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**Changes to legislation:** There are currently no known outstanding effects for the High Speed Rail (West Midlands - Crewe) Act 2021, Paragraph 28. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 32

#### PROTECTIVE PROVISIONS

#### PART 2

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

- 28 (1) Subject to the following provisions of this paragraph, the nominated undertaker must repay to the undertakers the reasonable expenses incurred by the undertakers in, or in connection with—
- (a) the removal and relaying or replacing, alteration or protection of any apparatus or the construction of any new apparatus under any provision of this Part,
  - (b) the cutting off of any apparatus from any other apparatus in consequence of the exercise by the nominated undertaker of any power under this Act, and
  - (c) any other work or thing rendered reasonably necessary in consequence of the exercise by the nominated undertaker of any such power.
- (2) The value of any apparatus removed under the provisions of this Part is to be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.
- (3) Sub-paragraph (4) applies where, in pursuance of the provisions of this Part—
- (a) alternative apparatus of better type, or greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions, except where this has been solely due to using the nearest currently available type, or
  - (b) apparatus (whether existing apparatus or alternative apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated.
- (4) If 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 nominated undertaker or, in default of agreement, is not determined to be necessary in accordance with paragraph 31, then, if it involves cost in the construction of works under paragraph 23 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 sub-paragraph would be payable to the undertakers by virtue of sub-paragraph (1) is to be reduced by the amount of that excess
- (5) For the purposes of sub-paragraphs (3) and (4)—
- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus except in a case where the apparatus as

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- so extended serves a purpose (either additional to or instead of that served by the existing apparatus) which was not served by 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 is to be treated as if it also had been agreed or had been so determined.
- (6) An amount which apart from this sub-paragraph would be payable to the undertakers in respect of works by virtue of this paragraph must, if the works include the placing of apparatus provided in substitution for apparatus placed more than seven and a half years earlier so as to confer on the undertakers any financial benefit by deferment of the time for renewal of the apparatus or of the system of which it forms part in the ordinary course, be reduced by the amount which represents that benefit.
- (7) In any case where work is carried out by the nominated undertaker pursuant to paragraph 23 and, if such work had been carried out by the undertakers, the repayment made to the undertakers under this paragraph would fall to be reduced pursuant to sub-paragraphs (3) to (6), the undertakers must pay to the nominated undertaker such sum as represents the amount of that reduction.

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