



# Tamar Bridge Act 1998

## 1998 CHAPTER iv

### PART V

#### MISCELLANEOUS

#### **37 For protection of tele-communications operators**

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

- (1) In this section 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 Act of 1991; and
  - “relocation works” means works executed, or apparatus provided, under paragraph (5) below:
- (2) The temporary stopping up or diversion of any street under section 24 (Temporary interference with highways) 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 or diverted under section 20 (Supplementary works powers) 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 section, as if this Act had not been passed:
- (4) The Authorities shall give not less than 28 days' notice in writing of their intention to stop up or divert any street under section 20 (Supplementary works powers) of this Act to any telecommunications operator whose apparatus is under, in, upon, over, along or across the street:

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- (5) Where a notice under paragraph (4) above has been given, the telecommunications operator may, and if reasonably requested so to do by the Authorities 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 section, the Authorities 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 or diversion 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 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;
- 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 Authorities, 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 section would be payable to the telecommunications operator by virtue of paragraph (6) above shall be reduced by the amount of that excess:
- (8) For the purposes of 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 paragraph would be payable to a telecommunications operator in respect of works by virtue of paragraph (6) above (and having regard, where relevant, to 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:

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- (10) Paragraphs (6) to (9) above shall not apply where—
- (a) the works constitute major bridge works for the purposes of Part III of the Act of 1991; or
  - (b) the works would if executed by the highway authority be major highway works within the definition of that Act;
- but instead—
- (i) 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
  - (ii) the allowable costs shall be borne by the Authorities and the telecommunications operator in such proportions as may be prescribed by any such regulations;
- (11) References in paragraph (10) above to section 85 of the Act of 1991 and regulations having effect thereunder are to that Act and any such regulations as having effect in accordance with section 3 (Application of the Act of 1991) of this Act.