

## SCHEDULES

### SCHEDULE 6

#### PROTECTIVE PROVISIONS

#### PART V

#### PROTECTION FOR TRAIN OPERATORS

##### *Interpretation*

**1.** In this Part of this Schedule—

“construction” includes execution, placing, alteration and reconstruction;

“railway property” has the same meaning as in Part II of this Schedule;

“relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by a train operator as a consequence of any restriction of the use of Railtrack’s railway network as a result of—

(a) the construction, maintenance or failure of a specified work; or

(b) by reason of any act or omission of the Council or of any person in its employ or of its contractors or others whilst engaged upon a specified work;

“specified work” means, as respects any train operator, so much of any of the authorised works as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property comprising track and related facilities which that operator has permission to use for the purpose of the operation of trains; and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

##### *Indemnity*

**2.—(1)** The Council shall be responsible for and make good to any train operator all relevant costs which may be occasioned to or reasonably incurred by that train operator.

(2) The train operator shall give the Council reasonable notice of any claim or demand relating to relevant costs and no settlement or compromise of such a claim or demand shall be made without the prior consent of the Council, which shall not be unreasonably withheld.

**3.** In the assessment of any sums payable under this Part of this Schedule there shall not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by a train operator if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the Council under paragraph 2(1) or increasing the sums so payable.