbitration.

Powers for maintenance, management, etc., of tunnel and tunnel approaches.

5. For the purposes of maintaining, improving, repairing or renewing the tunnel and the tunnel approaches and any buildings, works, plant, machinery or apparatus connected therewith, or of controlling or securing the safety or convenience of traffic or persons using the tunnel and the tunnel approaches or any part or parts thereof, or otherwise of exercising the functions of the Councils under this Act, the Councils may provide, erect and maintain such buildings, works, vehicles, machinery, plant and apparatus as may be necessary or convenient for those purposes or any of them.

Repair, etc., of authorised works.

6. Subject to the provisions of this Act the Councils may execute all such works and do all such acts in, under or upon any of the carriageways and footways forming part of the authorised works as they may think proper for preserving, repairing, lighting, ventilating or improving the authorised works and may, for that purpose, enter upon and break open the soil and pavement of such carriageways and footways and

PART II —*cont.*

any sewers, drains or tunnels within or under the same, causing as little inconvenience as may be in the execution of the powers hereby conferred, and restoring the said carriageways, footways, sewers, drains or tunnels as nearly as practicable to the same condition as they were in before such breaking and opening.

Power to pump water and use sewers for removing water.

7.—(1) Subject to the provisions of this Act, the Councils may pump any water found by them in the maintenance of any of the authorised works and may use for the discharge of any such water the river or any available stream or watercourse or any sewer or drain and may within the limits of deviation for the authorised works lay down, take up and alter conduits, pipes and other works and make convenient connections with the river or any such stream, watercourse, sewer or drain as aforesaid.

(2) In the exercise of the powers of this section the Councils shall not—

(*a*) abstract water from underground strata, except in so far as the abstraction is necessary in connection with the maintenance of the authorised works to prevent any interference with any engineering, building or other operations (whether underground or on the surface) or to prevent damage to works resulting from any such operations;

(*b*) make any connection with a sewer vested in a water authority or with a sewer or drain communicating with a sewer of that authority except with the consent of that authority in writing and in accordance with such terms and conditions as that authority may reasonably attach thereto, but such consent shall not be unreasonably withheld; or

(*c*) make any opening into any sewer vested in a water authority except in accordance with plans reasonably approved by and under the superintendence (if the same shall be given) of that authority.

(3) Any question arising under subsection (2) above between the Councils and any water authority shall, unless otherwise agreed, be settled by arbitration.

(4) (*a*) Notwithstanding anything in section 11 (7) of the Rivers (Prevention of Pollution) Act 1951, the discharge of water under the powers of this section into any stream, as defined in that section, shall be subject to the provisions of section 2 of that Act. 1951 c. 64.

(*b*) On the coming into force of section 31 of the Control of Pollution Act 1974, paragraph (*a*) above shall cease to have 1974 c. 40.

PART II —*cont.*

effect and the said section 31 shall apply to, or to the consequence of, the discharge of water under the powers of this section into any relevant waters for the purposes of the said section 31 as if—

(i) 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

(ii) no matter so discharged were trade or sewage effluent or other matter mentioned in subsection (2) (*e*) of the said section 31.

Posts or marks to show limits of tunnel.

8. The Councils shall on either side of the highways forming the approaches to the tunnel erect and maintain posts or other marks indicating the position of the lines delimiting the tunnel and the straight lines across each such approach and between those posts or marks shall be deemed to be the limits of the tunnel as so indicated.

Restriction on use of tunnel.

9.—(1) The tunnel shall not be available for use by traffic of any of the following classes that is to say:—

(*a*) persons on foot;

(*b*) animals (unless conveyed in a vehicle);

(*c*) vehicles other than mechanically powered vehicles (with or without trailers);

and any collector or other person appointed to receive tolls, or any traffic officer appointed or deemed to have been appointed under the powers of this Act, and for the time being in office as such traffic officer may by himself, or with such assistance as he shall think necessary, stop and prevent any person seeking to enter or use the tunnel contrary to the restriction imposed by this subsection:

Provided that—

(i) the Councils jointly may at any time withdraw or suspend (either permanently or temporarily and whether as respects particular traffic or as respects traffic of all or any of the said classes) the restriction imposed by this subsection and such withdrawal or suspension may be made upon and subject to such terms and conditions as the Councils may determine including, with the approval of the Secretary of State, conditions which reduce or remit the tolls otherwise payable in respect of traffic to which the withdrawal or suspension relates;

(ii) the said restriction shall not apply to—

(A) any person entering or using the tunnel for or in connection with the performance of work, duties or services relating to the tunnel;

PART II —*cont.*

(B) any member of the naval, military or air forces while on duty in the service of the Crown;

(C) any police officer acting in the execution of his duty;

(D) any inspector duly appointed under section 19 of the Health and Safety at Work etc. Act 1974 acting in the execution of his duty; 1974 c. 37.

(E) any person entering the tunnel in or on a vehicle who, in consequence of a mechanical or other breakdown of such vehicle or in any other case of emergency, uses the tunnel on foot in a reasonable and proper manner having regard to the circumstances of the case.

(2) Any person entering or using, or attempting to enter or use the tunnel in contravention of the restriction imposed by subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Any withdrawal or suspension effected by the Councils under proviso (i) to subsection (1) above shall be in writing and may be signed on behalf of the Councils by their respective proper officers.

(4) In and for the purposes of this section the expression "the tunnel" includes (in addition to the tunnel) the tunnel approaches and in this section references to "the tunnel" include references to any part of the tunnel or the tunnel approaches, as the case may be.

Closing of authorised works.

10. The Councils may, at such times and for such periods as they may think proper, close wholly or in part the authorised works or any of them, or any part thereof for the purposes of maintaining, repairing, renewing, draining, cleansing, ventilating, lighting or improving the same, or otherwise for the safety of the public.

No sewers, mains or pipes to be laid in tunnel or tunnel approaches. 1950 c. 39.

11.—(1) (*a*) Notwithstanding anything contained in the Public Utilities Street Works Act 1950 or in any other enactment relating to the breaking up of streets or the installation of apparatus, but subject to the provisions of this section, no person shall enter upon, break up or interfere with the tunnel or the tunnel approaches or any part thereof or the carriageways or footways thereof or of any part thereof for the purpose of laying down any sewer, drain, main, pipe, wire or other apparatus or executing any work therein, thereon, thereunder

PART II —*cont.*

or thereover except with the consent of the Councils in writing and in accordance with such terms and conditions either as to the payment of rent or other valuable consideration or otherwise as the Councils may determine:

Provided that such consent shall not be unreasonably withheld—

(i) for the laying down of telecommunication apparatus in pursuance of a right conferred by or in accordance with the telecommunications code, electric lines or gas mains in any part of the tunnel or the tunnel approaches or the carriageways or footways thereof; or

(ii) for the construction and maintenance by the Thames Water Authority across, but not along the line of, the specified portions of the tunnel approaches of such main sewers as are authorised by the West Kent Main Sewerage Act 1875 and the West Kent Main Sewerage Order 1926 which was confirmed by the Ministry of Health Provisional Orders Confirmation (No. 1) Act 1926; or

1875 c. clxiii.

1926 c. xix.

(iii) for the placing of pipe-lines in any part of the tunnel approaches, or the carriageways or footways thereof along a line crossing such approaches, carriageways or footways subject to and in accordance with the provisions of the Pipe-lines Act 1962 as modified by subsection (2) below, and for that purpose to execute the works specified in subsection (1) of section 15 of that Act;

1962 c. 58.

and any question which may arise as to whether such consent is so unreasonably withheld or as to whether the terms and conditions subject to which any such consent is given are reasonable shall be determined by arbitration.

(*b*) In paragraph (ii) of the proviso to paragraph (*a*) of this subsection the expression "the specified portions of the tunnel approaches" means—

(i) Work No. 2 authorised by the Act of 1967;

(ii) so much of Work No. 1 authorised by the Act of 1930 as comprises that part of the southern approach to the tunnel which is situate between the commencement of Work No. 1A authorised by the Act of 1937 and the point of commencement of the gradient to the southern entrance to the tunnel;

(iii) the said Work No. 1A;

(iv) Work No. 9 authorised by the Act of 1957 and Works Nos. 5 and 6 authorised by the Act of 1962.

PART II —*cont.*

(2) For the purposes of the placing of pipe-lines and the execution of works pursuant to paragraph (iii) of the proviso to paragraph (*a*) of subsection (1) above the provisions of the Pipe-lines Act 1962 shall have effect subject to the following modifications:— 1962 c. 58.

(*a*) in subsection (2) of section 15 of that Act after the word "not" there shall be inserted the word "unreasonably" and for the words after "section" there shall be substituted the words "and any question which may arise as to whether such consent is so unreasonably withheld or as to whether the conditions subject to which any such consent is given are reasonable shall be determined under and in accordance with section 11 (No sewers, mains or pipes to be laid in tunnel or tunnel approaches) of the Dartford Tunnel Act 1984";

(*b*) subsection (7) of the said section 15 shall be omitted.

(3) Where any telecommunication apparatus is laid pursuant to any consent of the Councils given under subsection (1) above the Councils shall not by virtue of that subsection be entitled to any payment or other valuable consideration, but this subsection shall operate without prejudice to any entitlement of the Councils to any indemnity or payment for any loss or damage sustained by them as a result of the laying down of any telecommunication apparatus in the tunnel.

Restrictions as to landing place.

12. Except for the purpose of—

(*a*) landing or embarking persons engaged in the construction, maintenance or repair of any of the authorised works; or

(*b*) landing or loading from or into vessels not arriving from or departing for foreign parts any goods or materials required for or used in such construction, maintenance or repair;

none of the authorised works shall be used as a landing or loading place for goods or passengers conveyed or intended to be conveyed in any vessel.

Application of Public Utilities Street Works Act 1950. 1950 c. 39.

13.—(1) In relation to any of the authorised works to which, apart from this section, the provisions contained in Part II of, and Schedule 4 to, the Public Utilities Street Works Act 1950 (which regulate the relations between an authority executing a road alteration and undertakers within the meaning of the said Act of 1950 whose apparatus is affected thereby), would not

PART II —*cont.*

apply, the said provisions shall apply as if the said works were mentioned in section 21 (1) (*a*) of the said Act of 1950, and the undertakers' apparatus affected thereby were in a street.

(2) In this section "the authorised works" includes works authorised by any of the following provisions of this Act:—

(*a*) subsection (3) of section 3 (Continuance and maintenance of authorised works);

(*b*) section 4 (Subsidiary works affecting river);

(*c*) section 5 (Powers for maintenance, management, etc., of tunnel and tunnel approaches);

(*d*) section 6 (Repair, etc., of authorised works);

(*e*) subsection (1) of section 7 (Power to pump water and use sewers for removing water).

PART III
FINANCE

Provisions relating to loans.
1972 c. 70.

