

## SCHEDULE 8

### PROTECTIVE PROVISIONS

#### PART 1

#### FOR PROTECTION OF SPECIFIED UNDERTAKERS

##### *Alternative apparatus*

5.—(1) Where, in accordance with the provisions of this Part of this Schedule, Network Rail affords to a specified undertaker facilities and rights for the construction and maintenance in land of Network Rail of alternative apparatus in substitution for apparatus to be removed, those facilities and rights shall be granted upon such terms and conditions as may be agreed between Network Rail and the specified undertaker or in default of agreement settled by arbitration.

(2) In settling those terms and conditions in respect of the alternative apparatus to be constructed in or along any railway of Network Rail, the arbiter shall—

- (a) give effect to all reasonable requirements of Network Rail for ensuring the safety and efficient operation of the authorised works and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of Network Rail or the operation of its railway undertaking; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to, if any, the terms and conditions applicable to the apparatus constructed in or along the railway for which the alternative apparatus is to be substituted.

(3) If the facilities and rights to be afforded by Network Rail in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbiter less favourable on the whole to the specified undertaker than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbiter shall make such provision for the payment of compensation by Network Rail to that undertaker as appears to the arbiter to be reasonable having regard to all the circumstances of the particular case.