

SCHEDULES

SCHEDULE 2

Section 2(4)

WORKS

Authority to survey and investigate land etc

- 1 (1) The nominated undertaker may for the purposes of this Act—
- (a) survey or investigate land which is within the Act limits or which may be affected by the works authorised by this Act;
 - (b) take steps to protect or remove any flora or fauna on land which may be affected by the works authorised by this Act.
- (2) The nominated undertaker may, in connection with the exercise of the powers under sub-paragraph (1), enter—
- (a) land within the Act limits, or
 - (b) land which may be affected by the works authorised by this Act.
- (3) The land referred to in sub-paragraph (2)(a) or (b) need not be the same as the land in relation to which the powers under sub-paragraph (1) are being or are to be exercised.
- (4) The power under sub-paragraph (1)(a) includes power to monitor the effectiveness of landscaping or other measures which have been taken to mitigate the adverse effects of the construction, maintenance or operation of the works authorised by this Act.
- (5) The following provisions of Part 7 of the Housing and Planning Act 2016 apply in relation to the exercise of the powers conferred by sub-paragraphs (1) and (2) as they apply in relation to the exercise of the power conferred by section 172(1) of that Act to enter and survey or value land—
- section 172(2), (3) and (5) (right to enter and survey land);
 - section 173 (warrant authorising use of force to enter and survey land);
 - section 174 (notice of survey and copy of warrant);
 - section 175 (enhanced authorisation procedures etc for certain surveys);
 - section 176 (right to compensation after entry on or survey of land);
 - section 177 (offences in connection with powers to enter land).
- (6) In the application of the provisions specified in sub-paragraph (5)—
- (a) references to the acquiring authority are to be read as references to the nominated undertaker;
 - (b) references to—
 - (i) a person authorised in writing by the acquiring authority, or
 - (ii) a person exercising or seeking to exercise the power conferred by section 172(1) of the Housing and Planning Act 2016,are to be read as references to the nominated undertaker or (as the case may be) to a person authorised to exercise any of the powers conferred by sub-paragraphs (1) and (2) on the nominated undertaker's behalf;

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- (c) where the person exercising or seeking to exercise the power is the nominated undertaker, section 172(3)(a) is to be read as if it required the nominated undertaker to produce evidence of authority to exercise the power in question.

Support of buildings and apparatus etc

- 2 (1) The nominated undertaker may support or strengthen a building within 50 metres of any of the works authorised by this Act if—
- (a) it is necessary or expedient, in consequence of or for the purposes of or in connection with the construction of the work, for the building to be supported or strengthened, and
 - (b) the nominated undertaker gives at least 8 weeks' notice to the owners and occupiers of the building of its intention to support or strengthen it.
- (2) If, within 21 days of the giving of a notice under sub-paragraph (1)(b), the person to whom the notice has been given gives to the nominated undertaker notice disputing that the condition in sub-paragraph (1)(a) is met, the dispute must be referred to arbitration.
- (3) If—
- (a) on a referral under sub-paragraph (2) the arbitrator decides that the condition in sub-paragraph (1)(a) is met, and
 - (b) one of the parties to the dispute so requires,
- the arbitrator must prescribe how the supporting or strengthening is to be carried out.
- (4) Where the supporting or strengthening of a building under this paragraph cannot be carried out reasonably conveniently without entering land adjacent to the building, the nominated undertaker may, on giving at least 14 days' notice to the owners and occupiers of the adjacent land, enter the land (but not any building on it) and carry out the work.
- (5) In case of emergency, the power under sub-paragraph (1) or (4) is exercisable without notice.
- (6) For the purpose of deciding whether or how to exercise its powers under this paragraph, the nominated undertaker may enter and survey—
- (a) any building within 50 metres of any of the works authorised by this Act, or
 - (b) any land adjacent to such a building (but not any building on any such land).
- (7) Before exercising the power under sub-paragraph (6), the nominated undertaker must give at least 14 days' notice to the owners and occupiers of the building or land of its intention to enter and survey the building or land.
- (8) The nominated undertaker may, in connection with the exercise of the power under this paragraph to support or strengthen a building, place and leave (temporarily or permanently) any equipment or material in, next to or under the building or on or under land in the vicinity of the building.
- 3 (1) The nominated undertaker may, at any time within the permitted period, further support or strengthen a building which has been supported or strengthened under paragraph 2 if—

