

*Status: Point in time view as at 01/04/2013.*

*Changes to legislation: There are currently no known outstanding effects for the Water Resources Act 1991, Cross Heading: Special protection for certain undertakings in respect of street works. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 22

#### PROTECTION FOR PARTICULAR UNDERTAKINGS

##### **Modifications etc. (not altering text)**

**C1** Sch. 22 applied (1.12.1991) by [Land Drainage Act 1991 \(c. 59, SIF 73:1\)](#), **ss. 67(2), 76(2)**

##### *Special protection for certain undertakings in respect of street works*

- 3 (1) Subject to the following provisions of this paragraph and without prejudice to the other provisions of this Schedule, the powers under the street works provisions to break up or open a street shall not be exercisable where the street, not being a highway maintainable at public expense (within the meaning of the <sup>M1</sup>Highways Act 1980)—
- (a) is under the control or management of, or is maintainable by, a railway company or a navigation authority; or
  - (b) forms part of a level crossing belonging to such a company or authority or to any other person,
- except with the consent of the company or authority or, as the case may be, of the person to whom the level crossing belongs.
- (2) Sub-paragraph (1) above shall not apply to any exercise of the powers conferred by the street works provisions for the carrying out of emergency works, within the meaning of Part III of the <sup>M2</sup>New Roads and Street Works Act 1991.
- (3) A consent given for the purposes of sub-paragraph (1) above may be made subject to such reasonable conditions as may be specified by the person giving it but shall not be unreasonably withheld.
- (4) Any dispute—
- (a) as to whether a consent for the purposes of sub-paragraph (1) above should be given or withheld; or
  - (b) as to whether the conditions to which any such consent is made subject are reasonable,
- shall be referred to the arbitration of a single arbitrator appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers.
- (5) If the [<sup>F1</sup>appropriate agency] contravenes, without reasonable excuse, the requirements of sub-paragraph (1) above, it shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (6) The restrictions contained in paragraphs (1) to (5) of section 32 of the <sup>M3</sup>Tramways Act 1870 (protection of tramways) shall apply in relation to any exercise of a power conferred by the street works provision s—

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- (a) as they apply in relation to the powers mentioned in that section; and
  - (b) as if references in that section to a tramway included references to a trolley vehicle system.
- (7) In this paragraph “the street works provisions” means sections 159 and 162(2) of this Act.
- (8) Until the coming into force of section 52 of the New Roads and Street Works Act 1991, sub-paragraph (2) above shall have effect as if the reference to Part III of that Act were a reference to the <sup>M4</sup>Public Utilities Street Works Act 1950; but nothing in this sub-paragraph shall be taken to prejudice the power of the Secretary of State under that Act of 1991 to make an order bringing that section 52 into force on different days for different purposes (including the purposes of this paragraph).

#### **Textual Amendments**

- F1** Words in Sch. 22 para. 3(5) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 314(2)** (with Sch. 7)

#### **Marginal Citations**

- M1** 1980 c. 66.  
**M2** 1991 c. 22.  
**M3** 1870 c. 78.  
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