

SCHEDULES

SCHEDULE 2

SUPPLEMENTARY PROVISIONS AS TO THE SCHEDULED WORKS AND OTHER AUTHORISED WORKS

PART II

REGULATION OF SCHEDULED WORKS AND SUBSIDIARY PROVISIONS

SECTION A

PROVISIONS APPLICABLE TO CONCESSIONAIRES

Use of electrical energy

- 3 (1) The following provisions of this paragraph shall apply in respect of the use of electrical energy for the purposes of Works Nos. 3,4 and 5 (in this section referred to as "the authorised railway").
- (2) All reasonable precautions shall be taken in constructing, placing and maintaining electric lines and circuits, and in working the authorised railway, to prevent—
- (a) injurious affection (by the discharge of electrical currents into the ground, fusion or electrolytic action) of any gas or water pipes, electric lines or other metallic pipes, structures or substances; or
 - (b) interference with, or with the working of, any wire, line or apparatus used for the purpose of transmitting electrical energy or of telecommunications.
- (3) The Secretary of State may make regulations under this paragraph for regulating the use of electrical energy for the operation of the authorised railway, including regulations—
- (a) for preventing injurious affection (by the discharge of electrical currents into the ground, fusion or electrolytic action) of gas or water pipes, electric lines or other metallic pipes, structures or substances; and
 - (b) for minimising, so far as is reasonably practicable, interference with, and with the working of, electric wires, lines and other apparatus whether such apparatus does, or does not, use the earth as a return.
- (4) All reasonable precautions against interference with, or with the working of, any wire, line or apparatus shall be deemed to have been taken if and so long as use is made of either such insulated returns, or of such uninsulated metallic returns of low resistance and of such other means of preventing injurious interference with, and with the working of, electric wires, lines and apparatus, as may be prescribed by the said regulations; and in prescribing such means the Secretary of State shall have regard to the expense involved in relation to the protection afforded.

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- (5) The provisions of this paragraph shall not give any right of action in respect of injurious interference with, or with the working of, any electric wire, line or apparatus, or the currents therein, unless in the construction, erection, maintaining and working of such wire, line or apparatus all reasonable and proper precautions, including the use of an insulated return, have been taken to minimise injurious interference therewith, and with the currents therein, by or from other electric currents.
- (6) If any difference arises between the Concessionaires and any other person with respect to anything in the foregoing provisions of this paragraph, the difference shall, unless the parties otherwise agree, be determined by the Secretary of State or, at his option, by an arbitrator to be appointed by him, and the costs of such determination shall be in the discretion of the Secretary of State or of the arbitrator, as the case may be.
- (7) The power to make regulations conferred on the Secretary of State by this paragraph shall be exercisable by statutory instrument.
- (8) In this paragraph reference to an insulated return includes a reference to a return by means of a combined neutral and earth cable which is covered by a sheath suitable for protection against corrosion and is approved for use below ground by the Secretary of State for the purpose of any regulations relating to the supply of electricity.

Concessionaires' subsidiary works

- 4 (1) The Concessionaires may, for the purposes of or in connection with their scheduled works, do any of the following things within the limits of deviation for those works, that is to say—
 - (a) make, provide and maintain all such approaches, bridges, subways, interchanges, roundabouts, lifts, stairs, escalators, ramps, passages, means of access, shafts, stagings, buildings, apparatus, plant and machinery as may be necessary or convenient;
 - (b) make junctions and communications (including the provision of steps or ramps for the use of persons on foot) with any existing highway or access way intersected or interfered with by, or contiguous to, any of those works, and widen or alter the line or level of any existing highway or access way for the purpose of connecting it with any of those works or another highway, or of crossing under or over the existing highway or access way;
 - (c) construct, provide and maintain all such embankments, aprons, abutments, retaining walls, wing walls, culverts and other works as may be necessary or convenient;
 - (d) carry out any works, and do any things necessary, for the protection of any adjoining land;
 - (e) alter or remove any structure erected upon any highway or adjoining land and plant trees, shrubs or other vegetation; and
 - (f) raise, sink or otherwise alter the position of any of the steps, areas, cellars, boundary-walls, railings, fences, windows, sewers, drains, watercourses, pipes, spouts or wires of, or connected with, any building, and remove any other obstruction.
- (2) The Concessionaires shall pay compensation for any damage done in exercise of the powers conferred by this paragraph.

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- (3) Any question of disputed compensation payable under the provisions of this paragraph shall be determined under and in accordance with Part I of the Land Compensation Act 1961.

Use of lagoon for drainage

- 5 (1) Subject to the requirements of sub-paragraph (2) below, the Concessionaires may—
- (a) raise, lower or regulate the water, or the level or flow of water, in the Seabrook Stream in such manner as may be necessary or expedient for the construction, maintenance or operation of the drainage lagoon (Work No. 16); and
 - (b) discharge water from the lagoon into the stream at a point immediately below the embankment by which that work is formed.
- (2) In the construction of that embankment, and thereafter in the maintenance and operation of that work, the Concessionaires shall take such steps as may be necessary to ensure compliance with the requirement that the rate at which water is discharged from that work into the stream is never more than such maximum rate nor less than such minimum rate as may be agreed between the Concessionaires and the Southern Water Authority or, in default of agreement or on notice being given by the Secretary of State to the Concessionaires and the water authority, shall be determined by him; and in the exercise of any of the powers of sub-paragraph (1) above the Concessionaires shall comply with such conditions as may be so agreed or determined.
- (3) Before agreeing rates of discharge or conditions under sub-paragraph (2) above the water authority shall consult the Nature Conservancy Council, the Shepway District Council and the Kent County Council.
- (4) For the purposes of the Water Resources Act 1963 the provisions of this Act authorising the construction, maintenance and operation of the drainage lagoon shall be treated as if contained in a licence to construct impounding works granted to the Concessionaires subject to the requirement, and to any conditions relating to the exercise of the powers of sub-paragraph (1)(a) above, agreed or determined under sub-paragraph (2) above.
- (5) For the purposes of Part II of the Control of Pollution Act 1974 the discharge of water under sub-paragraph (1)(b) above shall be treated as if made with the consent of the water authority given in pursuance of that Act subject to such conditions relating to the discharge as may be agreed or determined under sub-paragraph (2) above.
- (6) In any proceedings for failure to comply with any such requirement or condition as is mentioned in sub-paragraph (4) above, it shall be a defence to prove that the failure was wholly or mainly attributable to exceptional shortage of rain, frost, accident or other unavoidable cause.

Safety of lagoon

- 6 For the purposes of the Reservoirs Act 1975 (which makes special provision about the construction, use, alteration and inspection of large reservoirs), the drainage lagoon (Work No. 16) shall be treated as a large raised reservoir within the meaning of that Act.