

SCHEDULES

SCHEDULE 33

PROTECTIVE PROVISIONS

PART 5

LAND DRAINAGE, FLOOD DEFENCE, WATER RESOURCES AND FISHERIES

- 55 (1) Subject to sub-paragraph (5) the nominated undertaker must from the commencement of the construction of the specified works maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation and on land held by the nominated undertaker for the purposes or in connection with the specified works, whether the drainage work is constructed under this Act or is already in existence.
- (2) If any such drainage work is not maintained to the reasonable satisfaction of the drainage authority, the drainage authority may by notice require the nominated undertaker to repair and restore the work, or any part of it, or (if the nominated undertaker so elects and the drainage authority in writing consents, such consent not to be unreasonably withheld or delayed), to remove the drainage work and restore the site to its former condition, to such extent and within such limits as the drainage authority reasonably requires.
- (3) If, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the nominated undertaker, the nominated undertaker has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the drainage authority may do what is necessary for such compliance and may recover any expenditure reasonably incurred by it in so doing from the nominated undertaker.
- (4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the drainage authority must not except in a case of emergency exercise the powers of sub-paragraph (3) until the dispute has been finally determined.
- (5) This paragraph does not apply to—
- (a) drainage works which are vested in the drainage authority, or which the drainage authority or another person is under an obligation to maintain and is not prescribed by the powers of the Act from doing so;
 - (b) any obstruction of a drainage work for the purpose of a work or operation authorised by the Act and carried out in accordance with the provisions of this Part.