

SCHEDULES

SCHEDULE 4

Article 13(1).

OTHER POWERS, ETC., OF LICENCE HOLDERS

Interpretation

1.—(1) In this Schedule—

“controlled works” means any such works as are mentioned in paragraph 2(1) being works done under the right conferred by that paragraph;

“emergency works” means—

- (a) in relation to a licence holder, work arising from faults in any electric lines or electrical plant;
- (b) in relation to a government department for the purpose of paragraph 4 or 6, work requisite to put an end to, or prevent, the arising of circumstances which are likely to cause
 - (i) danger to persons or property, or
 - (ii) interference with the exercise of any functions conferred on that department;
- (c) in relation to a public telecommunications operator for the purpose of paragraph 4 or 6, work requisite to put an end to, or prevent, the arising of circumstances which are likely to cause
 - (i) danger to persons or property, or
 - (ii) the interruption of any service provided by the telecommunication system of the operator;

“plan” includes section;

“planning permission” means planning permission under Part IV of the Planning (Northern Ireland) Order 1991;

“public telecommunications operator” has the same meaning as in the Telecommunications Act 1984;

“road” has the same meaning as in the Roads (Northern Ireland) Order 1980;

“sewer” means a sewer as defined in the Water and Sewerage Services (Northern Ireland) Order 1973;

“telecommunication apparatus” and “telecommunication system” have the same meaning as in the Telecommunications Act 1984;

“telecommunications code” means the code contained in Schedule 2 to the Telecommunications Act 1984.

(2) In this Schedule, references to the alteration of any apparatus include references to the moving, removal or replacement of the apparatus.

(3) For the purposes of paragraphs 2 to 7 and 9(4), “the arbitrator” means the arbitrator appointed by agreement between the parties concerned or, in default of agreement, by the President of the Institution of Civil Engineers.

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Works involving breaking up roads, etc.

2.—(1) Subject to Article 15 of the Roads (Northern Ireland) Order 1980 and to the following provisions of this paragraph, for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, a licence holder may execute—

- (a) the following kinds of works, that is to say, installing under, over, in, on, along or across any road and inspecting, maintaining, adjusting, repairing or altering—
 - (i) any electric lines or electrical plant; and
 - (ii) any structures for housing or covering any such lines or plant; and
- (b) any works requisite for or incidental to the purposes of any works falling within head (a), including for those purposes—
 - (i) opening or breaking up any road or any sewers, drains or tunnels within or under any road;
 - (ii) tunnelling or boring under any road; and
 - (iii) removing or using all earth and materials in or under any road.

(2) Nothing in this paragraph shall empower a licence holder to lay down or place any electric line or electrical plant into, through or against any building, or in any land not dedicated to the public use without the consent of the owners and occupiers thereof, so, however that a licence holder may alter any existing line or works in or under any land where the line or work has been placed under this Order or any other statutory provisions.

(3) Before commencing to execute any controlled works, the licence holder shall serve notice of not less than 7 working days of his intention to do so on the appropriate department, unless the works are emergency works.

(4) Where any controlled works will involve the installation of any electric lines or electrical plant or structures for housing or covering such lines or plant (not being works consisting solely of the installation of overhead electric lines to be flown from existing poles), one month or, in the case of electric lines, 7 working days before commencing to execute the works the licence holder shall—

- (a) serve a notice on the Department of the Environment of his intention to do so; and
- (b) give any further information required by that Department;

and the notice mentioned in head (a) shall be in addition to the notice required to be served under sub-paragraph (3).

(5) Where any controlled works will involve the closure of any road and the diversion of traffic from that road onto other roads, 2 months before commencing to execute the works the licence holder shall—

- (a) serve a notice on the Department of the Environment of his intention to do so; and
- (b) give any further information required by that Department;

and the notice in head (a) shall be in addition to the notices required to be served under sub-paragraphs (3) and (4).

(6) Subject to sub-paragraph (8), the licence holder shall not, unless the works are emergency works, execute any controlled works except—

- (a) under the superintendence of the appropriate department; and
- (b) in accordance with a plan—
 - (i) approved by the appropriate department or, as the case may be, the Department of the Environment; or

(ii) where any question respecting the plan has arisen and has not been agreed, determined by arbitration,

and the arbitrator may, on the application of that department, require the licence holder to make such temporary or other works as that department thinks necessary for guarding against any interruption of the drainage during the execution of any works which interfere with the sewer or drain.

