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SCHEDULES

SCHEDULE 5

Section 57.

PROTECTIVE PROVISIONS

FOR PROTECTION OF HIGHWAY AUTHORITIES

1 For the protection of highway authorities the following provisions shall, unless otherwise agreed in writing between the Corporation and the relevant highway authority, have effect:—

(1) In this paragraph—

“highway” means any highway vested in or repairable or maintainable by a highway authority;

“specified works” means so much of the authorised works as may in any way affect any highway:

(2) Notwithstanding anything in this Act or shown on the deposited plans, the Corporation shall not purchase compulsorily any estate or interest in land vested in a highway authority for highway purposes but they may purchase such easements or other rights in land of a highway authority in accordance with the provisions of section 30 (Power to acquire new rights) of this Act as they may reasonably require for the purposes of the specified works:

(3) The Corporation shall give to the highway authority not less than 28 days' notice in writing of their intention permanently to stop up and discontinue any highway under the powers of this Act:

(4) The Corporation shall not exercise the powers of section 23 (Underpinning of houses near works) of this Act, so as to interfere with any highway except with the consent of the highway authority, which consent shall not be unreasonably withheld or delayed:

(5) Before commencing the construction of any of the specified works, the Corporation shall submit plans, sections and particulars relating thereto to the relevant highway authority for their approval, which shall not be unreasonably withheld, and, notwithstanding anything shown on the deposited plans and the deposited sections, the work to which those plans, sections and particulars relate shall not be constructed otherwise than in accordance with such plans, sections and particulars as may be approved by the highway authority, or, if such approval be refused, as may be settled by arbitration:

Provided that, if within 56 days after the submission to them of plans, sections and particulars in accordance with the provisions of this sub-paragraph the highway authority do not signify their approval or disapproval thereof and the grounds for such disapproval, they shall be deemed to have approved thereof:

(6) (a) Before commencing to construct any part of the specified works which will involve interference with a highway the Corporation shall consult the highway authority as to—

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- (i) when that part shall be commenced;
 - (ii) the extent of the surface of the highway which it may be reasonably necessary for the Corporation to occupy in the construction of that part; and
 - (iii) the conditions under which that part shall be constructed so as to reduce so far as possible inconvenience to the public and to ensure the safety of the public;
- and such part shall not be constructed and the surface of the highway shall not be occupied by the Corporation except at the time, to the extent and in accordance with such reasonable conditions as may be agreed between the Corporation and the highway authority or, in default of agreement, as may be settled by arbitration;
- (b) Any such highway shall be reinstated by the Corporation in a manner approved by the highway authority, which approval shall not be unreasonably withheld, and to their reasonable satisfaction:
- (7) Any part of the construction of the specified works which may involve interference with a highway shall be carried out under the supervision (if given) and to the reasonable satisfaction of the highway authority:
 - (8) The Corporation shall, at all reasonable times during the construction of any part of the specified works, afford to the engineer of the relevant highway authority or his duly authorised representatives access to that part of the specified works for the purposes of inspection:
 - (9) The Corporation shall keep highway authorities indemnified against all actions, costs, claims and demands whatsoever brought or made against them by any person in respect of loss or damage caused by, or in consequence of the construction of any of the specified works and the fact that any act or thing may have been done in accordance with plans, sections and particulars approved by a highway authority or in accordance with any requirement of a highway authority or under their supervision shall not (if it was done without negligence on the part of the highway authority) excuse the Corporation from liability under the provisions of this paragraph:
- Provided that a highway authority shall give to the Corporation reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Corporation:
- (10) The Corporation shall repay to a highway authority all costs, charges and expenses reasonably incurred by the highway authority for the examination of the plans, sections and particulars submitted to the highway authority under this paragraph in relation to any of the specified works:
 - (11) Any differences arising between the Corporation and a highway authority under this paragraph shall be referred to and settled by arbitration.

