

## SCHEDULES

### SCHEDULE 33

#### PROTECTIVE PROVISIONS

##### PART 2

##### ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

- 18 (1) The following provisions of this Part have effect, unless otherwise agreed in writing between the nominated undertaker, or the Secretary of State as the case may be, and the undertakers concerned.

- (2) In this Part—

“alternative apparatus” means alternative apparatus adequate to enable the undertakers to fulfil their functions as effectively as is achievable using the apparatus which the alternative apparatus is to replace;

“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;
- (b) in the case of gas undertakers, mains, pipes or other apparatus belonging to, or maintained by, a gas transporter for the purposes of the conveyance or storage of gas;
- (c) in the case of water undertakers—
  - (i) mains, pipes or other apparatus belonging to, or maintained by, such undertakers for the purposes of water supply; and
  - (ii) any water mains or service pipes (or part of a water main or service pipe) that is the subject of an agreement to adopt made under section 51A of the Water Industry Act 1991;
- (d) in the case of sewerage undertakers—
  - (i) any sewer, drain or works vested in a sewerage undertaker under the Water Industry Act 1991 and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or work; and
  - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act;

and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“construction” includes execution, placing, altering, replacing, relaying and removal and, in its application to works which include or comprise any operation, means the carrying out of that operation;

---

*Status: This is the original version (as it was originally enacted).*

---

“functions” includes powers and duties;

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

“plans” includes sections and method statements;

“removed” and “removal” in a context referring to the removal of apparatus includes the disconnection and abandonment of apparatus where the retention of decommissioned apparatus would not affect the construction and use of the works authorised by this Act;

“service obligations” means any service obligation imposed on the undertakers by or under the enactments authorising them to carry on their respective undertakings;

“undertakers” means any of the following, namely, a licence holder within the meaning of Part 1 of the Electricity Act 1989, a gas transporter within the meaning of Part 1 of the Gas Act 1986, a water undertaker within the meaning of the Water Industry Act 1991, a sewerage undertaker within Part 1 of that Act and any local authority which is a relevant authority for the purposes of section 97 of that Act; and, in relation to any apparatus, means the undertaker to whom it belongs or by whom it is maintained.

- (3) Except in paragraphs 26(3) and 27, the provisions of this Part are not to apply to any apparatus in respect of which the relations between the nominated undertaker and the undertakers are regulated by the provisions of Part 3 of the New Roads and Street Works Act 1991.
- (4) The exercise of the powers under paragraphs 2 to 6 of Schedule 2 in relation to apparatus to which this Part applies is subject to paragraph 25 of this Part, and paragraphs 28 and 29 of this Part apply instead of paragraph 14 of Schedule 2 in relation to the exercise of those powers.