(7) If the licence holder contravenes any provision of sub-paragraph (6), he shall make full compensation to the appropriate department or, as the case may be, the Department of the Environment for any loss or damage incurred by that department in consequence of that contravention.

(8) If the appropriate department on which notice is served under sub-paragraph (3) or, as the case may be, the Department of the Environment on which notice is served under sub-paragraph (4)—

- (a) fails to attend at the time fixed for the execution of the controlled works, after service of that notice; or
- (b) fails to approve the plan within 7 working days or fails to serve notice within that period on the licence holder requiring him to agree to the appointment of an arbitrator by whom any question which has arisen may be determined; or
- (c) refuses or neglects to superintend the operation,

the plan shall be deemed to have been approved or the licence holder may carry out the work specified in the notice without the superintendence of that department, as the case may require.

(9) When a licence holder opens or breaks up any road, sewer, drain or tunnel he shall with all convenient speed—

- (a) complete the work;
- (b) fill in the ground;
- (c) reinstate or make good the road, sewer, drain or tunnel; and
- (d) carry away the rubbish occasioned thereby,

and, without prejudice to Article 124 of the Road Traffic (Northern Ireland) Order 1981, shall at all times, whilst any road is opened or broken up—

- (i) cause it to be fenced or guarded; and
- (ii) cause a light sufficient for the warning of vehicles and pedestrians to be set up and maintained at night against or near it; and
- (iii) keep it in good repair for 12 months after replacing or making it good.

(10) If a licence holder delays or omits to carry out any work as mentioned in sub-paragraph (9), the appropriate department may cause to be executed the work so delayed or omitted, and the expense of executing that work shall be a debt recoverable summarily by that department from the licence holder.

(11) A licence holder shall do as little damage as possible in the exercise of the powers conferred by this paragraph and shall make compensation for any damage done in the exercise of those powers.

(12) If a licence holder commences the execution of any works in contravention of sub-paragraph (3) or (4), he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(13) In this paragraph “appropriate department” means—

- (a) where any controlled works are to be executed in a road or to a sewer, the Department of the Environment;

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- (b) where any controlled works are to be executed to a drain under the jurisdiction or control of the Department of Agriculture, that Department.

Alteration of apparatus, etc., under roads

3.—(1) Subject to sub-paragraph (2), a licence holder may, subject to and in accordance with the provisions of this paragraph unless otherwise agreed upon between the parties, alter the position of—

- (a) any electric line or electrical plant under the control of another licence holder; or
- (b) any telecommunication apparatus used for the purposes of a telecommunication system which is operated by a person to whom the telecommunications code applies; or
- (c) any other apparatus (except any pipe forming part of any sewer);

under any road which interferes with the exercise of his powers under this Schedule.

(2) In the case of an alteration under this paragraph of any telecommunication apparatus installed for the purposes of a telecommunication system which is operated by a person to whom the telecommunications code applies, paragraph 23 of the telecommunications code will apply instead of sub-paragraphs (3) to (14).

(3) One month before commencing the alterations, except where the alterations are emergency works, the licence holder shall—

- (a) serve a notice on the person for the time being entitled to the electric lines or electrical plant or apparatus (in this paragraph referred to as “the owners”) describing the proposed alterations; and
- (b) give any further information required by the owners.

(4) The notice mentioned in sub-paragraph (3) shall contain a plan showing the manner in which it is intended that the alterations shall be made.

(5) Within 3 weeks from the service of the notice mentioned in sub-paragraph (3) upon any owners, the owners may require, by requisition served on the licence holder, that any question arising upon the notice as to the works, or to compensation in respect thereof, or any other question shall, in default of agreement, be determined by arbitration.

(6) Where—

- (a) no requisition is served on the licence holder; or
- (b) after any requisition has been served, any question required to be determined by arbitration has been so determined;

the licence holder may, upon paying or securing any compensation which he may be required to pay or secure, carry out the alterations specified in the notice, but subject in all respects to the provisions of this Schedule, and only in accordance with the notice served by him or such modifications thereof respectively as may have been determined by arbitration, or as may be agreed upon between the parties.

(7) At any time before the licence holder is entitled to commence any such alterations, the owners may serve a notice on the licence holder, stating that they desire to execute the alterations, and where any such notice has been served on the licence holder, he shall not be entitled to execute the alterations, except—

- (a) where the licence holder has required the owners to execute the alterations, and the owners have refused or neglected to comply; or
- (b) where the alterations are emergency works.