FOR PROTECTION OF ELECTRICITY, GAS AND WATER UNDERTAKERS

- 2 For the protection of the several undertakers referred to in this paragraph, the following provisions shall, unless otherwise agreed in writing between the Corporation and the undertakers concerned, have effect:—

- (1) In this paragraph—

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“adequate alternative apparatus” means alternative apparatus adequate to enable the undertakers to fulfil their statutory functions in a manner not less efficient than previously;

“apparatus” means—

(a) in the case of electricity undertakers, electric lines or electrical plant (as defined in the Electricity Act 1989) belonging to or maintained by such undertakers; or

(b) in the case of gas or water undertakers, any mains, pipes or other apparatus belonging to or maintained by such undertakers; and includes any building, structure or works for the lodging therein of apparatus;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

“the undertakers” means a licence holder under Part I of the Electricity Act 1989, a public gas supplier within the meaning of Part I of the Gas Act 1986 or a water undertaker within the meaning of the Water Industry Act 1991 or any of such bodies; and, in relation to any apparatus, means the undertakers to whom it belongs or by whom it is maintained:

(2) Notwithstanding the temporary stopping up or diversion of any street under section 18 (Temporary stoppage of streets) of this Act, the undertakers shall be at liberty at all times to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable them to inspect, repair, maintain, renew, remove or use any apparatus which at the time of the stopping up or diversion was in that street:

(3) The Corporation, in the case of the powers conferred by section 23 (Underpinning of houses near works) of this Act, shall, so far as is reasonably practicable, so exercise those powers as not to obstruct or render less convenient the access to any apparatus and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of the undertakers or any interruption in the supply of electricity, gas or water, as the case may be, by the undertakers shall be caused, the Corporation shall bear and pay the cost reasonably incurred by the undertakers in making good such damage or restoring the supply; and shall—

(a) make reasonable compensation to the undertakers for any loss sustained by them; and

(b) indemnify the undertakers against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the undertakers;

by reason or in consequence of any such damage or interruption:

Provided that—

(i) nothing in this sub-paragraph shall impose any liability on the Corporation with respect to any damage or interruption to the extent that such damage or interruption may be attributable to the act, neglect or default of the undertakers or their contractors or workmen;

(ii) the undertakers shall give to the Corporation reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Corporation:

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- (4) Notwithstanding anything in section 24 (Use of sewers, etc., for removing water) of this Act, no use shall be made by the Corporation in the construction of the works of pumping or other like modes of removing water except where reasonably necessary or in case of emergency or unforeseen accident or for the purpose of removing rainwater or other small amounts of water:
- (5) Notwithstanding anything in this Act or shown on the deposited plans the Corporation shall not acquire any apparatus under the powers of this Act otherwise than by agreement:
- (6) If the Corporation, in the exercise of the powers of this Act, acquire any interest in any land in which any apparatus is placed, that apparatus shall not be removed under this paragraph and any right of the undertakers to maintain, repair, renew or inspect that apparatus in that land shall not be extinguished until adequate alternative apparatus shall have been constructed and be in operation to the reasonable satisfaction of the undertakers:
- (7) If the Corporation, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Act, require the removal of any apparatus placed in that land, and shall give to the undertakers written notice of such requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed so as to provide adequate alternative apparatus in lieu of the apparatus to be removed, or, if in consequence of the exercise of any of the powers of this Act the undertakers shall reasonably require to remove any apparatus, the Corporation shall afford to the undertakers the necessary facilities and rights for the construction of such alternative apparatus in other land of the Corporation and thereafter for the maintenance, repair, renewal and inspection of such apparatus:

Provided that, if the alternative apparatus or any part thereof is to be constructed elsewhere than in other land of the Corporation, or the Corporation are unable to afford such facilities and rights as aforesaid in the land in which the alternative apparatus or such part thereof is to be constructed, the undertakers shall, on receipt of a written notice to that effect from the Corporation, forthwith use their best endeavours to obtain the necessary facilities and rights in such last-mentioned land:

- (8)
 - (a) Any alternative apparatus to be constructed in land of the Corporation under this paragraph shall be constructed in such manner and in such line or situation as may be agreed between the undertakers and the Corporation or in default of agreement determined by arbitration;
 - (b) The undertakers shall, after the alternative apparatus to be provided or constructed shall have been agreed or determined by arbitration as aforesaid and after the grant to the undertakers of any such facilities and rights as are referred to in sub-paragraph (7) above, proceed with all reasonable dispatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the Corporation to be removed under the provisions of this paragraph:
- (9) Notwithstanding anything in sub-paragraph (8) above, if the Corporation give notice in writing to the undertakers that they desire themselves to execute any part of so much of the work necessary in connection with the construction of the alternative apparatus, or the removal of the apparatus required to be removed, as will be situate in any land of the Corporation, such work, in lieu of being executed by the