14. Notwithstanding anything in any scheme for a loans fund operated by either of the Councils under paragraph 15 of Schedule 13 to the Local Government Act 1972—

(*a*) the yearly repayments to any such fund of any advance made therefrom for the purposes of this Act shall be in amounts ascertained in accordance with such of the provisions of subsection (4) of section 30 (Application of moneys derived from tolls) of this Act as for the time being apply; and

(*b*) the interest charged on any such advance shall be at the rate per cent. which would have been payable by the Councils on loans raised at the time such advance was made.

Payment of interest on moneys borrowed in certain events.

15.—(1) Notwithstanding anything in this Act or in any other enactment, the Councils may borrow money for the purpose of paying interest on any money borrowed for, or in respect of, the tunnel undertaking but only in any year in which the tolls are insufficient to pay the interest upon the excess sum and upon money borrowed by the Councils for, or in respect of, the tunnel undertaking.

(2) This section shall cease to have effect at the end of 1985 or such date thereafter as the Secretary of State may prescribe not being later than the end of 1990.

PART III —*cont.*

16. Any expenses incurred by the Councils under or for the purposes of this Act or the Act of 1967 shall, unless otherwise provided, be borne by the Councils and (unless otherwise agreed between them) in equal shares and may be paid out of their respective county funds. Expenses of Councils.

17.—(1) Subject to the provisions of this Act, any deficiency in the revenue of the tunnel undertaking in any financial year shall be made good at the option of the Councils either out of the reserve fund (if any) authorised by section 19 (Reserve fund) of this Act, or out of the other moneys of the Councils, and in such case any amount made good out of such other moneys shall be repayable out of any future revenue of the tunnel undertaking unless and to the extent that the Councils may otherwise jointly determine. Deficiencies.

(2) The Councils may apply money received by them in any financial year on account of the revenue of the tunnel undertaking in the payment of interest calculated at such reasonable rate as the Councils may determine with half-yearly rests on the amounts repayable out of the revenue of the undertaking referred to in subsection (1) above.

18.—(1) (*a*) Subject to the provisions of this Act, the Councils shall provide a maintenance fund in respect of the tunnel undertaking by each of the Councils paying to the fund such equal amounts as they may from time to time determine from the sum representing the amount of the tolls collected in pursuance of this Act and referred to in subsection (3) of section 30 (Application of moneys derived from tolls) of this Act and (unless the said amounts are applied in any other manner authorised by any enactment) by investing the same in any securities in which superannuation funds may for the time being be invested until the sum so provided amounts to a sum which is sufficient to provide an income thereon that is neither substantially more nor substantially less than is necessary to meet the costs and administrative and other expenses of the tunnel undertaking. Maintenance fund.

(*b*) One-half of any income arising from the investment of the moneys in the maintenance fund in manner provided by this subsection shall be carried to and form part of the county fund of each of the Councils respectively and an amount equivalent to that so carried to the county fund shall be credited by each of the Councils to the maintenance fund or, if that fund is then fully funded, shall be applied otherwise for the benefit of the tunnel undertaking as the Councils may determine.

PART III —*cont.*

(2) The maintenance fund provided under this section may be applied from and after the date on which the power to demand, take and recover tolls conferred by this Act has ceased pursuant to section 31 (Cesser of tolls) of this Act in defraying the costs and administrative and other expenses incurred by the Councils—

(*a*) in maintaining and repairing the tunnel undertaking; and

(*b*) in operating the services and facilities provided by the Councils in connection therewith.

Reserve fund.

19.—(1) (*a*) Subject to the provisions of this Act, the Councils shall provide a reserve fund in respect of the tunnel undertaking by each of the Councils paying to the fund such equal amounts as they may from time to time determine from the sum representing the amount of the tolls collected in pursuance of this Act and referred to in subsection (3) of section 30 (Application of moneys derived from tolls) of this Act and (unless the said amounts are applied in any other manner authorised by any enactment) by investing the same in any securities in which superannuation funds may for the time being be invested.

(*b*) One-half of any income arising from the investment of the moneys in the reserve fund in manner provided by this subsection shall be carried to and form part of the county fund of each of the Councils respectively and an amount equivalent to that so carried to the county fund shall be credited by each of the Councils to the reserve fund or, if that fund is then fully funded, shall be applied otherwise for the benefit of the tunnel undertaking as the Councils may determine.

(2) (*a*) The reserve fund provided under this section may be applied—

(i) in making good any deficiency at any time happening in the tolls and charges collected in pursuance of this Act; or

(ii) in meeting any extraordinary claim or demand at any time arising against the Councils in respect of the tunnel undertaking; or

(iii) in or towards any approved payment of the cost of renewing, improving or extending any part of the tunnel undertaking; or

(iv) to any other purpose (whether or not for the benefit of the tunnel undertaking) which may be approved.

(*b*) In this subsection "approved" means approved by the Secretary of State.

PART IV
TOLLS AND CHARGES

Tolls and charges.

20. Subject to the provisions of this Act the Councils—

(1) shall demand and take and may recover in respect of traffic passing through or into the tunnel or entering any of the tunnel approaches the tolls authorised to be demanded or taken by virtue of the Act of 1967 or by virtue of any order made under section 21 (Revision of tolls) of this Act; and

(2) may demand, take and recover such reasonable charges as they may think fit for any services rendered or action taken by the Councils, to, or in respect of, persons or vehicles in connection with the use of the tunnel or the tunnel approaches:

Provided that the Councils may allow traffic to use the tunnel approaches, or with the consent of the Secretary of State the tunnel, without paying tolls during such times or under such circumstances as they may from time to time determine.

Revision of tolls.

21.—(1) If at any time it appears to the Councils, after consultation with the district councils, that under the circumstances then existing or in prospect all or any of the tolls authorised by virtue of this Act or any classification of vehicles specified in any order for the time being in force by virtue of this Act, should be revised, the Councils may, subject to the provisions of this section, make an order revising all or any of such tolls or any classification of vehicles as aforesaid.

(2) Any order made by the Councils under this section shall prescribe such tolls as, in the opinion of the Councils, are reasonably required to be demanded, taken and recovered so as to produce an annual revenue not substantially less nor substantially more than adequate to meet such expenditure as is authorised for the several purposes mentioned in subsections (3) and (4) of section 30 (Application of moneys derived from tolls) of this Act and in determining the level and pattern of tolls to be specified in an order made under subsection (1) above, the Councils shall have regard to—

(*a*) the financial position and future prospects of the tunnel; and

(*b*) such other matters of a transportation nature as shall be deemed by the Councils to be relevant.

PART IV —*cont.*

(3) Compliance with paragraphs (*a*) to (*c*) below shall be a condition precedent to the making of an order under subsection (1) above—

(*a*) the Councils shall publish notice in the London Gazette and in one or more newspapers circulating in their area, stating the effect of the proposed order and stating the date, not being less than 28 days after the first publication of the notice, by which objections or representations to the proposed order may be made in writing to the Councils and, not later than the date of the first publication of the notice, shall send a copy to the Secretary of State together with such information and particulars in relation to the proposed order as the Councils consider appropriate;

(*b*) the Councils shall send to the Secretary of State copies of any objections or representations duly made concerning the proposed order together with the observations of the Councils thereon and furnish the Secretary of State with such further information and particulars in relation to the proposed order as he may require;

(*c*) at any time within a period starting with the date of the first publication of the notice and ending 21 days from the date specified in paragraph (*a*) above as the date by which objections or representations to the proposed order may be made or 21 days from the last date on which the Councils send him a copy of any objection or representation duly made concerning the proposed order, whichever is the later, (which period is in this section referred to as "the direction period") the Secretary of State may and, subject to the provisions of subsection (10) below, shall if a request is made by either of the district councils under subsection (9) below and that request is not withdrawn give directions to the Councils requiring the proposed order to be referred to him.

(4) If during the direction period—

(*a*) the Secretary of State gives directions to the Councils requiring the proposed order to be referred to him he may, subject to and in accordance with the provisions of subsections (8) to (11) below, make the order if it appears to him that under the circumstances then existing or in prospect it is expedient so to do or decide not to make it;

(*b*) no direction is given to the Councils by the Secretary of State the Councils may, after taking into consideration any objections or representations which have been

duly made and not withdrawn, make the order with or without modification. PART IV —*cont.*

(5) If at any time it appears to the Secretary of State that it may be expedient to revise all or any of the tolls authorised by virtue of this Act or any classification of vehicles specified in any order for the time being in force by virtue of this Act, the Councils shall on his request furnish him with such information and particulars as he may require.

(6) If at any time it appears to the Secretary of State, after consultation with the Councils, to be expedient that under the circumstances then existing or in prospect all or any of the tolls authorised by virtue of this Act or any classification of vehicles specified in any order for the time being in force by virtue of this Act should be revised, the Secretary of State may, if he thinks fit and subject to the provisions of this section, make an order revising all or any of such tolls or any classification of vehicles as aforesaid.

(7) The Councils shall, upon being required so to do by the Secretary of State publish in the London Gazette and in such one or more newspapers as the Secretary of State may specify a notice stating—

(*a*) the general effect of the proposed order of the Secretary of State; and

(*b*) the date, being not less than 28 days after the first publication of the notice, by which objections or representations to the proposed order may be made in writing to the Secretary of State.

(8) Any order made by the Secretary of State under this section shall prescribe such tolls as, in the opinion of the Secretary of State, are reasonably required to be demanded, taken and recovered so as to produce an annual revenue not substantially less nor substantially more than adequate to meet such expenditure as is authorised for the several purposes mentioned in subsections (3) and (4) of section 30 (Application of moneys derived from tolls) of this Act and in determining the level and pattern of tolls to be specified in an order made by the Secretary of State under this section he shall have regard to—

(*a*) the financial position and future prospects of the tunnel; and

(*b*) such other matters of a transportation nature as shall be deemed by him to be relevant.

(9) Before making an order under this section the Secretary of State may, if he thinks fit and, subject to the provisions of

PART IV —*cont.*

subsection (10) below, shall if requested to do so during the direction period by either of the district councils and that request is not withdrawn cause a local inquiry to be held by such person as he may appoint for the purpose.

(10) A request by either of the district councils under subsection (9) above shall only be made if an objection or representation has been duly made concerning the proposed order by the district council concerned and that objection or representation has not been withdrawn at the time of making the request and that request shall cease to have effect if that objection or representation is subsequently withdrawn.

(11) The Secretary of State in deciding whether or not to make an order under this section shall consider any objections or representations duly made, the observations of the Councils thereon and the report of any person who held an inquiry in respect thereof and, unless he decides not to make the order, may make the order with or without modification.

(12) The power of the Secretary of State and of the Councils to make orders under this section shall include the power exercisable in the same manner and subject to the same conditions to revoke, amend or re-enact any order made under this section whether made by the Secretary of State or the Councils or any order made under section 47 (Revision of tolls) of the Act of 1967.

(13) In this section "the district councils" means the Dartford Borough Council and the Thurrock Borough Council.

List of tolls to be exhibited.

22. A list of the tolls by virtue of this Act authorised to be demanded and taken by the Councils shall at all times be exhibited in a conspicuous position within a reasonable distance of the place where such tolls shall be payable.

Regulations as to payment of tolls and charges.

