

SCHEDULES

SCHEDULE 2

PROVISIONS RELATING TO STATUTORY UNDERTAKERS, ETC.

PART 1

APPARATUS OF STATUTORY UNDERTAKERS, ETC. ON LAND ACQUIRED

1. Subject to the following provisions of this Part of this Schedule, sections 271 to 274 of the 1990 Act (power to extinguish rights of statutory undertakers, etc. and power of statutory undertakers, etc. to remove or re-site apparatus) shall apply in relation to any land acquired or appropriated by the Company under this Order; and all such other provisions of that Act as apply for the purposes of those provisions (including sections 275 to 278, which contain provisions consequential on the extinguishment of any rights under sections 271 and 272, and sections 279(2) to (4), 280 and 282 which provide for the payment of compensation) shall have effect accordingly.

2. In the provisions of the 1990 Act, as applied by paragraph 1, references to the appropriate Minister are references to the Secretary of State.

3. Where any apparatus of public utility undertakers or of an electronic communications code operator or former PTO is removed in pursuance of a notice or order given or made under section 271, 272 or 273 of the 1990 Act, as applied by paragraph 1, any person who is the owner or occupier of premises to which a supply was given from that apparatus shall be entitled to recover from the Company compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

4. Paragraph 3 shall not apply in the case of the removal of a public sewer but where such a sewer is removed in pursuance of such a notice or order as is mentioned in that paragraph, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer, or
- (b) the owner of a private sewer which communicated with that sewer,

shall be entitled to recover from the Company compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of making his drain or sewer communicate with any other public sewer or with a private sewage disposal plant.

5. The provisions of the 1990 Act mentioned in paragraph 1, as applied by that paragraph, shall not have effect in relation to apparatus as respects which Part 3 of the New Roads and Street Works Act 1991(1) applies.

6. In this Part of this Schedule—

“the 1990 Act” means the Town and Country Planning Act 1990(2);

(1) 1991 c. 22.
(2) 1990 c. 8.

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

“the 2003 Act” means the Communications Act 2003⁽³⁾;

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system shall be construed in accordance with paragraph 1(3A) of that code;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act;

“electronic communications code network” means—

- (a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and
- (b) an electronic communications network which the Secretary of State or a Northern Ireland department is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act;

“electronic communications network” and “electronic communications service” each has the same meaning as in the 2003 Act;

“former PTO” means a person—

- (a) who is a provider of a public electronic communications network or a public electronic communications service which, immediately before the date on which the repeal by the 2003 Act of section 7 of the Telecommunications Act 1984⁽⁴⁾ comes into force, was designated as a public telecommunication system under section 9 of that Act; and
- (b) who, immediately before that date, was authorised to provide that network or service by a licence to which section 8 of that Act applied;

“operator”, in relation to an electronic communications code network, means—

- (a) the electronic communications code operator providing that network; or
- (b) the Secretary of State or a Northern Ireland department, to the extent that they are providing or proposing to provide that network;

“owner”, in relation to land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of land (whether in possession or reversion) and includes a person holding, or entitled to the rents and profits of, the land under a lease or tenancy having an unexpired term exceeding 3 years;

“provide” and cognate expressions, in relation to an electronic communications network, an electronic communications service or associated facilities, are to be construed in accordance with section 32(4) of the 2003 Act;

“public electronic communications network” and “public electronic communications service” each has the same meaning as in Chapter 1 of Part 2 of the 2003 Act;

“public utility undertakers” has the same meaning as in the Highways Act 1980⁽⁵⁾.

(3) 2003 c. 21.
(4) 1984 c. 12.
(5) 1980 c. 66.