

## SCHEDULES

### SCHEDULE 10

#### PROTECTION OF CERTAIN PERSONS

#### PART 4

##### PROTECTION OF TELECOMMUNICATIONS UNDERTAKERS

**45.**—(1) The provisions of this Part of this Schedule shall have effect for the protection of each of the bodies referred to in this Part unless, in the case of any such body, it is otherwise agreed in writing between the undertaker and the body concerned.

(2) In this Part of this Schedule—

“BT” means British Telecommunications PLC;

“C&W” means Cable & Wireless UK;

“installation” shall include construction and “construct” shall be construed accordingly; and

“public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003<sup>(1)</sup>.

**46.** The temporary stopping up or diversion of any street under article 8 shall not affect any right of a public communications provider under paragraph 9 of the Electronic Communications Code (the “Code”), contained in Schedule 2 to the Telecommunications Act 1984<sup>(2)</sup> as amended by Schedule 3 to the Communications Act 2003, in respect of any apparatus which at the time of the temporary stopping up or diversion is in that street.

**47.** If BT or C&W suffer damage in consequence of the construction, use or failure of the authorised works or any subsidence resulting from the works, the undertaker shall pay the cost reasonably incurred by BT or C&W respectively in making good such damage, and shall indemnify BT or C&W against claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by BT or C&W by reason or in consequence of any such damage, but—

(a) nothing in this paragraph shall impose any liability on the undertaker with respect to any damage to the extent that such damage is attributable to any act or omission of BT or C&W, their officers, servants, contractors or other agents; and

(b) BT and C&W shall give to the undertaker reasonable notice of any claim, demand or proceedings and shall make no settlement or compromise thereof without the consent of the undertaker, such consent not to be unreasonably withheld.

**48.** Nothing in this Order shall affect any right of a public communications provider under the Code.

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(1) 2003 c. 21.

(2) 1984 c. 12. Schedule 2 was amended by the New Roads and Street Works Act 1991, Schedule 8, paragraphs 113 to 117 and the Communications Act 2003.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.