

## SCHEDULES

### SCHEDULE 5

Article 31

#### FOR PROTECTION OF ENVIRONMENT AGENCY

1.—(1) For the protection of the Environment Agency (in this Schedule referred to as “the Agency”), the following provisions have effect unless otherwise agreed in writing between the undertaker and the Agency.

(2) Before carrying out any works under the powers of this Order involving the erection or raising of any obstruction to the flow of any watercourse which is not part of a main river within the meaning of section 113 of the Water Resources Act 1991<sup>(1)</sup> or the construction, alteration or replacement of any culvert or any structure designed to contain or divert the flow of any such watercourse in, under or through any land held for the purposes of or in connection with the authorised works, the undertaker must furnish to the Agency proper and sufficient plans thereof for the approval of the Agency and must not carry out the said works until the said plans have been approved in writing by the Agency.

(3) The approval of plans furnished under paragraph (2) is not to be unreasonably withheld and if, within two months of such plans being supplied to the Agency, the Agency does not indicate in writing its disapproval and the grounds of its disapproval, it will be deemed to have approved the plans as supplied.

(4) For the purposes of this paragraph, “plans” (“*planiau*”) includes sections, drawings, specifications, calculations and descriptions.

(5) Any culvert or any structure designed to contain or divert the flow of any watercourse being a culvert or structure situated within any land held by the undertaker for purposes of or in connection with the authorised works, whether constructed under the powers of this Order or in existence prior to the making hereof, must be maintained by the undertaker in good repair and condition and free from obstruction.

(6) Nothing in paragraph (5) has the effect of requiring the undertaker to carry out works of maintenance in respect of any culvert or structure which the Agency or any other person are liable to maintain.

(7) If any obstruction is erected or raised or any culvert is constructed, altered or replaced in contravention of this article, the undertaker must, upon receiving notice from the Agency, take such action as may be necessary to remedy the effect of the contravention to the Agency’s reasonable satisfaction and in default the Agency may itself take such action as may be necessary and recover the expenses reasonably incurred by it in doing so from the undertaker as a debt from them to the Agency.

(8) Any difference arising between the undertaker and the Agency under this Schedule (other than a difference as to its meaning or construction) is to be determined by arbitration.

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(1) 1991 c. 57.