(8) Where a notice such as is mentioned in sub-paragraph (7) has been served on the licence holder, he shall, not more than 48 hours and not less than 24 hours before the execution of the

alterations is required to be commenced, serve on the owners a requisition stating the time when the alterations are required to be commenced, and the manner in which the alterations are required to be made.

(9) Upon receipt of any requisition, the owners may execute the alterations as required by the licence holder, subject to the restrictions and conditions, so far as they are applicable, to which the licence holder would be subject in executing the alterations.

(10) If the owners decline or, for 24 hours after the time when any such alterations are required to be commenced, neglect to comply with the requisition, the licence holder may execute the alterations in like manner as he might have done if notice had not been served on him under sub-paragraph (7) by the owners.

(11) Where any alterations are emergency works the licence holder may execute them without serving any requisition on the owners; but in that case the licence holder shall, within 24 hours after commencing to execute the alterations, give information thereof in writing to the owners.

(12) All expenses properly incurred by any owners in complying with any requisition of the licence holder under sub-paragraph (8) shall be a debt recoverable summarily by them from the licence holder.

(13) A licence holder shall do as little damage as possible in the exercise of the powers conferred by sub-paragraph (1) and shall make compensation for any damage done in the exercise of those powers.

(14) If the licence holder commences the execution of any work in contravention of sub-paragraph (3)(a), he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Alteration of electric lines or electrical plant under roads

4.—(1) A government department, public telecommunications operator, or other person (not being another licence holder) authorised under any statutory provision to exercise functions in relation to a road may, subject to and in accordance with the provisions of this paragraph unless otherwise agreed upon between the parties, alter the position of any electric line or electrical plant under the control of a licence holder under that road which interferes with the exercise of those functions.

(2) Sub-paragraphs (3) to (13) of paragraph 3 shall apply for the purposes of sub-paragraph (1) of this paragraph as if—

- (a) any reference to the licence holder were a reference to the government department, public telecommunications operator or other person, as the case may require; and
- (b) any reference to the owners were a reference to the licence holder.

(3) If the public telecommunications operator or, as the case may be, the other person commences the execution of any work in contravention of paragraph 3(3)(a) as applied by sub-paragraph (2) of this paragraph, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Controlled works in a road near to apparatus

5.—(1) The following provisions of this paragraph apply where a licence holder requires to carry out any controlled works in a road near to—

- (a) any electric lines or electrical plant of any other licence holder; or
- (b) any telecommunication apparatus which is operated by a person to whom the telecommunications code applies; and

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- (c) any other apparatus belonging to or under the jurisdiction or control of a government department or other person (not being a licence holder).
- (2) The licence holder shall, unless it is otherwise agreed between the parties or the works are emergency works, serve on the other licence holder, the person to whom the telecommunications code applies, the government department or the other person, as the case may require, (in this paragraph referred to as “the owners”) not less than 7 working days' notice before commencing the works and the owners shall be entitled to superintend the work.
- (3) The licence holder shall—
 - (a) comply with any reasonable requirements made by the owners—
 - (i) for protecting from damage; and
 - (ii) for securing access to, the owners' electric lines, electrical plant, telecommunication apparatus or other apparatus; and
 - (b) if required by the owners, repair any damage that may be done.
- (4) Where the licence holder finds it necessary to undermine but not alter the position of any owners' electric line, electrical plant, telecommunication apparatus or other apparatus he shall temporarily support it in position during the execution of the works, and before completion provide a suitable and proper foundation for it where so undermined.
- (5) Where a licence holder lays any electric line crossing or liable to touch any apparatus belonging to the Department of the Environment or to any gas undertaking, the conducting portion of the electric line shall be effectively insulated in a manner approved by the Department, and the licence holder shall not, except with the consent of the Department of the Environment or, as the case may be, the gas undertaking, and of the Department—
 - (a) lay the electric lines so as to come into contact with the apparatus; or
 - (b) use the apparatus in connection with the supply of electricity.
- (6) Any question arising under this paragraph shall, in default of agreement, be determined by arbitration.
- (7) A licence holder shall do as little damage as possible in the exercise of the powers conferred by this paragraph and shall make compensation for any damage done in the exercise of those powers.
- (8) If the licence holder commences the execution of any works in contravention of sub-paragraph (2), he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Works in a road near to electric lines or electrical plant

