

SCHEDULE 8

PROTECTIVE PROVISIONS

PART 1

FOR PROTECTION OF SPECIFIED UNDERTAKERS

Removal of apparatus

4.—(1) If, in the exercise of the powers conferred by this Order, Network Rail acquires any interest in any land in which any apparatus is placed, that apparatus shall not be removed under this Part of this Schedule and any right of a specified undertaker to maintain that apparatus in that land shall not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the specified undertaker.

(2) If, for the purpose of constructing any works in, on or under any land purchased, held, appropriated or used under this Order, Network Rail requires the removal of any apparatus placed in that land, it shall give to the specified undertaker notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a specified undertaker reasonably needs to remove any of its apparatus) Network Rail shall, subject to sub-paragraph (3), afford to the specified undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of Network Rail and thereafter for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of Network Rail, or Network Rail is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the specified undertaker shall, on receipt of a notice to that effect from Network Rail, forthwith use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of Network Rail under this Part of this Schedule shall be constructed in such manner and in such line or situation as may be agreed between the specified undertaker and Network Rail or in default of agreement settled by arbitration.

(5) The specified undertaker shall, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration, and after the grant to the specified undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed with all reasonable despatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by Network Rail to be removed under the provisions of this Part of this Schedule.

(6) Notwithstanding anything in sub-paragraph (5), if Network Rail gives notice to the specified undertaker that it desires itself to execute any part of so much of the work necessary in connection with the construction of the alternative apparatus, or the removal of the apparatus required to be removed, as will take place in any land of Network Rail, that work, instead of being executed by the specified undertaker, shall be executed by Network Rail with all reasonable despatch under the superintendence, if given, and to the reasonable satisfaction of the specified undertaker.

(7) Nothing in sub-paragraph (6) shall authorise Network Rail to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.