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- (a) it is necessary or expedient, in consequence of or for the purposes of or in connection with the construction of any of the works authorised by this Act, for the building to be further supported or strengthened, and
 - (b) the nominated undertaker gives at least 8 weeks' notice to the owners and occupiers of the building of its intention further to support or strengthen it.
- (2) In sub-paragraph (1), “the permitted period” is the period beginning with the completion of the supporting or strengthening under paragraph 2 and ending 5 years after the date on which the work which necessitated the supporting or strengthening was brought into general use.
- (3) If, within 21 days of the giving of a notice under sub-paragraph (1)(b), the person to whom the notice has been given gives to the nominated undertaker notice disputing that the condition in sub-paragraph (1)(a) is met, the dispute must be referred to arbitration.
- (4) If—
- (a) on a referral under sub-paragraph (3), the arbitrator decides that the condition in sub-paragraph (1)(a) is met, and
 - (b) one of the parties to the dispute so requires,
- the arbitrator must prescribe how the supporting or strengthening is to be carried out.
- (5) Where the supporting or strengthening of a building under this paragraph cannot be carried out reasonably conveniently without entering land adjacent to the building, the nominated undertaker may, on giving at least 14 days' notice to the owners and occupiers of the adjacent land, enter the land (but not any building on it) and carry out the work.
- (6) In case of emergency, the power under sub-paragraph (1) or (5) is exercisable without notice.
- (7) For the purpose of deciding whether or how to exercise its powers under this paragraph, the nominated undertaker may enter and survey—
- (a) any building which has been supported or strengthened under paragraph 2, or
 - (b) any land adjacent to such a building (but not any building on any such land).
- (8) Before exercising the power under sub-paragraph (7), the nominated undertaker must give at least 14 days' notice to the owners and occupiers of the building or land of its intention to enter and survey the building or land.
- (9) Paragraph 2(8) (power to place and leave equipment or material) applies for the purposes of this paragraph.
- 4 (1) The nominated undertaker may, for a purpose mentioned in sub-paragraph (2), affix movement-measuring apparatus to a building within 50 metres of any of the works authorised by this Act on giving at least 8 weeks' notice to the owners and occupiers of the building of its intention to do so.
- (2) The purposes referred to in sub-paragraph (1) are—
- (a) determining the extent of any movement in the building;
 - (b) determining the effectiveness of support or strengthening work in respect of the building under paragraph 2 or 3.
- (3) In a case where movement-measuring apparatus is to be affixed inside a building, the notice under sub-paragraph (1) must state that fact.