- 6.—(1) The following provisions of this paragraph apply where a government department, public telecommunications operator or other person (not being a licence holder) requires to carry out any works in a road for laying down or constructing any telecommunication apparatus or other apparatus near to any electric lines or electrical plant of a licence holder.
- (2) Sub-paragraphs (2) to (7) of paragraph 5 shall apply for the purposes of sub-paragraph (1) of this paragraph as if—
 - (a) any reference to the licence holder were a reference to the government department, public telecommunications operator or other person, as the case may require; and
 - (b) any reference to the owners were a reference to the licence holder.
- (3) If the public telecommunications operator or, as the case may be, the other person commences the execution of any works in contravention of paragraph 5(2) as applied by sub-paragraph (2) of

this paragraph, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Protection of railway undertaking and canal companies

7.—(1) In the execution of any controlled works, a licence holder shall not in any way cause damage to the railways, tunnels, arches, works or conveniences belonging to any railway undertaking or government department exercising jurisdiction or control over any canal (in this paragraph referred to as a “canal undertaking”), nor obstruct or interfere with the working of the traffic passing along any railway or canal.

(2) Where a licence holder proposes to open or break up any road which—

- (a) forms a level crossing; or
- (b) crosses over or under any works of a railway or canal undertaking,

the licence holder shall, unless the works are emergency works—

- (i) in addition to the notice which he is required to serve under paragraph 2(3), serve a like notice on the undertaking; and
- (ii) if and so far as the proposed works are likely to affect the structure of any bridge or other works which are vested in the undertaking, execute the works under the superintendence of the undertaking and in accordance with a plan approved by it.

(3) Any question respecting the plan mentioned in sub-paragraph 2(b)(ii) shall, in default of agreement, be determined by arbitration.

(4) If the undertaking mentioned in sub-paragraph (2)—

- (a) fails to attend at the time fixed for the execution of the proposed works, after the notice is served on it as so mentioned;
- (b) fails to approve the plan within 7 working days or fails to serve notice within that period on the licence holder requiring him to agree to the appointment of an arbitrator by whom any question which has arisen may be determined; or
- (c) refuses or neglects to superintend the operation,

the licence holder may carry out the work specified in the notice without the superintendence of that undertaking.

(5) If the licence holder executes any works in contravention of sub-paragraph (2)(i), he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) A licence holder shall do as little damage as possible in the exercise of the powers conferred by this paragraph and shall make compensation for any damage done in the exercise of those powers.

(7) In this paragraph “railway undertaking” means the Northern Ireland Railways Company Ltd.

Emergency works

8.—(1) Where any person would be required to serve any notice in respect of any works under paragraphs 2 to 7 if the works were not emergency works, that person shall serve a notice in respect of the emergency works as soon as practicable after commencing the works.

(2) Failure to serve the notice required by sub-paragraph (1) shall be treated as a contravention of a requirement of the paragraph under which a notice would be required if the works were not emergency works.

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Protection from interference

9.—(1) Subject to sub-paragraph (2), a licence holder who installs or alters, or changes the mode of operation of, any electric line or electrical plant shall take all reasonable precautions for securing that the operation of that line or plant does not interfere with the operation of any telecommunication apparatus which—

- (a) is under the control of a person to whom the telecommunications code applies; and
- (b) is not unusually sensitive to interference with its operation.

(2) In the case of any telecommunication apparatus which is subsequently installed or altered or whose mode of operation is subsequently changed, the duty imposed by sub-paragraph (1) shall not apply in relation to—

- (a) any momentary interference with its operation; or
- (b) where it is installed in unreasonably close proximity to the electric line or electrical plant, any other interference with its operation.

(3) Sub-paragraphs (1) and (2) shall be read as also applying in the converse case of a person to whom the telecommunications code applies who installs or alters, or changes the mode of operation of, any telecommunication apparatus, and in such a case shall have effect as if—

- (a) any reference to the licence holder were a reference to that person;
- (b) any reference to an electric line or electrical plant were a reference to such apparatus; and
- (c) any reference to such apparatus under the control of a person to whom that code applies were a reference to such a line or such plant under the control of a licence holder.

(4) Any difference arising under this paragraph between a licence holder and a person to whom the telecommunications code applies shall be determined by arbitration.

