

SCHEDULES

SCHEDULE 4

PROTECTION OF FUEL PIPELINES AND FACILITIES

PART IV

Protection of certain depots

12.—(1) Before commencing construction of so much of the works as will or may affect the protected property the undertaker shall, at its own expense, appoint in the joint names of the undertaker and the relevant oil company a reputable firm of chartered building surveyors or chartered engineers to prepare a schedule of defects existing in the protected property and that firm shall submit a copy of the schedule to the undertaker and the relevant oil company.

(2) After construction of the works and at the written request of the relevant oil company a similar schedule to that prepared in accordance with paragraph 12(1) above shall be prepared by and at the expense of the undertaker in consultation with the Surveyor, but no such request may be made later than at the end of two years from the date of opening for public traffic of the railway comprised in the works and the undertaker shall not be required to prepare more than one such schedule for the protected property.

13.—(1) The undertaker shall undertake monitoring of any protected property in respect of which a schedule of defects is required to be prepared under paragraph 12(1) above, and that monitoring shall consist of precise levelling of various points on the outside of the protected property and, if necessary, monitoring crack propagation.

(2) Monitoring under sub-paragraph (1) above shall take place prior to the construction of the works and during the period that any settlement of the protected property is occurring and for a three month period after the monitoring indicates that the settlement has ceased and as soon as practicable after the monitoring results have been obtained the undertaker shall provide a copy of such results to the relevant oil company without charge.

14.—(1) The undertaker shall in the construction, maintenance, use and operation of the works employ all means which are reasonably practicable—

(a) to minimise any settlement or damage which may be likely to be caused to the protected property including carrying out all necessary safeguarding works under article 7 in consultation with the relevant company and the Surveyor;

(b) to ensure that the works are carried out in accordance with the Code of Practice.

(2) The undertaker shall employ all means which are reasonably practicable for the purpose of minimising any interference with power, drainage, telecommunications and other essential services as a result of the construction and maintenance of the works and the undertaker shall give immediate consideration to any complaint which may be made by the relevant oil company of such interference and use all reasonable endeavours to remedy it as soon as possible.

(3) Without prejudice to the preceding provisions of this paragraph, in exercising its powers under article 7 of this Order in relation to the protected property the undertaker shall use all means

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that are reasonably practicable to prevent or failing prevention to minimise any disruption to any business of the oil company concerned which is being carried on at or from that property.

15. The undertaker shall within 30 days of notice in writing to do so repay to the relevant oil company all reasonable costs, charges and expenses properly incurred by the relevant oil company (including Value Added Tax thereon in so far as the same is not recoverable by the relevant oil company) in connection with—

- (a) the services of the Surveyor under paragraph 12(2) above;
- (b) the services of architects, surveyors, engineers and other technical advisers to whom the Surveyor finds it reasonably necessary to refer in connection with this Part of this Schedule.

16.—(1) The undertaker shall not exercise the powers under article 15 of this Order in the case of the surface of the protected property.

(2) The undertaker shall in the course of the construction or maintenance of the works use all means which are reasonably practicable to avoid material interference with any access to the protected property.

17.—(1) If by reason or in consequence of any specified matter any damage, disruption or interference shall be caused to (or to the operation or use of) the protected property or if an oil company shall carry out any works, take any measures or install any ancillary apparatus which may be reasonably necessary to prevent any such damage, disruption or interference occurring—

- (a) the undertaker shall make reasonable compensation to the oil company concerned for any loss sustained or additional expense incurred by it; and
- (b) the undertaker shall indemnify the oil company concerned against all claims, demands, proceedings, costs, damages and expenses which may be made, taken against or recovered from or incurred by that oil company by reason or in consequence of any specified matter.

(2) Nothing in this paragraph shall impose any liability on the undertaker in respect of so much of any damage, loss or additional expenditure as is attributable to the act, neglect or default of the oil company concerned or any employees or contractors of the oil company.

(3) The oil company concerned shall give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent in writing of the undertaker, such consent not to be unreasonably withheld or delayed.