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- (4) If, within 21 days of the giving of the notice under sub-paragraph (1), the person to whom the notice has been given gives to the nominated undertaker notice objecting to the affixing of movement-measuring apparatus (generally or in relation to how or where it is affixed), the question must be referred to arbitration.
- (5) Where, on a referral under sub-paragraph (4), the arbitrator decides that movement-measuring apparatus may be affixed to the building, the arbitrator must, if the nominated undertaker or the person who made the objection so requires, prescribe how or where the affixing of the apparatus is to be carried out.
- (6) Where the affixing of movement-measuring apparatus under this paragraph cannot be carried out reasonably conveniently without entering land adjacent to the building, the nominated undertaker may, on giving at least 14 days' notice to the owners and occupiers of the adjacent land, enter the land (but not any building on it) and carry out the affixing.
- (7) The nominated undertaker may—
- (a) maintain, repair or alter the position of movement-measuring apparatus affixed under sub-paragraph (1);
 - (b) take readings or data from any such apparatus.
- (8) In case of emergency, the power under sub-paragraph (1) or (6) is exercisable without notice.
- (9) For the purpose of deciding whether or how to exercise its powers under this paragraph, the nominated undertaker may enter and survey—
- (a) any building within 50 metres of any of the works authorised by this Act, or
 - (b) any land adjacent to such a building (but not any building on any such land).
- (10) In this paragraph, “movement-measuring apparatus” means apparatus for use in measuring any movement in a building or the ground on which a building is erected.
- 5 (1) The nominated undertaker may replace, support or strengthen apparatus belonging to a utility undertaker, or relevant pipe-line belonging to a person other than a utility undertaker, where—
- (a) the apparatus or pipe-line is within 50 metres of any of the works authorised by this Act (“the relevant work”), and
 - (b) the conditions specified in sub-paragraph (2) are met.
- (2) Those conditions are that—
- (a) it is necessary or expedient, in consequence of or for the purposes of or in connection with the construction of the relevant work, for the apparatus or pipe-line to be replaced, supported or strengthened,
 - (b) the nominated undertaker gives at least 8 weeks' notice to the owner of the apparatus or pipe-line of its intention to replace, support or strengthen it, and
 - (c) where the nominated undertaker proposes to replace the apparatus or pipe-line, the replacement apparatus or pipe-line is likely to operate at least as effectively as the apparatus or pipe-line which is proposed to be replaced.
- (3) Paragraphs 2(2) to (8), 3 and 4 apply to the exercise of the power under sub-paragraph (1) as they apply to the exercise of the power under paragraph 2(1), subject to the modifications specified in sub-paragraph (4).
- (4) Those modifications are that—

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- (a) references to a building are to be read as references to the apparatus or pipe-line (and references to the support or strengthening of a building are to be read as references to the replacement, support or strengthening of the apparatus or pipe-line);
- (b) references to the owners and occupiers of a building are to be read as references to the owner of the apparatus or pipe-line;
- (c) references to land adjacent to a building are to be read, in the case of apparatus or a pipe-line situated below the surface of the ground, as including land above the site of the apparatus or pipe-line;
- (d) in paragraph 2—
 - (i) the reference in sub-paragraph (2) to a notice under sub-paragraph (1)(b) is to be read as a reference to a notice under sub-paragraph (2)(b) of this paragraph,
 - (ii) references to the condition in sub-paragraph (1)(a) are to be read as references to the conditions in sub-paragraph (2)(a) and (if applicable) (c) of this paragraph, and
 - (iii) in sub-paragraph (8), the reference to placing or leaving equipment or material in, next to or under the building or on or under land in the vicinity of the building were to placing and leaving equipment or material on any land above, next to or below the site of the apparatus or pipe-line, or on or under land in the vicinity of that site.

(5) In this paragraph, “relevant pipe-line” means—

- (a) a cross-country pipe-line (within the meaning of the Pipe-lines Act 1962), and
- (b) a local pipe-line (within the meaning of that Act) in relation to the construction of which a direction under section 6 of that Act has or had effect.

- 6
- (1) This paragraph has effect for the purposes of paragraphs 2 to 5.
 - (2) “Building” includes any structure.
 - (3) A building (or, in the case of paragraph 5, apparatus or pipe-line) is within 50 metres of a work if all or part of it is within that distance.
 - (4) In the case of a work under the surface of the ground, a reference to a building (or, in the case of paragraph 5, apparatus or pipe-line) within 50 metres of that work includes a reference to a building (or apparatus or pipe-line) all or part of which is within 50 metres of any point on the surface below which the work is situated.