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undertakers, shall be executed by the Corporation with all reasonable dispatch under the superintendence, if given, and to the reasonable satisfaction of the undertakers:

Provided that nothing in this sub-paragraph shall authorise the Corporation to execute the actual placing, installation, bedding, packing, removal connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus:

- (10) Where, in accordance with the provisions of this paragraph, the Corporation afford to the undertakers facilities and rights for the construction, maintenance, repair, renewal and inspection in land of the Corporation of alternative apparatus in substitution for apparatus to be removed as aforesaid, those facilities and rights shall be granted upon such terms and conditions as may be agreed between the Corporation and the undertakers or in default of agreement determined by arbitration:

Provided that—

- (a) in determining such terms and conditions as aforesaid in respect of alternative apparatus to be constructed in or along any railways of the Corporation, the arbitrator shall—
- (i) give effect to all reasonable requirements of the Corporation for ensuring the safety and efficient operation of the railway 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 Corporation or the traffic on the railway; and
 - (ii) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions applicable to the apparatus, if any, constructed in or along the railway for which the alternative apparatus is to be substituted;
- (b) if the facilities and rights to be afforded by the Corporation in respect of any alternative apparatus and the terms and conditions subject to which the same are to be granted are in the opinion of the arbitrator less favourable on the whole to the undertakers than the facilities and rights enjoyed by them in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator shall make such provision for the payment of compensation by the Corporation to the undertakers in respect thereof as appear to him to be reasonable having regard to all the circumstances of the particular case:
- (11) (a) Not less than 28 days before commencing to execute any such works as are referred to in sub-paragraph (7) above and are near to or will or may affect any apparatus the removal of which has not been required by the Corporation under the said sub-paragraph (7), the Corporation shall submit to the undertakers a plan, section and description of the works to be executed;
- (b) Such works shall be executed only in accordance with the plan, section and description submitted as aforesaid and in accordance with such reasonable requirements as may be made by the undertakers for the alteration or otherwise for the protection of the apparatus or for securing access thereto and the undertakers shall be entitled by their officer to watch and inspect the execution of such works:

Provided that—

- (i) if the undertakers within 14 days after the submission to them of any such plan, section and description, in consequence of the works

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proposed by the Corporation, reasonably require the removal of any apparatus and give written notice to the Corporation of such requirement, the foregoing provisions of this paragraph shall have effect as if the removal of such apparatus had been required by the Corporation under the said sub-paragraph (7);

(ii) nothing in sub-paragraph (11)(b) shall preclude the Corporation from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any such works, a new plan, section and description thereof in lieu of the plan, section and description previously submitted, and thereupon the provisions of sub-paragraph (11)(b) shall apply to and in respect of such new plan, section and description;

(c) The Corporation shall not be required to comply with sub-paragraph (11)(a) above in a case of emergency but in such a case they shall give to the undertakers notice as soon as reasonably practicable and a plan, section and description of the works as soon as reasonably practicable thereafter and shall comply with sub-paragraph (11)(b) above so far as reasonably practicable in the circumstances:

(12) Where, in consequence of this Act, any part of any highway in which any apparatus is situate ceases to be part of a highway the undertakers may exercise the same rights of access to such apparatus as they enjoyed immediately before the passing of this Act, but nothing in this sub-paragraph shall prejudice or affect any right of the Corporation or of the undertakers to require removal of such apparatus under this paragraph or the power of the Corporation to execute works in accordance with sub-paragraph (11) above:

(13) Subject to sub-paragraph (14) below the Corporation shall pay to the undertakers the costs, charges and expenses reasonably incurred by the undertakers in or in connection with the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in sub-paragraph (7) above, less the value of any apparatus removed under the provisions of this paragraph (such value being calculated after removal) and shall also make compensation to the undertakers—

- (a) for any damage caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal in accordance with the provisions of this paragraph); and
- (b) for any other expenses, loss, damages, penalty or costs incurred by the undertakers;

in consequence of the execution, maintenance, use or failure of any such works or otherwise in consequence of the exercise by the Corporation of the powers of this Act:

(14) If in pursuance of the provisions of this paragraph—

- (a) alternative apparatus of better type, or greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, or smaller capacity or of smaller dimensions, except where this has been solely due to using the nearest currently available type, capacity or dimension, or
- (b) apparatus (whether existing apparatus or alternative apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

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and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the Corporation, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of works under sub-paragraphs (8) and (9) exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the undertakers by virtue of sub-paragraph (13) above shall be reduced by the amount of that excess:

- (15) For the purposes of sub-paragraph (14) above—
- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus, and
 - (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined:
- (16) An amount which apart from this sub-paragraph would be payable to the undertakers in respect of works by virtue of sub-paragraph (13) above (and having regard, where relevant, to sub-paragraph (14) above) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7½ years earlier so as to confer on the undertakers any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit as calculated in accordance with the Code of Practice entitled “Measures Necessary Where Apparatus is Affected by Major Works (Diversionary Works)” and dated June 1992, and approved by the Secretary of State on 30th June 1992 as revised and reissued from time to time:
- (17) Where, in consequence of the stopping up of any highway under the powers of this Act, any apparatus belonging to the undertakers and laid or placed in such highway or elsewhere is rendered derelict or unnecessary, the Corporation shall pay to the undertakers the then value of such apparatus (which shall thereupon become the property of the Corporation) and the reasonable costs of and incidental to the cutting off of such apparatus from any other apparatus, and of and incidental to the execution or doing of any works or things rendered necessary or expedient by reason of such apparatus being so rendered derelict or unnecessary:
- Provided that the Corporation shall not under the provisions of this sub-paragraph be required to pay to the undertakers the value of any apparatus rendered derelict or unnecessary if, to the reasonable satisfaction of the undertakers, other apparatus has at the expense of the Corporation been provided and laid and made ready for use in substitution for the apparatus so rendered derelict or unnecessary:
- (18) Any difference arising between the Corporation and the undertakers under this paragraph shall be determined by arbitration:
- (19) Nothing in this paragraph shall be deemed to prejudice or affect the provisions of any enactment or agreement regulating the relations between the Corporation and the undertakers in respect of any apparatus laid or erected in land belonging to the Corporation at the date of the passing of this Act:
- (20) Nothing in this paragraph shall apply—

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- (a) in relation to street works (within the meaning of Part III of the New Roads and Street Works Act 1991) executed by the Corporation; or
- (b) in relation to apparatus in respect of which the relations between the Corporation and the undertakers are regulated by that Part of the Act.

FOR PROTECTION OF THAMES WATER UTILITIES LIMITED

3 For the protection of Thames Water Utilities Limited (hereinafter called “the sewerage undertakers”) the following provisions shall, unless otherwise agreed in writing between the Corporation and the sewerage undertakers, have effect:—

(1) In this paragraph—

“construction” includes execution, placing and altering and, in relation to temporary works, includes removal and “construct” and “constructed” shall be construed accordingly;

“new, altered or substituted works” includes any works required for the protection of any sewer;

“sewer” means a sewer or part of a sewer, including a public sewer, within the meaning of the Water Industry Act 1991 and includes any manholes, ventilating shafts, pumps or other accessories belonging to or forming part of a sewer;

“specified work” means so much of the authorised works and of any work (whether temporary or permanent) forming part of, or constructed in connection with, the authorised works, or any of them, as will or may be situated over or within 15 metres measured in any direction of, or (wherever situated) impose any load directly upon, any sewer, and includes the construction, maintenance or renewal of any such works:

(2) The Corporation shall not commence any specified work until they shall have given to the sewerage undertakers 56 days' previous notice in writing of their intention to commence the same, by leaving such notice at the principal office of the sewerage undertakers with plans as described in sub-paragraph (7) below (in this paragraph referred to as “the said plans”), and until the sewerage undertakers shall have signified their approval of the said plans:

Provided that such approval shall not be unreasonably withheld and if, within 56 days after the submission of the said plans, the sewerage undertakers have not approved or disapproved them, they shall be deemed to have approved the said plans:

(3) The Corporation shall comply with and conform to all reasonable orders, directions and regulations of the sewerage undertakers in the construction of any specified work and shall provide new, altered or substituted works in such manner as the sewerage undertakers shall reasonably require for the proper protection of, and for preventing injury or impediment to, a sewer of the sewerage undertakers by reason of any specified work and shall save harmless the sewerage undertakers against all expenses to be occasioned thereby:

(4) The specified works and all such new, altered or substituted works shall be constructed by or under the direction, superintendence and control of an officer of the sewerage undertakers duly appointed for the purpose at the cost, charge and expense in all respects of the Corporation; and all reasonable costs, charges and expenses to which the sewerage undertakers may be put by reason of such works, whether in the execution thereof, in the preparation or examination of plans or designs or in

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such direction, superintendence or control as aforesaid shall be paid to the sewerage undertakers by the Corporation on demand:

- (5) When any such new, altered or substituted works or any work of defence connected therewith shall be completed by or at the cost of the Corporation under the provisions of this paragraph, the same shall thereafter be as fully and completely under the direction, jurisdiction and control of the sewerage undertakers as any sewers or works now or hereafter may be:
- (6) Nothing in this Act shall extend to prejudice, diminish, alter or take away any of the rights, powers or authorities vested or to be vested in the sewerage undertakers in relation to sewers but all such rights, powers and authorities shall be as valid and effectual as if this Act had not been passed:
- (7) The plans to be submitted to the sewerage undertakers for the purposes of this paragraph shall be detailed plans, drawings, sections and specifications which shall describe the exact position and manner in which, and the level at which, any specified work is proposed to be constructed and shall accurately describe the position of all sewers of the sewerage undertakers within the limits of deviation (for which purpose the sewerage undertakers shall allow the Corporation access to plans in their possession and, under their supervision, to any of their sewers, in order to enable the Corporation to obtain reliable information) and shall comprise detailed drawings of every alteration which the Corporation may propose to make in any such sewers:
- (8) The sewerage undertakers may require such modifications to be made in the said plans as may be reasonably necessary to secure the sewerage system of the sewerage undertakers against interference or risk of damage and to provide and secure a proper and convenient means of access to the sewers of the sewerage undertakers:
- (9) The Corporation shall indemnify the sewerage undertakers against all claims, demands, costs, expenses, damages or loss which may be made on or against the sewerage undertakers or which the sewerage undertakers may incur or have to pay or which they may sustain in consequence of the construction, maintenance or renewal of a specified work or of the failure or want of repair thereof or any subsidence caused by the construction of any specified work or in consequence of any act or omission of the Corporation, their contractors, agents, workmen or servants, whilst engaged upon the specified work:

Provided that—

- (i) the sewerage undertakers shall give to the Corporation reasonable notice of any such claim or demand as aforesaid and no settlement or compromise thereof shall be made without the agreement of the Corporation; and
 - (ii) nothing in this sub-paragraph shall impose any liability on the Corporation with respect to any claim, demand, costs, expenses, damage or loss which is attributable to the act, neglect or default of the sewerage undertakers or their agents, contractors, employees or workmen:
- (10) If, in the construction of any specified work, or any new, altered or substituted works, or any work of defence connected therewith provided in accordance with this paragraph, the Corporation damage or, without the consent of the sewerage undertakers, in any way interfere with any sewer of the sewerage undertakers, the Corporation shall—
 - (a) pay to the sewerage undertakers a capitalised sum representing any additional expense which may be expected to be reasonably incurred by the sewerage undertakers in the maintenance, management or renewal of any

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new, altered or substituted work which may be necessary in consequence of the said construction taking into account any betterment; and

- (b) give to the sewerage undertakers full, free and uninterrupted access at all times to any such new, altered or substituted work or to any such sewer and every reasonable facility for the inspection, maintenance, alteration and repair thereof:

(11) Notwithstanding the temporary stopping up or diversion of any street under the powers of section 18 (Temporary stoppage of streets) of this Act, the sewerage undertakers shall be at liberty at all times to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable them to inspect, repair, maintain, renew, remove or use any sewer which at the time of the stopping up or diversion was in that street:

(12) In the exercise of the powers of section 23 (Underpinning of houses near works) of this Act, the Corporation shall not, so far as reasonably practicable, obstruct or render less convenient the access to any sewer of the sewerage undertakers and, if by reason or in consequence of the exercise of those powers any damage to any sewer (other than a sewer the repair of which is not reasonably necessary in view of its intended removal or abandonment) shall be caused, the Corporation shall bear and pay the cost reasonably incurred by the sewerage undertakers in making good such damage and shall—

- (a) make reasonable compensation to the sewerage undertakers for any loss sustained by them; and
- (b) indemnify the sewerage undertakers against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the sewerage undertakers;

by reason or in consequence of any such damage:

Provided that—

- (i) nothing in this sub-paragraph shall impose any liability on the Corporation with respect to any damage to the extent that such damage may be attributable to the act, neglect or default of the sewerage undertakers or their agents, contractors, employees or workmen;
- (ii) the sewerage undertakers shall give to the Corporation reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Corporation:

(13) (a) If in the construction of any new, altered or substituted works under this paragraph—

- (i) a sewer of better type or greater capacity is placed in substitution for an existing sewer of worse type or smaller capacity, except where this has been solely due to using the nearest currently available type or capacity, or
- (ii) a sewer (whether an existing sewer or a sewer substituted for an existing sewer) is placed at a depth greater than the depth at which the existing sewer was,

and the placing of a sewer of that type or capacity or the placing of a sewer at that depth, as the case may be, is not agreed by the Corporation, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the construction of the new, altered or substituted works exceeding that which would have been involved if the apparatus placed had

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- been of the existing type or capacity, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the sewerage undertakers by virtue of sub-paragraphs (4) and (10) above shall be reduced by the amount of that excess:
- (b) For the purposes of sub-paragraph (13) (a) above an extension of a sewer to a length greater than the length of an existing sewer shall not be treated as a placing of a sewer of greater dimensions than those of the existing sewer:
 - (c) An amount which apart from this sub-paragraph would be payable to the sewerage undertakers in respect of any new, altered or substituted works by virtue of sub-paragraphs (4) and (10) above (and having regard, where relevant, to sub-paragraph (13) (a) above) shall, if the works include the placing of a sewer provided in substitution for a sewer placed more than 7½ years earlier so as to confer on the sewerage undertakers any financial benefit by deferment of the time for renewal of the sewer in the ordinary course, be reduced by the amount which represents that benefit as calculated in accordance with the Code of Practice entitled “Measures Necessary Where Apparatus is Affected by Major Works (Diversionary Works)” and dated June 1992, and approved by the Secretary of State on 30th June 1992 as revised and reissued from time to time:
- (14) It shall be lawful for an officer of the sewerage undertakers duly appointed for the purpose at any reasonable time and, if required by the Corporation, under their supervision to enter upon and inspect any specified work or any other works constructed under the powers of this Act, for which purpose the Corporation shall allow to any such officer access over any other works or land of the Corporation:
- (15) The fact that any specified work has been constructed in accordance with a plan approved or not objected to by the sewerage undertakers or to their satisfaction or in accordance with any directions or award of an arbitrator shall not relieve the Corporation from any liability under the provisions of this paragraph:
- (16) As soon as reasonably practicable after the completion of the construction of a specified work the Corporation shall deliver to the sewerage undertakers a plan and section showing the position and level of that work as constructed and all new, altered or substituted works provided under this paragraph:
- (17) Any difference arising between the Corporation and the sewerage undertakers under this paragraph shall be referred to and settled by arbitration but the Corporation and the sewerage undertakers shall use their best endeavours to ensure that proceedings before an arbitrator commence in every case within seven days of the Corporation or the sewerage undertakers registering a failure to agree:
- (18) Nothing in this paragraph shall apply—
- (a) in relation to street works (within the meaning of Part III of the New Roads and Street Works Act 1991) executed by the Corporation; or
 - (b) in relation to apparatus in respect of which the relations between the Corporation and the sewerage undertakers are regulated by that Part of that Act.

FOR PROTECTION OF TELECOMMUNICATIONS OPERATORS

- 4 For the protection of telecommunications operators the following provisions shall, unless otherwise agreed in writing between the Corporation and the telecommunications operator concerned, have effect:—

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- (1) In this paragraph unless the contrary intention appears expressions defined in the Telecommunications Act 1984 have the same meanings as in that Act and—
- “apparatus” has the same meaning as in Part III of the New Roads and Street Works Act 1991; and
- “relocation works” means works executed, or apparatus provided, under sub-paragraph (5) below:
- (2) The temporary stopping up or diversion of any street under section 18 (Temporary stoppage of streets) of this Act shall not affect any right of a telecommunications operator under paragraph 9 of the telecommunications code (contained in Schedule 2 to the Telecommunications Act 1984) to inspect, maintain, adjust, repair or alter any apparatus which, at the time of the stopping up or diversion, is in that street:
- (3) Where a street is stopped up, diverted or substituted under section 19 (Stopping up streets without providing substitute) or section 20 (Stopping up streets in case of diversion or substitution) of this Act any telecommunications operator whose apparatus is under, in, upon, over, along or across the street shall have the same powers and rights in respect of that apparatus, subject to the provisions of this paragraph, as if this Act had not been passed:
- (4) The Corporation shall give not less than 28 days' notice in writing of their intention to stop up, divert or substitute any street under section 19 (Stopping up streets without providing substitute) or section 20 (Stopping up streets in case of diversion or substitution) of this Act to any telecommunications operator whose apparatus is under, in, upon, over, along or across the street:
- (5) Where a notice under sub-paragraph (4) above has been given, the telecommunications operator may, and if reasonably requested so to do by the Corporation in the notice, shall, as soon as reasonably practicable from the service of the notice—
- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the telecommunications operator may reasonably determine and have power to place it, or
 - (b) provide other apparatus in substitution for the existing apparatus and place it in such position as aforesaid:
- (6) Subject to the following provisions of this paragraph, the Corporation shall pay to any telecommunications operator an amount equal to the cost reasonably incurred by the telecommunications operator in or in connection with—
- (a) the execution of relocation works required in consequence of the stopping up, diversion or substitution of the street, and
 - (b) the doing of any other work or thing rendered necessary by the execution of relocation works:
- (7) If in the course of the execution of relocation works under sub-paragraph (5) above—
- (a) apparatus of better type, or greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, or smaller capacity or of smaller dimensions, except where this has been solely due to using the nearest currently available type, capacity or dimension, or
 - (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

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and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the Corporation, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this paragraph would be payable to the telecommunications operator by virtue of sub-paragraph (6) above shall be reduced by the amount of that excess.

- (8) For the purposes of sub-paragraph (7) above—
- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as placing of apparatus of greater dimensions than those of the existing apparatus, and
 - (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined:
- (9) An amount which apart from this sub-paragraph would be payable to a telecommunications operator in respect of works by virtue of sub-paragraph (6) above (and having regard, where relevant, to sub-paragraph (7) above) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7½ years earlier so as to confer on the telecommunications operator any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit as calculated in accordance with the Code of Practice entitled “Measures Necessary Where Apparatus is Affected by Major Works (Diversionary Works)” and dated June 1992, and approved by the Secretary of State on 30th June 1992 as revised and reissued from time to time.
- (10) Sub-paragraphs (6) to (9) above shall not apply where the authorised works constitute major transport works for the purposes of Part III of the New Roads and Street Works Act 1991, but instead—
- (a) the allowable costs of the relocation works shall be determined in accordance with section 85 of that Act (sharing of costs of necessary measures) and any regulations for the time being having effect under that section, and
 - (b) the allowable costs shall be borne by the Corporation and the telecommunications operator in such proportions as may be prescribed by any such regulations.

FOR PROTECTION OF NATIONAL RIVERS AUTHORITY

5 For the protection of the National Rivers Authority (in this paragraph referred to as “the river authority”) the following provisions shall, unless otherwise agreed in writing between the Corporation and the rivers authority, have effect;—

- (1) In this paragraph—
- “construction” includes execution, placing and altering and, in relation to temporary works, includes removal; and “construct” and “constructed” have corresponding meanings;
 - “drainage work” means any watercourse and includes any land used for providing flood storage capacity for any watercourse and any bank, wall,

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embankment or other structure or appliance constructed or used for defence against water;

“plans” includes sections, drawings, specifications and method statements;

“specified work” means so much of any permanent or temporary work or operation authorised by this Act (other than works required in an emergency) as is situated in, on, under, over or within 8 metres of a drainage work; and

“watercourse” has the meaning given in section 72 of the Land Drainage Act 1991;

- (2) (a) Before beginning to construct any specified work, the Corporation shall submit to the rivers authority plans of the work and such further particulars available to them as the rivers authority may reasonably require;
- (b) Any such specified work shall not be constructed except in accordance with such plans as may be approved in writing by the rivers authority, or settled in accordance with sub-paragraph (10) below;
- (c) Any approval of the rivers authority required under this paragraph—
 - (i) shall not be unreasonably withheld;
 - (ii) shall be deemed to have been given if it is neither given nor refused in writing and with a statement of the grounds for refusal within two months of the submission of plans for approval;
 - (iii) may be given subject to such reasonable requirements as the rivers authority may impose for the protection of any drainage work or water resources for the prevention of flooding and water pollution and in the discharge of its environmental and recreational duties:
- (3) Without prejudice to the generality of sub-paragraph (2) above, the requirements which the rivers authority may impose under that sub-paragraph include conditions requiring the Corporation at their own expense to construct such protective works whether temporary or permanent during the construction of the specified works (including the provision of flood banks, walls or embankments and other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary to safeguard any drainage work against damage or to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased by reason of any specified work:
- (4) Any specified work, and all protective works required by the rivers authority under sub-paragraph (2) above, shall be constructed to the reasonable satisfaction of the rivers authority and the rivers authority shall be entitled by its officer to watch and inspect the construction of such works:
- (5) If by reason of the construction of any specified work the efficiency of any drainage work for flood defence purposes is impaired or that work is damaged, such impairment or damage shall be made good by the Corporation to the reasonable satisfaction of the rivers authority and, if the Corporation fail to do so, the rivers authority may make good the same and recover from the Corporation the expense reasonably incurred by it in so doing:
- (6) The Corporation shall indemnify the rivers authority in respect of all reasonable costs, charges and expenses which the rivers authority may reasonably incur or have to pay or which it may sustain—
 - (a) in the examination or approval of plan under this paragraph;

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- (b) in the inspection of the construction of the specified works or any protective works required by the rivers authority under this paragraph:
- (7) (a) Without prejudice to other provisions of this paragraph the Corporation shall indemnify the rivers authority from all claims, demands, proceedings, costs, damages or expenses or loss which may be made or taken against, or recovered from or incurred by, the rivers authority by reason of—
- (i) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence; or
 - (ii) any raising of the water table in land adjoining the works or any sewers, drains and watercourses; or
 - (iii) any flooding or increased flooding of any such lands; or
 - (vi) inadequate water quality in any watercourse or other surface waters or in groundwater;
- which is caused by the construction of any of the works or any act or omission of the Corporation, their contractors, agents, workmen or servants whilst engaged upon any such work;
- (b) The rivers authority shall give to the Corporation reasonable notice of any such claim or demand and no settlement or compromise thereof shall be made without the agreement of the Corporation:
- (8) The fact that any work or thing has been executed or done in accordance with a plan approved or deemed to be approved by the rivers authority, or to its satisfaction, or in accordance with any directions or award of an arbitrator, shall not relieve the Corporation from any liability under the provisions of this paragraph:
- Provided that this sub-paragraph shall not apply to the extent that such liability arises from a failure by the rivers authority properly to perform its functions:
- (9) For the purposes of section 109 of the Water Resources Act 1991 (as to structures in, over or under watercourses) as applying to the construction of any authorised work, any consent or approval given or deemed to be given by the rivers authority under this paragraph with respect to such construction shall be deemed also to constitute a consent or approval under that section:
- (10) Any difference arising between the Corporation and the rivers authority under this paragraph (other than a difference as to its meaning or construction) shall be referred to and settled by arbitration.

FOR PROTECTION OF CERTAIN PROPERTIES AT GRAVEL HILL

- 6 The Corporation may enter into agreements to purchase any land pursuant to any direction of, or any undertaking given to, a Parliamentary Committee during the passage through Parliament of the Bill for this Act; and any such agreement may provide for the purchase price payable for that land to be equal to the amount of the compensation that would have been payable if the Corporation had been authorised to acquire the land compulsorily under Part III of this Act and had served a notice to treat in respect of that land.

FOR PROTECTION OF CERTAIN PROPERTIES AT WADDON NEW ROAD

- 7 The Council may enter into agreements to purchase any land pursuant to any direction of, or any undertaking given to, a Parliamentary Committee during the

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passage through Parliament of the Bill for this Act; and any such agreement may provide for the purchase price payable for that land to be equal to the amount of the compensation that would have been payable if the Council had been authorised to acquire the land compulsorily under Part III of this Act and has served a notice to treat in respect of that land.