(5) In this paragraph “momentary interference” means any interference of momentary duration which is not a regular occurrence (whether caused by physical contact or otherwise).

Acquisition of wayleaves

10.—(1) This paragraph applies where—

- (a) for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, it is necessary or expedient for a licence holder to install and keep installed an electric line on, under or over any land; and
- (b) the owner or occupier of the land, having been given a notice under sub-paragraph (3),—
 - (i) has failed to give the wayleave before the end of that period; or
 - (ii) has given the wayleave subject to terms and conditions to which the licence holder objects;

and in this paragraph as it so applies “the necessary wayleave” means consent for the licence holder to install and keep installed the electric line on, under or over the land and to have access to the land for the purpose of inspecting, maintaining, adjusting, repairing or altering the electric line.

(2) This paragraph also applies where—

- (a) for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, it is necessary or expedient for a licence holder to keep an electric line installed on, under or over any land; and
- (b) the owner or occupier of the land has given notice to the licence holder under paragraph 12(2) requiring him to remove the electric line;

and in this paragraph as it so applies “the necessary wayleave” means consent for the licence holder to keep the electric line installed on, under or over the land and to have access to the land for the purpose of inspecting, maintaining, adjusting, repairing or altering the electric line.

(3) The notice referred to in sub-paragraph (1)(b) shall—

- (a) state the licence holder’s intention to install an electric line;
- (b) give a description of the nature of the line and of the position and manner in which it is intended to be installed; and
- (c) require the owner or occupier of the land to give the necessary wayleave within a period (not being less than 21 days) specified in the notice.

(4) Subject to sub-paragraphs (5) to (7), the Department may, on the application of the licence holder, grant the necessary wayleave subject to such terms and conditions as the Department thinks fit; and a necessary wayleave so granted shall, unless previously terminated in accordance with a term contained in the wayleave, continue in force for such period as may be specified in the wayleave.

(5) Subject to sub-paragraph (6), the Department shall not grant a wayleave under sub-paragraph (4) in any case where—

- (a) the land is covered by a dwelling, or will be so covered on the assumption that any planning permission which is in force is acted on; and
- (b) the line is to be installed on or over the land.

(6) Sub-paragraph (5) shall not apply to any land in respect of which a wayleave has been given before the coming into operation of that sub-paragraph.

(7) Before granting a necessary wayleave, the Department shall afford—

- (a) the occupier of the land; and
- (b) where the occupier is not also the owner of the land, the owner,

an opportunity of being heard by a person appointed by the Department.

(8) A necessary wayleave granted under this paragraph shall bind any person who is at any time the owner or occupier of the land.

(9) Where in pursuance of a necessary wayleave granted under this paragraph a licence holder has erected on any land supports for an electric line, he shall be deemed to have an estate in that land for the purposes of section 40 of the Mineral Development Act (Northern Ireland) 1969.

(10) In this paragraph “dwelling” means a building or part of a building occupied, or (if not occupied) last occupied or intended to be occupied, as a private dwelling and includes any garden, yard, outhouses and appurtenances belonging to or usually enjoyed with that building or part.

Provisions supplementary to paragraph 10

11.—(1) Where a wayleave is granted to a licence holder under paragraph 10—

- (a) the occupier of the land; and
- (b) where the occupier is not also the owner of the land, the owner,

may recover from the licence holder compensation in respect of the grant.

(2) Where in the exercise of any right conferred by such a wayleave any damage is caused to property, the licence holder shall make good or pay compensation in respect of that damage; and where in consequence of the exercise of such a right a person is disturbed in his enjoyment of any property the licence holder shall pay compensation in respect of that disturbance.

(3) Compensation under this paragraph may be recovered as a lump sum or by periodical payments or partly in one way and partly in the other.

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(4) Any question of disputed compensation under this paragraph shall be referred to and determined by the Lands Tribunal; and Articles 4 and 5 of the Land Compensation (Northern Ireland) Order 1982 shall apply to any such determination.

Temporary continuation of wayleaves

12.—(1) This paragraph applies where at any time such a wayleave as is mentioned in paragraph 10 (whether granted under that paragraph or by agreement between the parties)—

- (a) is determined by the expiration of a period specified in the wayleave;
- (b) is terminated by the owner or occupier of the land in accordance with a term contained in the wayleave; or
- (c) by reason of a change in the ownership or occupation of the land after the granting of the wayleave, ceases to be binding on the owner or occupier of the land.

