

## SCHEDULE 9

(introduced by sections 5, 6 and 71)

### PROVISIONS RELATING TO STATUTORY UNDERTAKERS, ETC.

#### *Apparatus of statutory undertakers, etc. on land acquired*

- 1 (1) Subject to the provisions of this schedule, sections 224 to 227 of the 1997 Act (Power to extinguish rights of statutory undertakers, etc. and power of statutory undertakers, etc. to remove or re-site apparatus) shall apply in relation to any land which has been acquired under this Act, or which is held by the authorised undertaker and is appropriated or used (or about to be used) by it for the purposes of this Act or for purposes connected with this Act; and all such other provisions of that Act as apply for the purposes of those provisions (including sections 228 to 231, which contain provisions consequent on the extinguishment of any rights under sections 224 and 225, and sections 232(2) to (4), 233 and 235, which provide for the payment of compensation) shall have effect accordingly.
- (2) Where any apparatus of public utility undertakers or of a public communications provider is removed in pursuance of a notice or order given or made under section 224, 225 or 226 of the 1997 Act, as applied by sub-paragraph (1), any person who is the owner or occupier of premises to which a supply was given from that apparatus shall be entitled to recover from the authorised undertaker compensation in respect of expenditure reasonably incurred by such a person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.
- (3) Sub-paragraph (2) shall not apply in the case of the removal of a public sewer, but where such a sewer is removed in pursuance of such a notice or order as is mentioned in that sub-paragraph, any person who is—
- (a) the owner or occupier of premises the drains of which communicated with that sewer, or
  - (b) the owner of a private sewer which communicated with that sewer,
- shall be entitled to recover from the authorised undertaker compensation in respect of expenditure recently incurred by such a person, in consequence of the removal, for the purpose of making the drain or sewer communicate with any other public sewer or with a private sewage disposal plant.
- (4) The provisions of the 1997 Act mentioned in sub-paragraph (1), as applied by that sub-paragraph, shall not have effect in relation to apparatus as respects which paragraph 2 or Part IV of the 1991 Act applies.
- (5) In this paragraph—
- “gas transporter” has the meaning given to it by section 7(1) of the Gas Act 1986 (c. 44);
  - “public communications provider” has the same meaning as in section 151 of the Communications Act 2003 (c. 21); and
  - “public utility undertakers” means persons who are—
- (a) authorised by any enactment to carry on an undertaking for the supply of water;
  - (b) gas transporters; or
  - (c) the holders of licences under section 6 of the Electricity Act 1989 (c. 29),

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*Status: This is the original version (as it was originally enacted).*

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and who are, or are deemed to be, statutory undertakers within the meaning of section 214 of the 1997 Act.

*Apparatus of statutory undertakers, etc. in stopped up roads*

- 2
- (1) Where a road is stopped up under section 6 (Permanent stopping up of roads) any statutory undertaker whose apparatus is under, in, upon, over, along or across the road shall have the same powers and rights in respect of that apparatus, subject to the provisions of this paragraph, as if this Act had not been passed.
  - (2) Where a road is stopped up under section 6 any statutory undertaker whose apparatus is under, in, upon, over, along or across the road may, and if reasonably requested to do so by the authorised undertaker, shall—
    - (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the undertaker may reasonably determine and have power to place it, or
    - (b) provide other apparatus in substitution for the existing apparatus and place it in such a position.
  - (3) The allowable costs of the relocation works shall be—
    - (a) determined in accordance with section 144 (Sharing costs of necessary measures) of the 1991 Act and any regulations for the time being having effect under that section, and
    - (b) borne by the authorised undertaker and the statutory undertaker in such proportions as may be prescribed by any such regulations.
  - (4) In this paragraph—
    - “apparatus” has the same meaning as in Part IV of the 1991 Act;
    - “relocation works” means works executed, or apparatus provided, under sub-paragraph (2); and
    - “statutory undertaker” has the same meaning as in the Roads (Scotland) Act 1984 (c. 54).

*Railway and navigation undertakings*

- 3
- (1) Subject to the following provisions of this paragraph, the powers under section 5 (Power to execute road works) to break up or open a road shall not be exercisable where the road, not being a public road (within the meaning of the Roads (Scotland) Act 1984 (c. 54))—
    - (a) is under the control or management of, or is maintainable by, railway or tramway undertakers, or
    - (b) forms part of a level crossing belonging to any such undertakers or to such an authority or to any other person,
 except with the consent of the undertakers or the authority of the person to whom the level crossing belongs, as the case may be.
  - (2) Sub-paragraph (1) shall not apply to the carrying out under this Act of emergency works, within the meaning of Part IV of the 1991 Act.
  - (3) A consent given for the purposes of sub-paragraph (1) may be made subject to such reasonable conditions as may be specified by the person giving it but shall not be unreasonably withheld.