Trees on neighbouring land

- 7
- (1) This paragraph applies where—
 - (a) a tree overhangs land used for Phase 2a purposes, or
 - (b) the roots of a tree encroach on such land.
 - (2) The nominated undertaker may by notice to the occupier of the land on which the tree is growing (a “tree works notice”) require the tree to be removed, topped or lopped, or its roots to be cut back, if it is necessary for that to be done—
 - (a) to enable works authorised by this Act to be constructed or maintained, or
 - (b) for reasons of safety in connection with such works or the operation of Phase 2a of High Speed 2.

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- (3) The person to whom a tree works notice is given may object to the notice by giving the nominated undertaker a counter-notice to that effect before the end of 28 days beginning with the day on which the tree works notice is given.
- (4) If a counter-notice is given, the tree works notice has no effect unless confirmed by an order of the county court.
- (5) The nominated undertaker may carry out the works required by a tree works notice if the notice has been in effect for a continuous period of at least 28 days and has not been complied with.
- (6) Where the power under sub-paragraph (5) is exercisable, the nominated undertaker may, after giving 7 days' notice to the occupier of the land on which the tree concerned is growing, enter the land for the purpose of exercising the power in relation to it.
- (7) If the nominated undertaker tops or lops a tree, or cuts back the roots of a tree, in exercise of the power under sub-paragraph (5), it must do so—
 - (a) in accordance with good arboricultural practice, and
 - (b) in such a way as to cause the minimum of damage to the tree.
- (8) The following do not apply to works required by a tree works notice—
 - (a) an order under section 198(1) or 202(1) of TCPA 1990 and regulations under section 202A(1) of that Act (tree preservation orders);
 - (b) section 211(1) and (5) of that Act (preservation of trees in conservation areas).
- (9) On application by a person who has incurred expenses in complying with a tree works notice, the county court must order the nominated undertaker to pay the person such compensation in respect of the expenses as the court thinks fit.

Exercise of powers of entry under paragraphs 2 to 7

- 8 (1) This paragraph applies where the nominated undertaker has a power to enter land under any provision of paragraphs 2 to 7.
- (2) The following provisions of Part 7 of the Housing and Planning Act 2016 (compulsory purchase etc) apply in relation to the exercise of the power as they apply in relation to the exercise of the power conferred by section 172(1) of that Act to enter and survey or value land—
 - section 172(2), (3) and (5) (right to enter and survey land);
 - section 173 (warrant authorising use of force to enter and survey land);
 - section 174(4) (copy of warrant to be given to those to whom notice of entry is given);
 - section 175 (enhanced authorisation procedures etc for certain surveys);
 - section 176 (right to compensation after entry on or survey of land);
 - section 177 (offences in connection with powers to enter land).
- (3) The following modifications have effect for the purposes of the application of the provisions of the Housing and Planning Act 2016 specified in sub-paragraph (2)—
 - (a) references to the acquiring authority are to be read as references to the nominated undertaker;
 - (b) references to—
 - (i) a person authorised in writing by the acquiring authority, or

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- (ii) a person exercising or seeking to exercise the power conferred by section 172(1) of the Housing and Planning Act 2016, are to be read as references to the nominated undertaker or (as the case may be) to a person authorised to exercise the power on the nominated undertaker's behalf;
- (c) where the person exercising or seeking to exercise the power is the nominated undertaker, section 172(3)(a) is to be read as if it required the nominated undertaker to produce evidence of authority to enter the land;
- (d) the reference in section 174(4) to a notice given in accordance with section 174(1) is to be read as a reference to the notice required in relation to the exercise of the power of entry in question (and the reference in section 175(1)(b) to the notice period mentioned in section 174(1) is to be construed accordingly);
- (e) references in section 175(3) to a survey are to be read as including references to the activity for the purposes of which the nominated undertaker has the power to enter land.

Noise mitigation for buildings

- 9
- (1) The nominated undertaker may carry out noise mitigation works in respect of a building if it is necessary or expedient to do so in consequence of, for the purposes of or in connection with the construction or operation of any of the works authorised by this Act.
 - (2) “Noise mitigation works” means works for the purpose of mitigating the effects of noise caused, or expected to be caused, by the construction or operation of any of the works authorised by this Act.
 - (3) The nominated undertaker must not exercise the power under sub-paragraph (1) without the consent of the owners and occupiers of the building.