23.—(1) The tolls and charges by virtue of this Act authorised to be demanded and taken shall be paid to such persons and at such places and in such manner and in compliance with such regulations as the Councils may from time to time appoint or make.

(2) Where such tolls or charges are not paid at the time at which the tunnel is used or the services provided, the Councils may recover such sum as the Councils think reasonable to cover administrative expenses in addition to the tolls or charges payable and any legal costs recoverable.

Tickets.

24.—(1) The Councils may in exchange for the payment of any toll hand a ticket to any person intending to pass through

PART IV —*cont.*

or into the tunnel or to enter any of the tunnel approaches, and any person to whom a ticket is so handed may be required on demand to show or deliver up such ticket to the toll collector or other person appointed by or on behalf of the Councils to inspect or collect the same at such place or places as the Councils may from time to time determine.

(2) The Councils may, either when they enter into a composition agreement in accordance with the provisions of section 26 (Power to compound for payment of tolls) of this Act, or otherwise, issue prepaid tickets and any person to whom such a ticket is issued may be required on demand to show such ticket to the toll collector or other person appointed by or on behalf of the Councils to inspect the same at such place or places as the Councils may from time to time determine, and shall deliver up such ticket to such toll collector or other person appointed by or on behalf of the Councils to receive the same at the expiration of the period for which it is issued.

Power to stop persons refusing to pay tolls.

25. If any person liable to pay any toll authorised to be demanded and taken from him under or by virtue of this Act shall intentionally refuse or fail to pay the toll payable by him or attempt to evade payment of the toll, an officer duly authorised by or on behalf of the Councils may refuse to permit the person so in default to pass through or by any toll-gate or other place at which the toll is payable, and may by himself, or with such assistance as he shall think necessary, stop and prevent the person so in default from passing through or by such toll-gate or other place as aforesaid and, if any such person has entered any of the tunnel approaches, may require him to return along the approach by which he came and, if necessary, to repass through the tunnel.

Power to compound for payment of tolls.

26.—(1) The Councils may compound and agree with any person using the tunnel or the tunnel approaches for his passage or for the passage of any other person or of any traffic through the tunnel or on the tunnel approaches on such terms and for such period as may be agreed.

(2) Any payments payable under a composition agreement entered into under this section shall be paid in advance.

(3) If the Councils enter into a composition agreement under this section, every other person using the tunnel or the tunnel approaches in like manner and in like circumstances may compound for the tolls payable by him upon like terms to those contained in such agreement.

Penalties on persons practising frauds.

27. If any person shall intentionally refuse or fail to pay any toll when the same shall be demanded from him by virtue of

PART IV —*cont.*

this Act or attempt to evade payment of any toll he shall, without prejudice to any remedy of the Councils for the recovery of such toll, be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Power to provide toll-houses, etc.

28. The Councils may from time to time provide, set up and maintain upon and remove from any land for the time being belonging to the Councils (including any part of the tunnel or the tunnel approaches) or with the consent of the highway authority concerned upon any part of any highway, not forming part of the tunnel or the tunnel approaches, such toll-houses, toll-gates, offices and other conveniences in connection with the authorised works as may be necessary or convenient.

Exemption from tolls.

29. Nothing in this Act or in any order made under this Act shall extend to authorise any tolls to be demanded in respect of—

(*a*) a vehicle identifiable by its appearance or by writing or markings thereon as being the property of—

(i) a police authority; or

(ii) a fire authority as defined in the Fire Services Act 1947; or

1947 c. 41.

(iii) one of the civil defence forces or the civil defence services as respectively defined in the Civil Defence Act 1948;

1948 c. 5 (12, 13 & 14 Geo. 6).

being used in the execution of duty;

(*b*) an ambulance or other vehicle if it is being used by a district health authority in the discharge of their functions under the National Health Service Act 1977 or by a voluntary organisation or other person under an arrangement made under that Act or any other ambulance if it is being used for the purpose of or in connection with the transport of persons requiring or in receipt of medical treatment or for the carriage in an emergency of medical apparatus or supplies;

1977 c. 49.

(*c*) a vehicle for invalids being used for the purposes of invalids and which is exempted from payment of duty under paragraph (*g*) of subsection (1) of section 4 of the Vehicles (Excise) Act 1971;

1971 c. 10.

(*d*) a vehicle for a person suffering from a physical defect or disability being used by or for the purposes of that person and which is exempted from payment of duty under subsection (2) of section 7 of the said Act of 1971.

PART IV
—*cont.*

Application of moneys derived from tolls.

30.—(1) Tolls collected in pursuance of this Act shall as to one-half thereof form part of the revenue of the Essex Council and as to the other half form part of the revenue of the Kent Council, and shall accordingly be carried in those proportions to the respective county funds of the Councils as receipts for general county purposes.

(2) The Councils shall, in accordance with the provisions of this section, repay to the Secretary of State the excess sum (or so much thereof as remains to be repaid), together with the interest, if any, which may from time to time be or remain payable thereon.

(3) A sum equivalent to the amount of the tolls collected in pursuance of this Act shall be applied by the Councils from their respective county funds in equal shares—

(*a*) in defraying the cost of providing, maintaining and renewing any toll-houses, toll-gates, weighbridges, offices, equipment or other conveniences required for the collection of the tolls; and

(*b*) in meeting—

(i) all expenses incurred in and about the collection of the tolls; and

(ii) the administrative, maintenance and any other expenses of the Councils incurred in connection with the tunnel or the tunnel approaches; and

(*c*) in defraying the costs, charges and expenses preliminary to, and of and incidental to, the preparation of, and application for, and the obtaining and passing of, this Act; and

(*d*) in the payment of taxes (if any);

and subject to the foregoing provisions of this subsection—

(*e*) in meeting in any financial year any interest which may from time to time be or remain payable in respect of that or any previous financial year on any part of the excess sum and on any moneys borrowed by the Councils for or in respect of the tunnel undertaking; and

(*f*) in repaying to the Councils any amounts repayable to them pursuant to subsection (1) of section 17 (Deficiencies) of this Act, together with any interest payable on any such amount pursuant to sub-section (2) of that section; and

(*g*) in meeting any expenditure properly chargeable to capital account incurred by the Councils in

PART IV —*cont.*

connection with the works described in section 15 (Power to construct new works) of the Act of 1967 together with the works subsidiary or incidental thereto authorised by that Act and approved by the Secretary of State for the purposes of this paragraph;

and any balance remaining shall be applied by the Councils in accordance with subsection (4) below.

(4) Subject to the provisions of this section, any balance remaining under subsection (3) above shall be applied by the Councils in any financial year—

(*a*) in repaying any part of the excess sum and any moneys borrowed for or in respect of the tunnel undertaking; and

(*b*) subject to paragraph (*a*) above, in paying amounts to the maintenance fund authorised by section 18 (Maintenance fund) of this Act and to the reserve fund authorised by section 19 (Reserve fund) of this Act, if and in so far as either fund is not already fully funded and in such amounts as the Councils may determine:

Provided that in any financial year ending before 1st April 1987 the amount of any balance remaining and applicable in accordance with this subsection may (on application by the Councils to the Secretary of State and with his approval) be reduced by so much as the Secretary of State deems reasonably necessary to ensure that the Councils will be able to meet out of the sums from time to time falling to be applied by them in accordance with subsection (3) above interest payable as mentioned in paragraph (*e*) of that subsection in such financial year or years after that in which application to the Secretary of State is made as the Secretary of State in granting his approval may specify.

(5) The Councils shall, during such time as any part of the excess sum or of any moneys borrowed for or in respect of the tunnel undertaking remains to be repaid, keep in such form as the Secretary of State may approve accounts relating to the collection of tolls and the application of moneys under this section and shall, within six months after the expiration of each financial year or such longer period as the Secretary of State may allow, furnish a copy of the accounts kept under this section to the Secretary of State.

Cesser of tolls.

31. So soon as the excess sum and all moneys borrowed by the Councils for or in respect of the tunnel undertaking have been repaid together with interest thereon and the maintenance fund and the reserve fund authorised respectively by section 18

PART IV —*cont.*

(Maintenance fund) and section 19 (Reserve fund) of this Act are fully funded the power to demand, take and recover tolls conferred by this Act shall cease and determine.

Disposal of terminal balance.

32. If, after the power to demand, take and recover tolls conferred by this Act has ceased and determined in pursuance of section 31 (Cesser of tolls) of this Act, there shall remain any excess of tolls collected and carried to the respective county funds of the Councils in accordance with subsection (1) of section 30 (Application of moneys derived from tolls) of this Act, the sums representing such excess in the hands of each of the Councils may be applied to general county purposes as each of the Councils may think fit.

PART V

MISCELLANEOUS AND GENERAL

Joint committee.

33.—(1) The Councils may discharge any of their functions under this Act jointly and, where arrangements are in force for them to do so, they may arrange for any of those functions, except the function of borrowing money, to be discharged by a joint committee of the Councils.

(2) A joint committee appointed by the Councils for the purpose aforesaid shall—

(*a*) consist of five members of the Essex Council appointed by that Council and five members of the Kent Council appointed by that Council or of such greater equal number of members of each Council as the Councils may from time to time determine and the terms of office of the members shall be fixed by the Councils;

(*b*) discharge those functions of the Councils delegated to it for the purpose aforesaid until such time as both Councils otherwise resolve.

(3) The joint committee deemed to have been appointed by the Councils for the purposes of the Act of 1967, and the members thereof in office immediately before the passing of this Act, shall be deemed to have been appointed respectively as the joint committee and members thereof under this section in pursuance of arrangements in force between the Councils to discharge, subject to the same exceptions, reservations, restrictions and conditions those functions of the Councils under this Act which correspond to the functions of the Councils delegated to the joint committee under the Act of 1967.

PART V —*cont.*

Provision and operation of services for transporting cyclists and other persons through tunnel.

34.—(1) The Councils may provide (but shall not manufacture) and maintain and operate vehicles for the purpose of providing services for carrying bicycles and persons riding thereon or carried thereby and other persons into, along and through the tunnel, and may do all such things and make all such arrangements as may be requisite for or incidental to the provision and maintenance of such vehicles and the operation thereof for the purpose aforesaid.

1981 c. 14.

(2) Section 30 of the Public Passenger Vehicles Act 1981 shall not apply in relation to the use into, along or through the tunnel for the purposes of this section of vehicles provided thereunder.

(3) (*a*) The Councils, on the one hand, and any other company, body or person, on the other hand, may enter into and carry into effect agreements for the transfer to and exercise by any such other company, body or person, subject to such terms and conditions as may be agreed, of all or any of the powers conferred upon the Councils by this section, and subject to the provisions of this Act and to the terms of any such agreement, such company, body or person may exercise the powers so transferred to them.

(*b*) Any such agreement may make provision as to the payments to be made by either party thereto to the other party.

(4) (*a*) Notwithstanding anything in section 6 of the Public Passenger Vehicles Act 1981, the Secretary of State may by order provide that any vehicle or vehicles provided for the purposes of this section need not comply with such one or more of the prescribed conditions of fitness for the time being in force by virtue of that section as may be specified in the order and, in relation to any such vehicle or vehicles, may by any such order modify the said prescribed conditions of fitness or substitute such alternative conditions, if any, as he may think fit.

