

SCHEDULES

SCHEDULE 12

FOR PROTECTION OF SPECIFIED UNDERTAKERS

Expenses

31. Subject to the provisions of the following paragraphs, DLRL shall repay to the specified undertaker the reasonable expenses incurred by the specified undertaker in, or in connection with—

- (a) the inspection, removal and relaying or replacing, alteration or protection of any apparatus or the construction of any new apparatus under any provision of this Schedule (including any costs reasonably incurred or compensation properly paid in connection with the acquisition of rights or exercise of statutory powers for such apparatus);
- (b) the cutting off of any apparatus from any other apparatus, or the making safe of any redundant apparatus in consequence of the exercise by DLRL of any power under this Order;
- (c) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the exercise by DLRL of any power under this Order; and
- (d) any other work or thing rendered reasonably necessary in consequence of the exercise by DLRL of any such power;

within a reasonable time of being notified by the specified undertaker that it has incurred such expenses.

32. There shall be deducted from any sum payable under paragraph 31 the value of any apparatus removed under the provisions of this Schedule, that value being calculated after removal.

33. If in pursuance of the provisions of this Schedule—

- (a) alternative apparatus of better type, or greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions, except where this has been solely due to using the nearest currently available type; or
- (b) apparatus (whether existing apparatus or alternative apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated;

and the placing of apparatus of that type or capacity or of those dimensions, or the placing of apparatus at that depth, as the case may be, is not agreed by DLRL or, in default of agreement, is not determined by arbitration to be necessary having regard, among other things, to the nature of the authorised works, then, if such placing involves cost in the construction of works under paragraphs 9 to 11 exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this paragraph would be payable to the specified undertaker by virtue of paragraph 31 above shall be reduced by the amount of that excess.

34. For the purposes of paragraph 33—

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- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus except in a case where the apparatus as so extended serves a purpose (either additional to or instead of that served by the existing apparatus) which was not served by the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined.

35. An amount which apart from this paragraph would be payable to the specified undertaker in respect of works by virtue of paragraphs 31 to 34 shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the specified undertaker any financial benefit by deferment of the time for renewal of the apparatus or of the system of which it forms part in the ordinary course, be reduced by the amount which represents that benefit as calculated in accordance with the Code of Practice entitled “Measures Necessary where Apparatus is Affected by Major Works (Diversionary Works)” and dated June 1992 and approved by the Secretary of State on 30th June 1992, as revised and re-issued from time to time.

36. Paragraphs 31 to 35 shall not apply where the authorised works constitute major transport works for the purposes of Part 3 of the 1991 Act, but instead—

- (a) the allowable costs of the construction of works under this Schedule shall be determined in accordance with section 85 of that Act (sharing the costs of necessary measures) and any regulations for the time being having effect under that section; and
- (b) the allowable costs shall be borne by DLRL and the specified undertaker in such proportions as may be prescribed by any such regulations.

37. In any case where work is carried out by DLRL pursuant to paragraphs 13 to 15 and, if such work had been carried out by the specified undertaker, the repayment made to the specified undertaker under paragraph 31 would fall to be reduced pursuant to paragraphs 33 to 35, the specified undertaker shall pay to DLRL such sum as represents the amount of that reduction.