

## SCHEDULE 7

Article 36

### 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<sup>(1)</sup> (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 Order, or which is held by Network Rail and is appropriated or used (or about to be used) by it for the purposes of this Order or for purposes connected with this Order.

(2) All such other provisions of the 1997 Act as apply for the purposes of the provisions applied by sub-paragraph (1) (including sections 228 to 231<sup>(2)</sup>, which contain provisions consequential on the extinguishment of any rights under sections 224 and 225, and sections 232<sup>(2)</sup> to (4), 233 and 235<sup>(3)</sup>, which provide for the payment of compensation) shall have effect accordingly.

(3) In the provisions of the 1997 Act, as applied by sub-paragraphs (1) and (2)—

- (a) references to the purpose of carrying out any development with a view to which land was acquired or appropriated are references to the purpose of carrying out the authorised works; and
- (b) references to land acquired or appropriated as mentioned in section 224(1) of the 1997 Act are references to land acquired, appropriated or used as mentioned in sub-paragraph (1).

(4) Where any apparatus of a utility undertaker 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 Network Rail compensation in respect of expenditure reasonably incurred by that 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.

(5) Sub-paragraph (4) 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 Network Rail compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the person's drain or sewer communicate with any other public sewer or with a private sewage disposal plant.

(6) The provisions of the 1997 Act mentioned in sub-paragraphs (1) and (2), as applied by those sub-paragraphs, shall not have effect in relation to apparatus as respects which paragraph 2 or Part 4 of the 1991 Act applies.

(7) In this paragraph—

“gas transporter” has the meaning given by section 7(1) of the Gas Act 1986<sup>(4)</sup>;

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(1) Section 224 was amended by [S.I. 1999/1820](#). Sections 225 to 227 were amended by [S.I. 1999/1820](#) and [2003/2155](#).

(2) Sections 228 to 231 were amended by [S.I. 1999/1820](#).

(3) Section 232 was relevantly amended by [S.I. 1999/1820](#) and [2003/2155](#). Section 233 was amended by [S.I.1999/1820](#) and [2003/2155](#). Section 235 was amended by [S.I. 1999/1820](#).

(4) [1986 c.44](#); section 7 was substituted by the Gas Act 1995 ([c.45](#)), section 5, and section 7(1) was amended by the Utilities Act 2000 ([c.27](#)), section 76(2).

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“public communications provider” has the meaning given by section 151(1) of the Communications Act 2003<sup>(5)</sup>; and

“utility undertaker” means a person who is—

- (a) authorised by any enactment to carry on an undertaking for the supply of water;
- (b) a gas transporter; or
- (c) the holder of a licence under section 6 of the Electricity Act 1989<sup>(6)</sup>,

and who is, or is deemed to be, a statutory undertaker within the meaning of section 214 of the 1997 Act<sup>(7)</sup>.

#### *Apparatus of statutory undertakers, etc. in stopped up road*

2.—(1) If Waverley Steps is stopped up under article 8 (permanent stopping up of road) any statutory undertaker whose apparatus is in Waverley Steps shall have the same powers and rights in respect of that apparatus, subject to the provisions of this paragraph, as if this Order had not been made.

(2) Network Rail shall give to any statutory undertaker whose apparatus is in Waverley Steps not less than 28 days’ notice in writing of its intention to stop up Waverley Steps under article 8.

(3) If Waverley Steps is stopped up under article 8 any statutory undertaker whose apparatus is in Waverley Steps may where reasonably necessary for the efficient operation of the undertaking of the statutory undertaker and, if reasonably requested to do so by Network Rail, shall—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the statutory 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 position.

(4) The allowable costs of the relocations 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 Network Rail and the statutory undertaker in such proportions as may be prescribed by any such regulations.

(5) In this paragraph—

“apparatus” has the same meaning as in Part 4 of the 1991 Act<sup>(8)</sup>;

“relocation works” means works executed, or apparatus provided, under sub-paragraph (3); and

“statutory undertaker” has the same meaning as in the 1984 Act<sup>(9)</sup>.

#### *Existing agreements*

3.—(1) Nothing in this Schedule shall affect the operation of any enactment or agreement in force or entered into before the date on which this Order is made and regulating the relations between

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(5) 2003 c.21.

(6) 1989 c.29; section 6 was amended by the Utilities Act 2000 (c.27), section 30 and the Energy Act 2004 (c.20), sections 136(1) and (2) and 145(5) to (7), Schedule 19, paragraph 5 and Schedule 23, Part 1, paragraph 1.

(7) There are amendments to section 214 not relevant to this Order.

(8) For the definition of “apparatus” see sections 148(2) and 164(1) of the 1991 Act.

(9) For the definition of “statutory undertaker” see section 151(1) of the 1984 Act.

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Network Rail and a statutory undertaker in respect of any apparatus laid or erected in land belonging to Network Rail.

(2) In this paragraph—

“statutory undertaker” has the same meaning as in the 1984 Act.