(*b*) While any order made by the Secretary of State under paragraph (*a*) above is in force, the references in the said section 6 to prescribed conditions of fitness shall in relation to any such vehicle or vehicles as aforesaid be construed as being references to the said conditions as modified by such order or to the alternative conditions substituted therefor, as the case may be.

(5) Except as otherwise expressly provided, nothing in this section shall be in derogation of Part II of the Public Passenger Vehicles Act 1981 or of any regulations made thereunder.

PART V —*cont.*

Byelaws.

35.—(1) The Councils may make byelaws for—

(*a*) the regulation, control and protection of the tunnel and the tunnel approaches or of any part of the tunnel or the tunnel approaches and of persons resorting to or using the same;

(*b*) the management, regulation, direction and control of traffic of every description using the tunnel or the tunnel approaches or any part of the tunnel or the tunnel approaches;

(*c*) securing the safe custody, redelivery or disposal of any property accidentally left or abandoned in the tunnel or on the tunnel approaches or in any premises used for the purposes of or in connection with the tunnel or the tunnel approaches or in any vehicle (not being a public service vehicle as defined in section 1 of the Public Passenger Vehicles Act 1981) of or operated by the Councils and for fixing the charges to be made by the Councils in respect thereof.

1981 c. 14.

(2) Without prejudice to the generality of the provisions of subsection (1) above, byelaws made by the Councils under this section may contain provisions—

(*a*) fixing maximum and minimum speed limits or either of such speed limits to be observed by motor vehicles whilst passing through the tunnel or along the tunnel approaches or through or along part of the tunnel or the tunnel approaches;

(*b*) prohibiting the passage of particular traffic through the tunnel or along the tunnel approaches or through or along any part of the tunnel or the tunnel approaches either generally or during particular hours.

(3) Any byelaw fixing the maximum speed limit to be observed by motor vehicles whilst passing through the tunnel or along the tunnel approaches or through or along part of the tunnel or the tunnel approaches and having effect by virtue of this Act shall cease to have effect so long as an order is in force under section 74 of the Road Traffic Regulation Act 1967 prohibiting the driving of motor vehicles at a speed exceeding that specified in the order whilst passing through the tunnel or as the case may be along the tunnel approaches or through or along part of the tunnel or the tunnel approaches.

1967 c. 76.

(4) The Secretary of State shall not confirm any byelaws prohibiting the passage through the tunnel or along the tunnel approaches or through or along any part of the tunnel or the tunnel approaches of bicycles unless he is satisfied that during

PART V —*cont.*

any period during which such passage is prohibited a satisfactory service under section 34 (Provision and operation of services for transporting cyclists and other persons through tunnel) of this Act or otherwise will be provided for carrying such bicycles, and the persons riding thereon or carried thereby through and along the tunnel and the tunnel approaches or, as the case may be, the part thereof through or along which such passage is prohibited.

(5) Any vehicle operated by the Councils under the said section 34 of this Act shall be deemed not to be a public service vehicle for the purposes of this section.

(6) (*a*) All byelaws made under this section shall be made according to the provisions of section 236 of the Local Government Act 1972, and the provisions of section 238 of the said Act shall apply to such byelaws.

1972 c. 70.

(*b*) The byelaws which may be made by the Councils under this section may provide for the imposition of a fine not exceeding level 2 on the standard scale for the contravention of any of the byelaws or in the case of the contravention of byelaws prohibiting or regulating the conveyance through the tunnel of explosives or other goods, articles or things defined as dangerous by byelaws made under this section of a fine not exceeding level 4 on the standard scale.

(*c*) The said section 236, in its application to byelaws made under this section, shall have effect as if in subsection (7) of that section, after the word "confirm", where it firstly occurs in that subsection, the words "with or without modification" were inserted.

(7) The Secretary of State shall, before confirming any byelaw made under this section for the management, regulation, direction or control of traffic, take into consideration any objections to such byelaws submitted to him by any representative body of traders or of owners or users of vehicles or any person who in the opinion of the Secretary of State is a proper person for the purpose.

(8) A copy of all byelaws made under this section shall at all times be exhibited in conspicuous positions within a reasonable distance of each entrance to the tunnel and to the tunnel approaches.

(9) Nothing in this section shall restrict or interfere with any existing rights and privileges of the port authority or conflict with any byelaws made from time to time by that authority under and by virtue of the Port of London Act 1968.

1968 c. xxxii.

PART V —*cont.*

(10) Without prejudice to the operation of section 16 of the Interpretation Act 1978, nothing in any byelaw made by the Councils in pursuance of paragraph (*b*) of subsection (1) above shall preclude the bringing of proceedings against and conviction of any person with respect to an offence under the Road Traffic Regulation Act 1967 of driving a motor vehicle at a speed exceeding a statutory speed limit. 1978 c. 30. 1967 c. 76.

(11) Byelaws in force under this section shall continue in full force and effect notwithstanding any subsequent trunking of part of the authorised works by an order made under section 10 of the Highways Act 1980. 1980 c. 66.

(12) Nothing in this section shall affect the operation of any of the relevant statutory provisions as defined in Part I of the Health and Safety at Work etc. Act 1974. 1974 c. 37.

Appointment of traffic officers.

36.—(1) The Councils may appoint any of their officers or servants to act as traffic officers for the control of the tunnel and the tunnel approaches in accordance with this section.

(2) It shall be the duty of every traffic officer to secure the observance and enforcement of the provisions of all byelaws made under, or having effect by virtue of, this Act and the enactments (whether passed before or after this Act) relating to road traffic, including the lighting and parking of vehicles, and any order or other instrument having effect by virtue of any such enactment, in their application to the tunnel and the tunnel approaches.

(3) Every traffic officer shall obey such lawful commands as may from time to time be given to him by the Councils.

(4) The Councils may suspend or terminate the appointment of a traffic officer.

(5) A traffic officer shall not act as such unless he is in uniform.

(6) Every officer or servant who at the passing of this Act has been appointed under section 78 (Special constables) of the Act of 1967 to act as a special constable shall be deemed to have been appointed as a traffic officer under this section.

Local inquiries.

37. The Secretary of State may cause such local inquiries to be held as he may consider necessary for the purpose of any of his functions under this Act, and section 250 (2) to (5) of the Local Government Act 1972 shall apply to any such inquiry. 1972 c. 70.

PART V —*cont.*

Protective provisions.

38. The provisions of Schedule 1 to this Act shall have effect for protecting the interests of the persons therein specified.

Recovery of penalties, etc.

39. Save as otherwise by this Act expressly provided, all offences against this Act and all fines, forfeitures, costs and expenses imposed or recoverable under this Act or any byelaw made in pursuance thereof may be prosecuted and recovered in a summary manner:

Provided that costs or expenses, except such as are recoverable along with a penalty, shall not be recovered as penalties but may be recovered summarily as civil debts.

Judges and justices not to be disqualified.

40. A judge of any court or a justice of the peace shall not be disqualified from acting in cases arising under or in relation to this Act, or any byelaw made thereunder, by reason only of his being, as one of several ratepayers or payers of tolls chargeable under the provisions of this Act, or as one of any other class of persons, liable in common with the others to contribute to or be benefited by any rate or fund out of which any expenses of the Councils are to be defrayed.

Penalty for obstructing execution of Act.

41. A person who intentionally obstructs any person acting in the execution of this Act or any byelaw made under this Act or of any order, regulation, prescription, notice or warrant made or issued under this Act shall in any case in which no other provision is made by this Act be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Contributions in aid of drainage rates.
1976 c. 70.

42.—(1) The Councils may make contributions to any internal drainage board within the meaning of the Land Drainage Act 1976, or any water authority exercising the functions of an internal drainage board, in aid of drainage rates in respect of land within the drainage district of such board or authority, being land which is occupied by the Councils for the purposes of this Act and in respect of which no drainage rates are paid.

(2) The amount of any contributions paid by the Councils in pursuance of subsection (1) above shall be deemed to be expenses incurred by them for the purposes of this Act.

Undertaking to be exempt from rates.
1875 c. 83.

43. Notwithstanding anything contained in any Act, no part of the tunnel undertaking (other than any dwelling-house) shall be assessed to any rate within the meaning of the Local Loans Act 1875.

PART V —*cont.*

Settlement of questions between Councils.

44. Any question arising between the Essex Council and the Kent Council under any of the provisions of this Act shall be referred to and determined by arbitration.

Arbitration.

45. Where under this Act any difference is to be referred to, or settled by, arbitration, then, unless otherwise provided, 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.

Saving for Trinity House.

46. Subject to the provisions of paragraph 10 of Part VI (For protection of port authority) of Schedule 1 to this Act, nothing contained in this Act shall prejudice or affect the powers, rights and privileges of the Corporation of Trinity House of Deptford Strond.

Crown rights.

47. Nothing in this Act affects prejudicially any estate, right, power, privilege or exemption of the Crown.

Repeal, transitional provisions and savings.

48.—(1) The Act of 1967 is hereby repealed.

(2) The transitional provisions and savings in Schedule 2 to this Act shall have effect.

(3) The inclusion in this Act of any express transitional provision or saving shall not be taken as prejudicing the operation of sections 15 to 17 of the Interpretation Act 1978 (effect of repeals).

1978 c. 30.

SCHEDULES

Sections 38 and 46.

SCHEDULE 1

PROTECTIVE PROVISIONS

PART I

FOR PROTECTION OF ANGLIAN WATER AUTHORITY

1.—(1) The following provisions of this Part of this Schedule shall, unless otherwise agreed in writing between the Councils and the authority, have effect for the protection of the authority.

(2) In this Part of this Schedule, unless the subject or context otherwise requires—

"the authority" means the Anglian Water Authority;

"drainage work" means any bank, wall, embankment or watercourse constructed or used for the drainage of land, or any structure or appliance constructed or erected in connection therewith, and for this purpose "drainage" includes defence against water (including sea water);

"intended tunnel works" means works (other than works of maintenance) authorised by any of the following provisions of this Act:

(*a*) subsection (3) of section 3 (Continuance and maintenance of authorised works);

(*b*) section 5 (Powers for maintenance, management, etc., of tunnel and tunnel approaches);

(*c*) section 6 (Repair, etc., of authorised works);

"sewerage work" includes any main used for the conveyance of sewage sludge or sewage effluent and any pipe subway vested in or maintained by the authority;

"watercourse" includes all rivers, streams, ditches, drains, culverts, dykes, sluices, sewers (other than sewerage works) and passages through which water flows.

2. Not less than two months before commencing the execution of any intended tunnel works which shall or may pass over, under or by the side of or interfere with any drainage work or sewerage work belonging to, vested in or under the jurisdiction or control of the authority (hereinafter in this Part of this Schedule referred to as "the authority's works") or which shall involve any alteration of any of the authority's works, the Councils shall submit to the authority all reasonable particulars together with plans, sections and drawings of any such works which the Councils propose to carry out and no such works shall be carried out otherwise than in accordance with the particulars, plans, sections and drawings approved by the authority in writing or settled by arbitration as hereinafter provided:

Provided that nothing in this paragraph shall apply to any work which is to be carried out in accordance with particulars, plans,

sections and drawings which have been approved by the authority before the passing of this Act.

