

SCHEDULES

SCHEDULE 10

PROTECTIVE PROVISIONS IN RESPECT OF CERTAIN UNDERTAKINGS

PART II

FURTHER PROTECTIVE PROVISIONS IN RESPECT OF SEWERAGE POWERS

Protection for airports, railways etc.

5.—(1) Subject to the provisions of this paragraph, nothing in the relevant sewerage provisions shall authorise a sewerage undertaker, without the consent of the Civil Aviation Authority or, as the case may be, of the airport operator or railway undertaking (“the body concerned”), to carry out any works along, across or under—

- (a) any property of the Civil Aviation Authority;
- (b) an airport to which Article 25 of the Airports (Northern Ireland) Order 1994 applies; or
- (c) any railway of any railway undertaking.

(2) A consent under this paragraph shall not be unreasonably withheld.

(3) Any dispute as to whether or not consent under this paragraph is unreasonably withheld shall be referred, if either party so require, to the arbitration of a single arbitrator appointed by agreement between the parties or, in default of agreement, by the President of the Institution of Civil Engineers.

(4) Upon an arbitration under this paragraph, the arbitrator shall determine—

- (a) whether any works which the sewerage undertaker proposes to carry out are such works as under this paragraph the undertaker is not entitled to carry out without the consent of the body concerned;
- (b) if they are such works, whether the injury, if any, to the body concerned will be of such a nature as to admit of being fully compensated by money; and
- (c) if the works are of such a nature, the conditions subject to which the sewerage undertaker may carry out the works, including the amount of the compensation (if any) to be paid by the sewerage undertaker to the body concerned.

(5) The sewerage undertaker in question shall not proceed to carry out any proposed works if, on an arbitration under this paragraph, the arbitrator determines—

- (a) that the proposed works are such works as the sewerage undertaker is not entitled to carry out without the consent of the body concerned; and
- (b) that the works would cause injury to the body concerned of such a nature as not to admit of being fully compensated by money,

but, in any other case, the sewerage undertaker may carry out the works subject to compliance with such conditions, including the payment of such compensation, as the arbitrator may have determined.

(6) Nothing in this paragraph shall be construed as limiting the powers of a sewerage undertaker under this Order in respect of the opening and the breaking up of streets and bridges for the purpose of constructing, laying and maintaining sewers, drains and pipes.

Saving for Part I and other powers

6. The provisions of this Part of this Schedule are without prejudice to the provisions of Part I of this Schedule or to any power conferred on a sewerage undertaker otherwise than by the relevant sewerage provisions.