(2) The owner or occupier of the land may—

- (a) in a case falling within sub-paragraph (1)(a), at any time after or within 3 months before the end of the period specified in the wayleave;
- (b) in a case falling within sub-paragraph (1)(b), at any time after the wayleave has been terminated by him; or
- (c) in a case falling within sub-paragraph (1)(c), at any time after becoming the owner or occupier of the land by virtue of such a change in the ownership or occupation of the land as is mentioned in that sub-paragraph,

give to the licence holder a notice requiring him to remove the electric line from the land; but the licence holder shall not be obliged to comply with such a notice except in the circumstances and to the extent provided by the following provisions of this paragraph.

(3) Where within the period of 3 months from the date of the notice under sub-paragraph (2) the licence holder makes neither—

- (a) an application for the grant of the necessary wayleave under paragraph 10; nor
- (b) an application for a vesting order under paragraph 1 of Schedule 3 in respect of the land,

the licence holder shall comply with the notice at the end of that period.

(4) Where—

- (a) within the period mentioned in sub-paragraph (3) the licence holder makes an application for the grant of the necessary wayleave under paragraph 10; and
- (b) that application is refused by the Department,

the licence holder shall comply with the notice under sub-paragraph (2) at the end of the period of one month from the date of the Department's decision or such longer period as the Department may specify.

(5) Where—

- (a) within the period mentioned in sub-paragraph (3) the licence holder makes an application for a vesting order under paragraph 1 of Schedule 3 in respect of the land; and
- (b) that order is not made by the Department,

the licence holder shall comply with the notice under sub-paragraph (2) at the end of the period of one month from the date of the Department's decision or such longer period as the Department may specify.

Substations

13.—(1) This paragraph applies where—

- (a) under an agreement made before 1 April 1982, a transformer substation or a switching substation not exceeding 33 kilovolts nominal capacity was installed and kept installed on any land; and
- (b) for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, it is necessary or expedient for a licence holder to keep that substation installed on that land; and
- (c) the agreement—
 - (i) is determined by the expiration of the period specified in the agreement;
 - (ii) is terminated by the owner or occupier of the land in accordance with a term contained in the agreement; or
 - (iii) by reason of a change in the ownership or occupation of the land after the granting of the agreement, ceases to be binding on the owner or occupier of the land.

(2) The owner or occupier of the land may—

- (a) in a case falling within sub-paragraph (1)(c)(i), at any time after or within 3 months before the end of the period specified in the agreement;
- (b) in a case falling within sub-paragraph (1)(c)(ii), at any time after the agreement has been terminated by him; or
- (c) in a case falling within sub-paragraph (1)(c)(iii), at any time after becoming the owner or occupier of the land by virtue of such a change in the ownership or occupation of the land as is mentioned in that sub-paragraph,

give to the licence holder a notice requiring him to remove the substation from the land; but the licence holder shall not be obliged to comply with such a notice except in the circumstances and to the extent provided by the following provisions of this paragraph.

(3) Where—

- (a) within the period of 3 months from the date of the notice under sub-paragraph (2) the licence holder makes an application for a vesting order under paragraph 1 of Schedule 3 in respect of the land; and
- (b) that order is not made by the Department,

the licence holder shall comply with the notice under sub-paragraph (2) at the end of the period of one month from the date of the Department's decision or such longer period as the Department may specify.

(4) Where in compliance with a notice under this paragraph any damage is caused to property by the removal of any substation, the licence holder shall make good or pay compensation in respect of that damage.

(5) Any question of disputed compensation under this paragraph shall be referred to and determined by the Lands Tribunal; and Articles 4 and 5 of the Land Compensation (Northern Ireland) Order 1982 shall apply to any such determination.

Felling and lopping of trees, etc.

14.—(1) This paragraph applies where any tree is or will be in such close proximity to an electric line or electrical plant which is kept installed or is being or is to be installed by a licence holder as—

- (a) to obstruct or interfere with the installation, maintenance or working of the line or plant; or

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(b) to constitute an unacceptable source of danger (whether to children or to other persons); and in this paragraph “the land” means the land on which the tree is growing.

(2) The licence holder may give notice to the occupier of the land requiring him to fell or lop the tree or cut back its roots so as to prevent it from having the effect mentioned in sub-paragraph (1) (a) or (b), subject to the payment to him by the licence holder of the expenses reasonably incurred by him in complying with the notice.