3. If by reason of or in connection with the execution of any such works the authority shall reasonably require the Councils to alter any of the authority's works or to execute any work for protecting any of the authority's works the Councils shall at their own cost in accordance with particulars, plans, sections and drawings previously submitted to and approved by the authority in writing or settled by arbitration as hereinafter provided make and execute such alterations or carry out such works as the authority may have so required or as may have been settled by arbitration.

4. If within two months after the receipt of any such particulars, plans, sections and drawings as are hereinbefore mentioned the authority have not intimated to the Councils their disapproval thereof or their requirements with respect to any such works, they shall be deemed to have approved such particulars, plans, sections and drawings and such works may be carried out in accordance therewith.

5. The Councils shall in executing any works under the powers of this Act take all such precautions as the authority may reasonably require for preventing any injury to any of the authority's works.

6. All such works of the Councils as are referred to in paragraphs 2 and 3 above shall be executed under the superintendence (if after reasonable notice from the Councils the same be given) and to the reasonable satisfaction of the engineer to the authority.

7. Nothing in section 9 (Restriction on use of tunnel) of this Act shall preclude the authority or their officers, servants or agents from having, for the purposes of inspecting, repairing, maintaining, removing or replacing any drainage work or sewerage work, reasonable access to any part in which the same is situate of any road which forms part of any of the tunnel approaches.

8. Notwithstanding the closing of any authorised works under section 10 (Closing of authorised works) of this Act, the authority, their engineers and workmen and others in their employ shall at all times have such rights of access to all or any drainage work or sewerage work situate in or under any such street or part of a street or works, as they had immediately before such closing and, where the authority have such rights of access as aforesaid, they shall be at liberty to execute and do all such works and things in, upon or under such street or works or part of a street or works, as may be necessary for inspecting, repairing, maintaining, renewing or removing such drainage work or sewerage work or with the consent of the Councils (which shall not be unreasonably withheld) constructing or laying any new drainage work or sewerage work.

9. Any difference which may arise between the Councils and the authority under this Part of this Schedule (other than a difference as to the meaning or construction of this Part) shall be referred to and settled by arbitration.

SCH. 1
—cont.

PART II

FOR PROTECTION OF BRITISH RAILWAYS BOARD

1.—(1) The following provisions of this Part of this Schedule shall, unless otherwise agreed in writing between the Councils and the board, have effect for the protection of the board.

(2) In this Part of this Schedule—

"the board" means the British Railways Board;

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

"the specified works" means—

(*a*) the bridge constructed by the Councils under the powers of the Act of 1937 for carrying the road Work No. 1A authorised by that Act over the North Kent Railway (Southern Region) of the board;

(*b*) the bridge constructed by the Councils under the powers of the Act of 1957 for carrying the road Work No. 1 authorised by that Act over the Tilbury Branch Railway (Eastern Region) of the board;

and so much of any of the works authorised by the Act of 1937 and the Act of 1957 as may be situated upon, across, under or over any property of the board or may in any way affect the same.

2.—(1) The Councils shall at their own expense maintain the specified works in substantial repair and good order and condition (and where such maintenance involves renewal renew them) to the reasonable satisfaction and under the supervision (if given) of the engineer and so as to leave undisturbed at all times the railway works and property of the board and if and whenever the Councils fail so to do after reasonable notice in writing to be given by the board to the Councils, or in case of emergency, the board may make and do in and upon as well the lands of the Councils as their own lands all such works and things as may be requisite, and the amount of the expenditure reasonably incurred by the board in that behalf shall be repaid to them by the Councils.

(2) In the event of the Councils carrying out any structural alteration or renewal of the specified works, the Councils shall, except in any case of emergency, give 28 days' previous notice in writing to the board of their intention so to do. Such notice shall be accompanied by a sufficient description of the works to be executed and all such works shall be carried out only at such times as the engineer shall reasonably require and the execution thereof when commenced shall proceed with all reasonable dispatch.

3. The Councils shall be responsible for and make good to the board all costs, losses, damages and expenses which may be occasioned to the board—

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

SCH. 1
—*cont.*

(*b*) by reason of any act or omission of the Councils, or of any person or persons in their employ, or of their contractors, in the course of maintenance or repair of the specified works;

and the Councils shall effectually indemnify the board from all claims and demands upon or against them by reason of such maintenance or repair or failure as aforesaid, or of any such act or omission, and the fact that any work or thing may have been done in accordance with any plan, section, drawings or particulars 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 board, or of any person in their employ, or of their contractors whilst engaged upon any works) excuse the Councils from any liability under the provisions of this Part of this Schedule:

Provided that the board shall give to the Councils reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the agreement of the Councils.

4. The board shall have the right in accordance with plans, sections, drawings and particulars to be previously submitted to and reasonably approved by the Councils at any time to attach to the bridge referred to in sub-paragraph (*b*) of the definition of "the specified works" set forth in paragraph 1 above such cables, telegraph and telephone wires and other apparatus of all descriptions as may be required in connection with their railway and to remove or alter the same from time to time as they may think fit.

5. Any additional expense which the board may reasonably incur (after giving one month's notice thereof to the Councils) in widening, altering, reconstructing or maintaining the railway and railway works of the board in pursuance of any powers existing at the passing into law of the Act of 1957 by reason of the existence of Work No. 1 authorised by that Act shall be repaid by the Councils to the board.

6. The Councils, their successors and assigns shall not object to any restriction imposed by the board on the height of vehicles using the accommodation level-crossing over the Tilbury Branch Railway (Eastern Region) of the board south of the lands numbered 17 in the former urban district of Thurrock on the plans deposited in connection with the Bill for the Act of 1957.

7. Any difference which may arise between the Councils and the board under this Part of this Schedule (other than a difference as to the meaning or construction of this Part) shall be referred to and settled by arbitration.

SCH. 1
—cont.

PART III

FOR PROTECTION OF THE SUCCESSOR COMPANY TO BRITISH TELECOMMUNICATIONS

1.—(1) The following provisions of this Part of this Schedule shall unless otherwise agreed in writing between the Councils and the company apply and have effect.

(2) In this Part of this Schedule—

"the accommodation" means the accommodation for the company provided in Work No. 1 authorised by the Act of 1967 for telecommunication apparatus of the company and the means by which the company may have access to that telecommunication apparatus after the same are laid or installed without breaking up or interfering with the carriageways or footways comprised in the said Work No. 1;

"the company" means the successor company as defined in section 60 of the Telecommunications Act 1984.

1984 c.12.

2.—(1) The company shall conform with the reasonable requirements of the Councils as to the time or times at which, and the manner in which, they are to lay down or install telecommunication apparatus in the accommodation or carry out any other work in relation thereto and the Councils shall be entitled to superintend such laying down, installation or other work.

(2) The costs reasonably incurred by the Councils in such superintendence shall be repaid to them by the company.

(3) Any difference which may arise between the Councils and the company under this paragraph (other than a difference as to the meaning or construction of this paragraph) shall be referred to and settled by arbitration.

3. Nothing in section 11 (No sewers, mains or pipes to be laid in tunnel or tunnel approaches) of this Act shall alter, prejudice or affect any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system to install or maintain any telecommunication apparatus—

(*a*) in the accommodation or in the tunnel authorised by the Act of 1930 pursuant to subsection (2) of section 23 (For protection of Postmaster General) of that Act; or

(*b*) in, under, along or across the tunnel and the tunnel approaches (other than Work No. 1 authorised by the Act of 1967 and the tunnel authorised by the Act of 1930).

4. Any electrical works, machinery, plant or apparatus made, provided, erected or maintained under the powers of this Act shall be so made, provided or erected and so maintained, worked and used as to prevent any interference with any telecommunication apparatus kept installed for the purposes of a telecommunications code system or with the service provided by any such system.

SCH. 1
—*cont.*

PART IV

FOR PROTECTION OF CENTRAL ELECTRICITY GENERATING BOARD

1.—(1) The following provisions of this Part of this Schedule shall unless otherwise agreed in writing between the Councils and the board have effect for the protection of the board.

(2) In this Part of this Schedule, unless the subject or context otherwise requires—

"accommodation" means accommodation for the board provided in the construction of Work No. 1 for installing two circuits together with apparatus ancillary thereto, each circuit being designed to operate at a pressure not exceeding 400,000 volts or such other pressure as may be agreed, and the cables and other works comprising the two circuits to have a cross-sectional area which at a cable joint will not be more than 1·5 square metres and at any other point will not be more than 1 square metre, together with a means by which the board have access to the apparatus after the same is laid without breaking up or interfering with the surface of the carriageways and footways comprised in Work No. 1;

"apparatus" means the cables and works comprising the circuits referred to in the above definition of "accommodation";

"the board" means the Central Electricity Generating Board;

"Work No. 1" means Work No. 1 authorised by the Act of 1967.

2.—(1) The board shall conform with the reasonable requirements of the Councils as to the time or times at which and the manner in which the board are to lay down or install in the accommodation provided the apparatus, or carry out any other work under this Part of this Schedule, and the Councils shall be entitled to superintend such laying down, installation or other work.

(2) The costs reasonably incurred by the Councils in such superintendence shall be repaid to them by the board.

3. The board shall be entitled at all times to use the accommodation provided pursuant to the foregoing provisions of this Part of this Schedule for the purposes of laying down and placing therein the apparatus and for the purpose of inspecting, repairing, maintaining, removing or renewing the apparatus:

Provided that—

(*a*) the apparatus shall at all times conform in its installation, design, construction and use with the reasonable requirements of the Councils;

(*b*) except in case of emergency, the board shall give to the Councils not less than 10 days' notice in writing of their intention to execute works in Work No. 1 and shall conform with the reasonable requirements of the Councils as to the time or times at which the board may exercise the right of entering upon and executing works in Work No. 1, and as to the manner in which such works are executed, and the Councils shall be entitled to superintend the execution of such works. The costs reasonably incurred by the Councils in such superintendence shall be repaid to them by the board;

SCH. 1 —*cont.*

(*c*) the board shall pay to the Councils the increased costs reasonably incurred by the Councils in operating and maintaining Work No. 1 (including the operation, maintenance and renewal of machinery, plant and equipment) in consequence of the provision of the accommodation and the installation of the apparatus and the use thereof by the board.

4. The board shall not be entitled to break up, interfere with or obstruct the surface of the carriageways and footways of the tunnel or of the tunnel approaches nor to obstruct or interfere in any way with the free flow of traffic in the tunnel and the tunnel approaches except at such times and in accordance with such terms and conditions as may be agreed between the Councils and the board or, in default of agreement, as may be settled by arbitration.

