

SCHEDULE 9
PROVISIONS RELATING TO STATUTORY UNDERTAKERS, ETC.

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 a navigation authority, 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.
- (4) In this paragraph “navigation authority” means any person who has a duty or power under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock.