

## SCHEDULES

### SCHEDULE 10

#### PROTECTIVE PROVISIONS IN RESPECT OF CERTAIN UNDERTAKINGS

#### PART I

#### PROVISIONS APPLYING GENERALLY

##### *General provisions protecting undertakings*

1.—(1) Nothing in this Order conferring power on a relevant undertaker to carry out any works shall confer power to do anything, except with the consent of the persons carrying on an undertaking protected by this paragraph, which, whether directly or indirectly, so interferes or will so interfere—

- (a) with works or property vested in or under the control of the persons carrying on that undertaking, in their capacity as such; or
- (b) with the use of any such works or property,

as to affect injuriously those works or that property or the carrying on of that undertaking.

(2) A consent for the purposes of sub-paragraph (1) may be given subject to reasonable conditions but shall not be unreasonably withheld.

(3) Subject to the following provisions of this Schedule, any dispute—

- (a) as to whether anything done or proposed to be done interferes or will interfere as mentioned in sub-paragraph (1);
- (b) as to whether any consent for the purposes of this paragraph is being unreasonably withheld; or
- (c) as to whether any condition subject to which any such consent has been given was reasonable,

shall be referred to the arbitration of a single arbitrator to be appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers.

(4) The following are the undertakings protected by this paragraph—

- (a) the undertaking of the Civil Aviation Authority;
- (b) the undertaking of any relevant undertaker;
- (c) the undertaking of a universal postal provider within the meaning of the Postal Services Act 2000 (c. 26);
- (d) any undertaking consisting in the provision of an electronic communications network;
- (e) any airport to which Article 25 of the [Airports \(Northern Ireland\) Order 1994 \(NI 1\)](#) applies;
- (f) the undertaking of any person who holds a licence under Chapter 1 of Part 1 of the Transport Act 2000 (c. 38);

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Water and Sewerage Services (Northern Ireland) Order 2006 No. 3336*

- (g) the undertaking of any person holding a licence under Article 8 of the Gas (NI) Order 1986 (NI 2) or Article 10 of the [Electricity \(Northern Ireland\) Order 1992 \(NI 1\)](#);
- (h) the undertaking of any navigation authority or harbour authority;
- (i) the undertaking of DARD in connection with its functions under the Drainage Order and the Lough Neagh Drainage Acts (Northern Ireland) 1955 and 1970;
- (j) any railway undertaking.