5.—(1) The board shall maintain in good repair and to the reasonable satisfaction of the Councils the apparatus placed in Work No. 1 by the board and shall from time to time carry out and maintain such works or take such other precautions as the Councils may reasonably require to be done, provided or taken for ensuring the safety of the tunnel and the tunnel approaches and the safety and convenience of those using the tunnel and the tunnel approaches, being works or precautions reasonably required to be done, provided or taken in consequence of the exercise by the board of the rights conferred upon them by this Part of this Schedule and, in default, the Councils may at the expense of the board carry out and maintain such works or take such precautions, and the board shall repay to the Councils any expenses reasonably incurred by the Councils in carrying out any such works or taking any such precautions.

(2) The board shall indemnify the Councils against any loss, damage, costs, expenses and liabilities suffered or incurred by the Councils and against all actions, proceedings, claims or demands made or taken against the Councils by reason or in consequence of any damage or injury whatsoever which may arise or be occasioned by reason or in consequence of the failure of the board to comply with the provisions of this Part of this Schedule, or any fault in, or failure or breakage of or accident to any apparatus or otherwise arising out of, or in any way attributable to, the exercise by the board of the rights conferred upon them by this Part of this Schedule except to the extent that such actions, proceedings, claims or demands may arise by reason of the neglect or default of the Councils, their servants or agents.

(3) Whenever any loss or damage occurs which might give rise to a claim against the board under this Part of this Schedule the Councils shall as soon as possible give notice thereof to the board, and if within a reasonable time after receiving such a notice the board serve a counter-notice on the Councils admitting liability as between the Councils and the board for such loss or damage, the board shall be entitled to assume responsibility for the conduct of any claim or legal action which may arise as a result thereof, which shall thereafter be conducted in the name of the Councils but in all respects under the control and direction of the board; if no such counter-notice is served, the Councils shall not concede or compromise any claim made upon the Councils without the concurrence of the board.

SCH. 1 —*cont.*

6. Subject to the provisions of this Part of this Schedule the Councils shall afford to the board all such facilities as the board may reasonably require for the purpose of connecting the apparatus with any other mains, cables or apparatus of the board.

7. The accommodation for the apparatus of the board provided by the Councils under the provisions of this Part of this Schedule shall be maintained by the Councils to the reasonable satisfaction of the board and the costs reasonably incurred by the Councils under this paragraph (including costs of periodical inspections by the Councils) shall be paid by the board to the Councils.

8.—(1) Any difference which may arise between the Councils and the board under this Part of this Schedule (other than a difference as to the meaning or construction of this Part) shall be referred to and settled by arbitration.

(2) In settling any difference under this Part of this Schedule, the arbitrator shall have regard to the need for the Councils to ensure the maintenance of a free flow of traffic in the tunnel and the tunnel approaches and to secure the safety of persons and vehicles therein.

PART V

FOR PROTECTION OF CIVIL AND MARINE LIMITED AND LAFARGE ALUMINOUS CEMENT COMPANY LIMITED

1.—(1) The following provisions of this Part of this Schedule shall unless otherwise agreed in writing between the Councils and the company have effect for the protection of the company.

(2) In this Part of this Schedule—

"the company" means Civil and Marine Limited and Lafarge Aluminous Cement Company Limited or either of them, as the case may be, their successors and assigns, owners or owner of any part of the protected lands;

"the protected lands" means the lands situate in the borough of Thurrock in the county of Essex between the Tilbury Branch Railway (Eastern Region) of the British Railways Board and the river which are shown coloured pink and blue on the plan signed in triplicate by William Gwynne Hopkin on behalf of the Councils, by John Michael Leal Uren on behalf of Civil and Marine Limited and by Kenneth George Warren on behalf of Lafarge Aluminous Cement Company Limited.

2. The Councils shall not object but will (so far as their consent may be necessary) consent to the company at any time (subject to the company obtaining any other necessary authority, consent or licence for such purposes) constructing a new arm extension or widening of any of their existing piers or jetties on the river, notwithstanding that such new arm extension or widening may overlap or extend in front of the lands acquired by the Councils:

SCH. 1 —*cont.*

Provided that—

(*a*) no part of any work of the company shall be nearer than 21·34 metres to the centre line of the tunnel authorised by the Act of 1930 as now constructed where that tunnel passes under the river, but any vessel moored at any such pier or jetty may extend over that tunnel or the tunnel authorised by the Act of 1967 or the site thereof so long as such vessel shall not anchor over either of the tunnels;

(*b*) nothing in this paragraph shall preclude the Councils from opposing any application made by the company for any such authority, consent or licence in so far as the Councils deem it necessary to do so for the protection of the tunnel.

3. Before the Councils for the purposes of this Act fill in any part of any existing drain situate between the Tilbury Branch Railway (Eastern Region) of the British Railways Board and the Essex river wall of the river on land proximate to and adjoining any land for the time being forming part of the protected lands, the Councils shall (except in case of emergency when the Councils shall so far as practicable otherwise comply with the provisions of this paragraph) give 28 days' previous notice in writing to the company of their intention so to do together with sufficient particulars of the works of filling in to be carried out and if within the said 28 days the company give notice in writing to the Councils that such works will adversely affect the drainage of any of the protected lands the Councils shall at their own expense take such action (including the construction of works, whether on land of the company or of the Councils) as may be agreed between the Councils and the company or (in default of agreement) as may be determined by arbitration to be reasonably necessary to ensure that such drainage is rendered as efficient after as before the works of filling in were carried out.

4. Any difference which may arise between the Councils and the company under this Part of this Schedule (other than a difference as to the meaning or construction thereof) shall be referred to and settled by arbitration.

PART VI

FOR PROTECTION OF PORT AUTHORITY

1. The following provisions of this Part of this Schedule shall, unless otherwise agreed in writing between the Councils and the port authority, have effect for the protection of the port authority and river users.

2.—(1) The Councils shall not execute or commence to execute any work in the river or on or under the bed, shores or banks thereof except in accordance with plans, elevations and sections approved by the port authority in writing under the hand of their secretary (which approval shall not be unreasonably withheld but may be given subject to reasonable conditions) and a work which is so approved shall be subject to section 76 (Works to be approved by Board of Trade) of the Port of London Act 1968.

1968 c. xxxii.

(2) The port authority shall be deemed to have approved such plans, elevations and sections unless they notify to the Councils their disapproval within 28 days after the submission thereof by the Councils.

SCH. 1
—*cont.*

3. All such works shall be constructed to the reasonable satisfaction of the engineer of the port authority and the Councils shall, in the construction and subsequent operation of such works, ensure that the traffic of the river shall not be interfered with more than is reasonably necessary.

4. The port authority shall not be liable, in the absence of negligence, for any damage or injury howsoever caused to the tunnel or to any of the authorised works (whether temporary or permanent) resulting from the dredging operations of the port authority or the carrying out by them in the execution of their statutory powers and duties of any operations in the river or works for the improvement or maintenance thereof, but the provisions of this paragraph shall not protect the port authority in respect of the carrying out of any such dredging or other operations or works within 61 metres on each side of either of the centre lines of the tunnels comprised in the authorised works as constructed, and below the depth shown by the red line marked "Dredging Line" on the section signed in quadruplicate by Major the Right Honourable William Ormsby-Gore the Chairman of the Committee of the House of Commons to which the Bill for the Act of 1930 was referred and which section was deposited as to one copy in the Parliament Office of the House of Lords, as to another copy in the Committee and Private Bill Office of the House of Commons and as to the third and fourth copies at the offices of the Secretary of State (the then Minister of Transport) and the port authority respectively.

5. The owners and masters of vessels shall not be liable to make good any damage which may be caused to any temporary work or plant placed by the Councils in the river under the powers of this Act except such as may arise from the wilful act or wilful default of such owners or masters or their servants or agents.

6. Nothing in this Act shall authorise or empower the Councils, without the previous consent of the port authority signified under the hand of their secretary, to embank, encroach upon or interfere with any part of the bed, shores or banks of the river except as is expressly authorised by this Act.

7. The Councils shall not, without the consent of the port authority signified under the hand of their secretary, deposit or permit the deposit of any material on or in the river or on the bed, shores or banks of the river.

8. The Councils shall allow the authorised representatives of the port authority to inspect and survey all or any of the authorised works in, on, under or over the river, or immediately adjoining the river, on reasonable written notice in that behalf being given to the Councils by the port authority, and shall give all reasonable facilities for so doing.

9. The Councils shall not take any gravel, soil or other material from the bed, shores or banks of the river without the previous consent of the port authority signified in writing under the hand of their secretary.

SCH. 1 —*cont.*

10.—(1) The Councils shall as respects any of the authorised works so long as any such works are maintained in the river or on the bed, shores or banks of the river—

(*a*) during every night from sunset to sunrise hang out and exhibit and keep burning at or near to the said works such lights; and

(*b*) during every day exhibit such marks or beacons;

as shall be proper and sufficient for the navigation and safe guidance of vessels and shall take such other steps for preventing so far as may be danger to navigation as shall from time to time be directed by the port authority.

(2) The said lights, marks and beacons shall from time to time be altered by the Councils in such manner and be of such kind and number and be so placed and used as the port authority by writing under the hand of their secretary shall approve or direct and, in case the Councils fail so to exhibit and keep burning such lights and to exhibit such marks and beacons, they shall for every such offence be liable on summary conviction to a fine not exceeding the statutory maximum within the meaning of section 74 of the Criminal Justice Act 1982 and on conviction on indictment to a fine.

1982 c. 48.

11.—(1) Any pile, stump or other obstruction in the river which becomes exposed in consequence of the works described in section 15 (Power to construct new works) of the Act of 1967 together with the works subsidiary or incidental thereto authorised by the Act of 1967 shall be removed from the river by the Councils or, if it is not reasonably practicable to remove it, shall be cut off at such level below the bed of the river as the port authority may direct.

(2) If the Councils fail to remove from the river any such pile, stump or other obstruction within 28 days after receipt of written notice from the port authority requiring the removal, the port authority may carry out the removal and recover their expenses from the Councils.

12. If—

(*a*) any work comprised in the authorised works is abandoned or out of repair and is either wholly or partially in the river below mean high-water springs, or is in such other position that it is or is likely to become a danger to or interfere with navigation or other public rights in the river; and

(*b*) the port authority by written notice require the Councils to repair the work or (if the Councils no longer require the work) to abate and remove the work or any part of it and restore the site to its former condition; and

(*c*) the Councils fail to comply with the notice within 28 days after the receipt of it;

the port authority may abate and remove the work or any part of it and restore the site to its former condition and may recover their expenses from the Councils.

13. The port authority may recover from the Councils any expenses which the port authority incur—

(*a*) in dredging away any accumulation of mud or silt consequent upon the execution or maintenance of the authorised works;

SCH. 1 —*cont.*

(*b*) in obtaining and depositing in the river such material as is necessary in the opinion of the port authority to protect river users and other works in the river from the effects of scouring of the river bed consequent upon the execution or maintenance of the authorised works;

(*c*) in altering any mooring in any way which in the opinion of the port authority may be rendered necessary or desirable by reason of the execution or maintenance of the authorised works.

