

SCHEDULES

SCHEDULE 33

PROTECTIVE PROVISIONS

PART 2

ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

- 24 (1) This paragraph applies where, in accordance with the provisions of this Part, the nominated undertaker or the Secretary of State affords to the undertakers facilities and rights for the construction, maintenance, repair, renewal and inspection of alternative apparatus on land—
- (a) held or used, or intended for use, by the nominated undertaker for the purposes of its undertaking under this Act, or
 - (b) held by the Secretary of State.
- (2) Those facilities and rights must be granted upon such terms and conditions as may be—
- (a) agreed between the nominated undertaker or, as the case may be, the Secretary of State, and the undertakers, or
 - (b) in default of agreement, determined in accordance with paragraph 31.
- (3) In determining such terms and conditions in respect of alternative apparatus, a person making a determination under paragraph 31 must have regard to any template provisions issued by the appropriate Ministers and determined in accordance with sub-paragraph (4); and must—
- (a) give effect to all reasonable requirements of the nominated undertaker for ensuring the safety and efficient operation of the works authorised by this Act and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of the nominated undertaker or the use of the same, and
 - (b) have regard to the undertakers' ability to fulfil their service obligations.
- (4) For the purposes of determining the matters under sub-paragraph (3) the appropriate Ministers must consult the undertakers to which paragraph 24 may apply on the form of the proposed template provisions, and any objections to the form of those provisions which have not been resolved within six months after this Act comes into force must be referred to an independent person acting as an expert appointed to make a final determination as to the form of the template provisions.
- (5) The independent person making a determination under sub-paragraph (4) is to be appointed by the President of the Royal Institution of Chartered Surveyors and in making that determination that person must have regard to the matters specified in sub-paragraph (3)(a) and (b).

Status: This is the original version (as it was originally enacted).

- (6) If the facilities and rights to be afforded by the nominated undertaker or the Secretary of State in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are more or less favourable on the whole to the undertakers than the facilities, rights, terms and conditions applying to the apparatus to be removed, compensation must be paid to or by the nominated undertaker or the Secretary of State to or by the undertakers in respect of the difference as is reasonable having regard to all the circumstances of the case.
- (7) In this paragraph “the appropriate Ministers” means the Secretary of State for Transport acting jointly with the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State for Business, Energy and Industrial Strategy.