Discharge of water

- 10
- (1) The nominated undertaker may use any watercourse or any public sewer or drain for the drainage of water for the purposes of or in connection with the construction or maintenance of the works authorised by this Act and for that purpose—
 - (a) may lay down, take up and alter pipes, and
 - (b) on any land within the Act limits, may make connections with the watercourse, sewer or drain.
 - (2) The nominated undertaker must not discharge any water into any public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.
 - (3) The nominated undertaker must not make any opening into any public sewer or drain except—
 - (a) in accordance with plans approved by the person to whom the sewer or drain belongs, such approval not to be unreasonably withheld; and
 - (b) where that person has been given the opportunity to supervise the making of the opening.

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- (4) The nominated undertaker must not, in the exercise of the powers under this paragraph, damage or interfere with the beds or banks of any watercourse forming part of a main river.
- (5) The nominated undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers under this paragraph is as free as may be practicable from gravel, soil or other solid substance or oil or matter in suspension.
- (6) Any dispute as to the giving of consent under this paragraph must be referred to arbitration if the parties so agree, but must otherwise be determined by the Secretary of State.
- (7) In this paragraph—
 - (a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, the Homes and Communities Agency, an internal drainage board, a local authority, a joint planning board, an urban development corporation or a harbour authority within the meaning of the Harbours Act 1964;
 - (b) “watercourse” includes a river, stream, ditch, drain, cut, culvert, dyke, sluice, sewer or passage through which water flows, except a public sewer or drain;
 - (c) other expressions used both in this paragraph and in the Water Resources Act 1991 have the same meaning as in that Act.

Temporary interference with waterways

- 11 (1) The powers under this paragraph are exercisable in relation to the following waterways for the purposes of or in connection with the works authorised by this Act—
 - the River Trent;
 - the Trent and Mersey Canal.
- (2) The nominated undertaker may—
 - (a) temporarily interfere with a waterway mentioned in sub-paragraph (1) at any point within the Act limits by constructing or maintaining such temporary works, or by carrying out such dredging works, as it considers necessary or expedient;
 - (b) temporarily moor or anchor barges or other vessels or craft in a waterway mentioned in sub-paragraph (1);
 - (c) temporarily close a waterway mentioned in sub-paragraph (1), or a part of such a waterway, to navigation.
- (3) The power under sub-paragraph (2)(c) must be exercised in a way which secures—
 - (a) that no more of the waterway is closed to navigation at any time than is necessary in the circumstances, and
 - (b) that, if complete closure of the waterway to navigation becomes necessary, all reasonable steps are taken to secure that the minimum obstruction, delay or interference is caused to vessels or craft which may be using or intending to use it.

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- (4) The nominated undertaker is not liable for any loss suffered, or costs or expenses incurred, by any person as a direct or indirect result of any interference in accordance with this paragraph with a public right of navigation.
- (5) The nominated undertaker must compensate any person who suffers loss as a result of any interference in accordance with this paragraph with a private right of navigation.
- (6) Any dispute as to a person's entitlement to compensation under sub-paragraph (5), or as to the amount of compensation, must be determined under and in accordance with Part 1 of the Land Compensation Act 1961.

Electronic communications apparatus

- 12 (1) The nominated undertaker may, in installing any electronic communications apparatus in exercise of the powers conferred by this Act—
 - (a) provide additional capacity for electronic communications apparatus belonging to any other person;
 - (b) construct any extension or other alteration of electronic communications apparatus in connection with providing such additional capacity.
- (2) In sub-paragraph (1), “electronic communications apparatus”—
 - (a) has the meaning given by paragraph 5(1) of Schedule 3A to the Communications Act 2003, but
 - (b) excludes any radio mast.

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