14.—(1) Notwithstanding anything in this Act the compensation or consideration payable to the port authority in respect of any temporary works placed in the river or on, over or under the bed, shores or banks thereof and in respect of any mains, pipes, cables, wires or other works or apparatus which may after the passing of this Act be carried under the river by means of the tunnel (other than such as may be placed and used solely by the Councils for the purpose of their respective undertakings or in pursuance of any of their powers or duties) shall be assessed in accordance with the provisions of section 67 (Consideration for licence) of the Port of London Act 1968 and the port authority may recover the assessors' fees so incurred from the Councils or other person to whom the works or apparatus belong. 1968 c. xxxii.

(2) The Councils shall give notice in writing to the port authority of the placing or carrying of any such main, pipe, cable, wire or other work or apparatus under the river by means of the tunnel other than such thereof as are so excepted as aforesaid.

15. Nothing in this Act shall authorise the Councils in the exercise of any powers of this Act to discharge or allow to escape either directly or indirectly into the river or its tributaries any poisonous, noxious or polluting matter in solution or in suspension or otherwise, or to prejudice or affect in any manner the operation of any provision of the Port of London Act 1968 relating to pollution.

16. Except as is expressly provided by this Act, nothing in this Act shall extend to, or be construed to extend to, prejudice or derogate from the estates, rights, interests, privileges, liberties or franchises of the port authority or to prohibit, defeat, alter or diminish any power, authority or jurisdiction which at the time of the passing of this Act the port authority did or might lawfully claim, use or exercise under and by virtue of the Port of London Act 1968.

17. Any difference which may arise between the Councils and the port authority under this Part of this Schedule (other than paragraphs 6, 14 and 15 thereof or a difference as to the meaning or construction of this Part) shall be referred to and settled by arbitration.

PART VII

FOR PROTECTION OF CERTAIN STATUTORY UNDERTAKERS

1.—(1) The following provisions of this Part of this Schedule shall, unless otherwise agreed in writing between the Councils and the undertakers, have effect for the protection of the undertakers.

SCH. 1 —*cont.*

(2) In this Part of this Schedule, unless the subject or context otherwise requires—

"apparatus" means—

(*a*) any electric line or works (as respectively defined in the Electric Lighting Act 1882) of the Central Electricity Generating Board, the Eastern Electricity Board, the London Electricity Board or the South Eastern Electricity Board and includes any works constructed for the lodging therein of apparatus;

1882 c. 56.

(*b*) any main, pipe or other apparatus of the British Gas Corporation and includes any works constructed for the lodging therein of apparatus;

(*c*) any main, pipe or other apparatus of the Thames Water Authority and includes any works constructed for the lodging therein of apparatus;

"undertakers" means—

the British Gas Corporation; or
the Central Electricity Generating Board; or
the Eastern Electricity Board; or
the London Electricity Board; or
the South Eastern Electricity Board; or
the Thames Water Authority;

as the case may be.

2. The undertakers referred to in column (1) of the following table shall continue entitled at all times to use free of charge the accommodation and support provided by the Councils in or near to the works mentioned respectively in column (2) of the said table for the purpose of laying and placing therein the apparatus mentioned respectively in column (3) of the said table and any necessary apparatus ancillary thereto:—

Undertakers (1)	Work (2)	Apparatus for which accommodation is provided (3)
British Gas Corporation	Subway Work No. 3 authorised by the Act of 1957.	One gas main having an internal diameter of 30·50 centimetres. One gas main having an internal diameter of 15·25 centimetres.
	Footpath Work No. 5 authorised by the Act of 1957.	One gas main having an internal diameter of 15·25 centimetres.
	Road Work No. 6 authorised by the Act of 1957.	One gas main having an internal diameter of 15·25 centimetres.

SCH. 1
—*cont.*

Undertakers (1)	Work (2)	Apparatus for which accommodation is provided (3)
British Gas Corporation	Bridge Work No. 7 authorised by the Act of 1957.	One gas main having an internal diameter of 30·50 centimetres. One gas main having an internal diameter of 15·25 centimetres. One gas main having an internal diameter of 10·17 centimetres.
	Bridge Work No. 8 authorised by the Act of 1957.	One gas main having an internal diameter of 10·17 centimetres.
	Bridge carrying Work No. 1 authorised by the Act of 1962 over Work No. 9 authorised by the Act of 1957.	One gas main having an internal diameter of 20·33 centimetres.
Thames Water Authority	Subway Work No. 3 authorised by the Act of 1957.	One water main having an internal diameter of 10·17 centimetres.
	Footpath Work No. 5 authorised by the Act of 1957.	One water main having an internal diameter of 10·17 centimetres.
	Road Work No. 6 authorised by the Act of 1957.	One water main having an internal diameter of 25·42 centimetres. One water main having an internal diameter of 10·17 centimetres.
	Bridge Work No. 7 authorised by the Act of 1957.	One water main having an internal diameter of 25·42 centimetres. One water main having an internal diameter of 10·17 centimetres.
	Bridge Work No. 8 authorised by the Act of 1957.	One water main having an internal diameter of 30·50 centimetres. One water main having an internal diameter of 15·25 centimetres. One water main having an internal diameter of 10·17 centimetres.
	Bridge carrying Work No. 1 authorised by the Act of 1962 over Work No. 9 authorised by the Act of 1957.	One water main having an internal diameter of 30·50 centimetres. One water main having an internal diameter of 10·17 centimetres.

SCH. 1 —*cont.*

3. Nothing in section 9 (Restriction on use of tunnel) of this Act shall preclude the undertakers or their officers, servants or agents from having, for the purposes of inspecting, repairing, maintaining, removing or replacing any apparatus, reasonable access to any part in which such apparatus is situate of any road which forms part of any of the tunnel approaches.

4. Notwithstanding the closing of any authorised works under section 10 (Closing of authorised works) of this Act, the undertakers, their engineers and workmen and others in their employ shall at all times have such rights of access to all or any apparatus situate in or under any such street or part of a street or works, as they had immediately before such closing and, where the undertakers have such rights of access as aforesaid, they shall be at liberty to execute and do all such works and things in, upon or under such street or works or part of a street or works, as may be necessary for inspecting, repairing, maintaining, renewing or removing such apparatus or with the consent of the Councils (which shall not be unreasonably withheld) laying new apparatus.

5.—(1) Notwithstanding anything contained in section 11 (No sewers, mains or pipes to be laid in tunnel or tunnel approaches) of this Act, the British Gas Corporation and the Thames Water Authority shall continue to be entitled for the purpose of laying down, maintaining, inspecting, repairing, renewing or removing apparatus to exercise from time to time with reference to a protected highway the like rights of opening and breaking up the same as if that section had not been enacted:

Provided that the British Gas Corporation and the Thames Water Authority shall not be entitled to lay any main in any part of the protected highway which is situate on the bridge carrying Work No. 1A authorised by the Act of 1937, as now constructed, over the North Kent Railway (Southern Region) of the British Railways Board other than in the case of the British Gas Corporation two mains with an internal diameter not exceeding 30·50 centimetres for which the Councils have provided accommodation in such part of such protected highway.

(2) In this paragraph "protected highway" means—

(*a*) the footways, verges and cycle-tracks (as constructed by the Councils) of Work No. 1A authorised by the Act of 1937, of Works Nos. 1 and 9 authorised by the Act of 1957, and of Works Nos. 5 and 6 authorised by the Act of 1962, other than any viaduct or bridge forming part of the said Work No. 1; and

(*b*) the footways, verges and cycle-tracks (as so constructed) of so much of Work No. 1 authorised by the Act of 1930 as comprises that part of the southern approach to the tunnel which is situate between the point of commencement of the said Work No. 1A and the point of commencement of the gradient to the southern entrance of the tunnel.

6. Notwithstanding anything contained in section 28 (Power to provide toll-houses, etc.) of this Act, in any case where the Councils under the powers of that section or of the Act of 1967 have provided,

SCH. 1 —*cont.*

set up or maintained any toll-house, toll-gate, office or other convenience (in this paragraph referred to respectively as any "structure") on any highway not forming part of the tunnel or the tunnel approaches and on or over any apparatus of the undertakers laid or placed under statutory authority before the erection of the structure, and the undertakers to whom the apparatus belongs give to the Councils notice in writing of their desire to obtain access to such apparatus, the Councils shall if such access is reasonably necessary either remove temporarily the structure or so much thereof as shall be required to be so removed in order to afford such access or (if the Councils determine not to remove the structure or part thereof) bear any additional expense due to the existence of the structure which may be reasonably incurred by those undertakers in obtaining such access.

7.—(1) The British Gas Corporation shall be entitled at any time without making payment for such right to lay one additional transmission main having an internal diameter not exceeding 91·50 centimetres in a line parallel to, and at the same level as, and at a distance of not less than 45·75 centimetres and not more than 1·219 metres from the existing transmission main.

(2) For the purposes of inspecting, maintaining, repairing, renewing or removing the existing transmission main or laying, inspecting, maintaining, repairing, renewing or removing any such additional transmission main as is referred to in sub-paragraph (1) of this paragraph, the British Gas Corporation shall have all such rights of access to any such main and of entering upon, breaking up and interfering with the land in which the main is or will be situated as they would be entitled to exercise, and shall be subject to all such obligations as they would be subject to, if the said land formed part of a street under the management or control of the authority in whom that land is for the time being vested.

(3) In this paragraph "the existing transmission main" means the existing 91·50 centimetre transmission main of the British Gas Corporation laid pursuant to subsection (7) of section 49 (For further protection of South Eastern Gas Board) of the Act of 1957 as subsequently diverted or relaid pursuant to subsections (3) to (5) of section 21 (For protection of South Eastern Gas Board) of the Act of 1962.

8. Should any interruption in the supply of electricity by the undertakers during the execution of any works authorised by this Act be in any way occasioned either by reason of the exercise by the Councils of the powers of this Act or by any act or default of the Councils or any of their contractors, agents or workmen or servants or any person in the employ of them or any or either of them the Councils shall make to the undertakers compensation for any loss, injury or damage sustained by the undertakers consequent upon such interruption.

9.—(*a*) Where by reason or in consequence of the exercise of any of the powers of this Act any apparatus is rendered derelict or unnecessary the Councils shall pay to the undertakers the value of

SCH. 1 —*cont.*

such apparatus so rendered derelict or unnecessary unless proper and sufficient substituted apparatus is provided by or at the cost of the Councils and the cost reasonably incurred by the undertakers in cutting off such apparatus from other apparatus.

(*b*) Any apparatus so rendered derelict or unnecessary shall be the property of the Councils.

10. Nothing contained in Part II of this Act or in any byelaws made under this Act shall affect such rights (if any) as the Central Electricity Generating Board may have under clause 13 of a contract dated 7th March 1933 and made between the Honourable Andrew Alexander Morton Weir of the one part and the former Kent County Council of the other part and ratified and confirmed by a conveyance dated 31st March 1933 and made between the same parties, or under a right of way reserved in a conveyance dated 18th April 1978 from the Central Electricity Generating Board to the Kent Council (of further land required for the construction of the second Dartford Tunnel) or under a deed of grant for a right of way at Stone Marshes dated 1st September 1982 and made between the Kent Council of the one part and the Central Electricity Generating Board of the other part or under a deed relating to surrender and grant of rights of way and road construction works on and adjoining the A.282 Dartford Tunnel Southern Approach Road at Stone Marshes dated 1st September 1982 and made between the Kent Council of the first part Blue Circle Port Facilities Limited of the second part and the Central Electricity Generating Board of the third part.