(3) Where the occupier is not also the owner of the land, a copy of any notice under sub-paragraph (2) shall also be served on the owner.

(4) If within 21 days from the giving of a notice under sub-paragraph (2)—

(a) the requirements of the notice are not complied with; and

(b) neither the owner nor occupier of the land gives a counter notice under sub-paragraph (5), the licence holder may cause the tree to be felled or lopped or its roots to be cut back so as to prevent it from having the effect mentioned in sub-paragraph (1)(a) or (b).

(5) If, within 21 days from the giving of a notice under sub-paragraph (2), the owner or occupier of the land gives a counter notice to the licence holder objecting to the requirements of the notice, the matter shall, unless the counter notice is withdrawn, be referred to the Department.

(6) On a reference under sub-paragraph (5), the Department, after giving the parties an opportunity of being heard by a person appointed by the Department, may make such order as the Department thinks just, and any such order—

(a) may empower the licence holder (after giving such notice to any person by whom a counter notice was given of the commencement of the work as the order may direct) to cause the tree to be felled or lopped or its roots to be cut back so as to prevent it from having the effect mentioned in sub-paragraph (1)(a) or (b); and

(b) may determine any question as to what expenses (if any) are to be paid.

(7) Where the licence holder exercises any powers conferred under sub-paragraph (4) or (6), he shall—

(a) cause trees to be felled or lopped or their roots to be cut back in accordance with good arboricultural practice and so as to do as little damage as possible to trees, fences, hedges and growing crops;

(b) cause felled trees, lopped boughs or root cuttings to be removed in accordance with the directions of the owner or occupier.

(8) In this paragraph “tree” includes any shrub and references to felling or lopping, felled trees or lopped boughs shall be construed accordingly.

Entry on land for purposes of exploration

15.—(1) Subject to the following provisions of this paragraph and without prejudice to any other right of entry, for the purpose of ascertaining whether the land would be suitable for use for any purpose connected with the carrying on of the activities which the licence holder is authorised by his licence to carry on, a person authorised in writing by a licence holder may, at any reasonable time, enter the land for the purpose of survey and valuation.

(2) A person authorised to enter upon any land under this paragraph shall not demand to do so as of right unless—

(a) 14 days' notice of the intended entry has been given to the occupier; and

(b) if required to do so, he has produced evidence of his authority.

(3) The powers conferred by this paragraph shall not be exercisable in relation to—

- (a) land which is covered by a dwelling or will be so covered on the assumption that any planning permission which is in force is acted on; or
 - (b) land which is covered by a building (other than a dwelling) or will be so covered on the assumption that any planning permission which is in force is acted on except—
 - (i) with consent given by or on behalf of the occupier of the land; or
 - (ii) where the occupier has refused his consent, with the consent of the Department.
- (4) The power to survey land conferred by this paragraph includes power to search and bore for the purpose of ascertaining the nature of the subsoil; but works may not be carried out on the land for this purpose unless—
- (a) notice of the proposed works is included in the notice given under sub-paragraph (2); and
 - (b) where land is held by statutory undertakers who object to the works on the ground that the carrying out of the works would be seriously detrimental to the carrying on of their undertaking, with the consent of the Department.
- (5) In this paragraph—
- “building”, except in the definition of “dwelling”, includes any garden, yard, outhouses and appurtenances belonging to or usually enjoyed with a building;
- “dwelling” means a building or part of a building occupied, or (if not occupied) last occupied or intended to be occupied, as a private dwelling;
- “statutory undertakers” has the same meaning as in the Planning (Northern Ireland) Order 1991.

Provisions supplementary to paragraphs 14 and 15

16.—(1) Any person who intentionally obstructs a person acting in the exercise of any power conferred by or under paragraph 14 or 15 shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Where in the exercise of any power conferred by or under paragraph 14 or 15 any damage is caused to property the licence holder shall make good or pay compensation in respect of that damage; and where in consequence of the exercise of such a power a person is disturbed in his enjoyment of any property the licence holder shall pay compensation in respect of that disturbance.

(3) Any question of disputed compensation under sub-paragraph (2) shall be referred to and determined by the Lands Tribunal; and Articles 4 and 5 of the Land Compensation (Northern Ireland) Order 1982 shall apply to any such determination.

Modification of paragraphs 2 to 9

17. The provisions of paragraphs 2 to 9 may be modified by regulations.