11. Any difference which may arise between the Councils and the undertakers under this Part of this Schedule (other than a difference as to the meaning or construction of this Part) shall be referred to and settled by arbitration.

PART VIII

FOR PROTECTION OF TUNNEL HOLDINGS LIMITED AND ELDONWALL INDUSTRIAL ESTATES LIMITED

1.—(1) The following provisions of this Part of this Schedule shall, unless otherwise agreed in writing between the Councils and the Tunnel Company and, in relation to paragraphs 4, 5, 6 and 13, Eldonwall have effect for the protection of the Tunnel Company and Eldonwall.

(2) In this Part of this Schedule—

"the chalk lands" means the lands coloured green on the signed plan I;

"Eldonwall" means Eldonwall Industrial Estates Limited, their successors or assigns to their rights with respect to the Thurrock tunnel;

"the factory area" means so far as relevant for the purposes of this Part of this Schedule the lands coloured yellow on the signed plan I;

SCH. 1
—*cont.*

"the signed plan I" means the plan marked "I" which was prepared for the purposes of section 60 (For protection of the Tunnel Portland Cement Company Limited) of the Act of 1967 and signed in triplicate by Thomas McElderry Megaw on behalf of the Councils and by James Asher Mackintosh on behalf of the Tunnel Company, one copy of which has been retained by each of the Councils and one by the Tunnel Company;

"the Thurrock tunnel" means the tunnel leading from the factory area to lands belonging to Eldonwall;

"the Tunnel Company" means Tunnel Holdings Limited formerly called The Tunnel Portland Cement Company Limited.

2. Notwithstanding anything in this Part of this Schedule, no accumulation of silt nor anything placed, moored or anchored in the river to the west of the jetty of the Tunnel Company on the river and within a distance of 183 metres from mean high-water springs on the northern bank of the river shall be deemed to interfere with the access of vessels to or from the said jetty or to interrupt or interfere with the use of the said jetty.

3. Notwithstanding the acquisition by the Councils before the passing of this Act of the chalk lands the Tunnel Company shall on giving to the Councils not less than 14 days' notice of their intention so to do be at liberty to excavate so much of the chalk as remains unexcavated under such part or parts as is represented by the area coloured pink on the cross sections shown on the signed plan I:

Provided that—

(*a*) the work of excavation is carried out before the year 2000;

(*b*) the Tunnel Company in carrying out such excavation shall not interfere with the maintenance, repair, use or stability of Work No. 1 authorised by the Act of 1957, as now constructed;

(*c*) the Tunnel Company shall leave the face of the east side of so much of the said Work No. 1 as is situate on the chalk lands formed as delineated by the dotted lines on the cross sections shown on the signed plan I and shall to the reasonable satisfaction of the Councils re-erect the fence referred to in paragraph 4 of this Part of this Schedule and at the expense of the Councils deposit soil on any such face and seed the same with grass or other seed.

4. The Councils shall for all time maintain in good and substantial repair the fence as now erected by them along the eastern boundary of so much of the chalk lands and the factory area as was acquired by them for the purposes of or in connection with the said Work No. 1 and the fence as now erected by them along the western boundary of such lands.

SCH. 1 —*cont.*

5. The Councils shall maintain so much of the Thurrock tunnel as is situate on or under land belonging to the Councils and shall be responsible and pay compensation to the Tunnel Company for any damage which may be occasioned to the Tunnel Company by reason or in consequence of any failure to maintain the same in a proper state of repair and the Tunnel Company shall grant to the Councils all such rights of access to such portion of the said tunnel as may be necessary for the purposes of or in connection with such maintenance.

6. Notwithstanding the acquisition by the Councils under the powers of the Act of 1957 of any land situate over or forming part of the Thurrock tunnel, the Tunnel Company in common with Eldonwall and their respective licensees shall continue to be entitled at all times free of charge to use the said tunnel where it passes under, over or through any such land for the passing, repassing and shunting of railway vehicles, the passing and repassing of road vehicles, animals and persons and the construction, laying down, maintenance and repair of conveyor belts, transport equipment, pipes, mains, cables and other similar works:

Provided that the use of the said tunnel and the construction, maintenance and use of any works thereunder by the Tunnel Company and Eldonwall and their respective licensees shall be subject to such terms and conditions as the Councils may from time to time in writing reasonably impose for protecting any works of the Councils and for securing the safety, stability and support thereof.

7. Nothing in this Act or done thereunder shall in any way affect or derogate from the provisions contained in paragraph H of the Second Schedule to the agreement dated 4th October 1926, and made between the Tunnel Company of the one part, the former Essex County Council of the second part, and the former Minister of Transport of the third part.

8.—(1) In the exercise of the powers to which this sub-paragraph applies the Councils shall not moor or anchor or cause to be moored or anchored in the river any vessels, barges or other craft except after consultation with the Tunnel Company; and in the exercise of the said powers the Councils shall by means of such operations interfere no more than is reasonably necessary with the access of vessels to or from the jetty of the Tunnel Company on the river:

Provided that no such consultation shall be required in case of emergency or as respects operations carried out within the limits described in paragraph 2 above.

(2) Sub-paragraph (1) of this paragraph applies to the powers for the construction of Work No. 1 authorised by the Act of 1967 and the powers of section 4 (Subsidiary works affecting river) of this Act.

9. The Councils shall, during the construction of any work in connection with the construction of so much of Work No. 1 authorised by the Act of 1967 as is in the county of Essex, permit the authorised representatives of the Tunnel Company to inspect all or any part of such works, and shall afford to such representatives all reasonable facilities for the purpose of such inspection.

SCH. 1 —*cont.*

10.—(*a*) Subject to the provisions of paragraph 9 of Part VI of this Schedule the Councils shall during the construction of Work No. 1 authorised by the Act of 1967, or any work in connection therewith authorised by this Act, carry out such dredging operations as are necessary to remove any accumulation of silt which is caused by the execution of those works, or any of them, and which interferes with, or is likely to interfere with, the use of the said jetty or the access of vessels to or from the said jetty.

(*b*) The Councils shall take soundings of the relevant area prior to the commencement of any temporary work in the county of Essex authorised by paragraph (*a*) of subsection (1) of section 4 (Subsidiary works affecting river) of this Act and every three months thereafter until six months after every such temporary work has been removed and shall within 21 days of the taking of the said soundings forward to the secretary of the Tunnel Company copies of plans showing the dredged depth to a suitable scale.

11. The Councils shall be responsible for and make good to the Tunnel Company all costs, losses and expenses which the Tunnel Company may reasonably suffer or incur by reason or in consequence of any damage to the property of the Tunnel Company caused by the execution of Work No. 1 authorised by the Act of 1967 or any works in connection therewith or the failure of any such works or by reason or in consequence of any act or omission of the Councils, or of any person or persons in their employ, or of their contractors, in the course of the execution or maintenance of any such works, and, without prejudice to the generality of the foregoing, all costs, losses and expenses which the Tunnel Company may reasonably suffer or incur by reason or in consequence of—

(*a*) any damage to the railway and the oil and other pipe-lines and services which respectively run on or in the railway embankment between the works of the Tunnel Company and their jetty on the river and any damage to the said embankment prejudicing the stability thereof; or

(*b*) any interruption to, or interference with, the operation of the said railway, pipe-lines, and services or the use of the said jetty; or

(*c*) any accumulation of silt such as is described in paragraph 10 above;

if the same is caused directly or indirectly by the execution (including maintenance) of Work No. 1 authorised by the Act of 1967 or any works in connection therewith, or through any settlement or subsidence of any such works or through the movement of soil due to the construction of any such works:

Provided that the Tunnel Company shall give to the Councils notice of any claim or demand made against them which in the opinion of the Tunnel Company is a claim or demand for which the Councils may be liable under this paragraph and no settlement or compromise of any such claim or demand shall be made without the consent in writing of the Councils.

12. The Councils shall not under the powers of this Act obstruct the road access to or from the Tunnel Company's factories at West

SCH. 1 —*cont.*

Thurrock by means of the Arterial Road, Purfleet and the Arterial Road, West Thurrock.

13. Any difference which may arise between the Councils and the Tunnel Company or Eldonwall, as the case may be, under this Part of this Schedule (other than a difference as to the meaning or construction of this Part) shall be referred to and settled by arbitration.

SCHEDULE 2

Section 48.

TRANSITIONAL PROVISIONS AND SAVINGS

1. All property acquired by the Councils under and for the purposes of the Act of 1967 or of the enactments repealed by that Act, or any of them, and vested in the Councils immediately before the commencement of this Act, shall continue vested in the Councils.

2. All acts, works, matters and things which before the commencement of this Act were done or commenced under the powers of the Act of 1967 or of the enactments repealed by that Act, or any of them, and which were immediately before the commencement of this Act valid and available or in progress and all existing notices, notices to treat, agreements, awards, conveyances, contracts, covenants, deeds, instruments, leases, obligations, rights and remedies shall be and continue valid and available for all purposes and for and against all parties, and may be continued, enforced and completed as if this Act had not been passed.

3. All actions, arbitrations, prosecutions and proceedings by, with or against the Councils by reason of any matter or thing done before the commencement of this Act in execution of or in relation to the Act of 1967 or the enactments repealed by that Act, or any of them, may be continued, commenced or prosecuted by or against the Councils as if this Act had not been passed.

4. All agreements, whether in writing or not, and other documents which by virtue of the Act of 1967 continue to have effect as if—

(1) the Councils rather than the joint committee under the Act of 1967 had been a party thereto;

(2) for any reference (however worded and whether express or implied) to such committee there were substituted a reference to the Councils;

shall continue to have such effect.

5. All tolls, charges and other sums due or accruing due to the Councils at the commencement of this Act may be collected and recovered by the Councils as if this Act had not been passed.

1972 c. 70.

6.—(1) The provisions of Part I of Schedule 13 to the Local Government Act 1972 shall extend and apply to money borrowed in the exercise of the statutory borrowing powers of the Councils under the Act of 1967 or any enactment repealed by that Act as if it were borrowed under that Part but no consent or approval of the Secretary of State shall be necessary if under the enactment conferring the power such consent or approval has been given or is not required.

SCH. 2
—*cont.*

(2) All sums borrowed by the Councils before the commencement of this Act under any statutory borrowing power referred to in sub-paragraph (1) of this paragraph and not repaid before the commencement of this Act shall, notwithstanding the repeal of any enactment by or under which such statutory borrowing power was created or authorised, be repaid within the respective periods within which they were required to be repaid by or under that repealed enactment.

7. All books and other documents which under or by virtue of the Act of 1967 would have been receivable in any court in evidence shall be receivable in evidence as if this Act had not been passed.

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