

# SCHEDULES

## SCHEDULE 11

### PROTECTIVE PROVISIONS

#### PART 5

#### PROTECTION FOR NETWORK RAIL INFRASTRUCTURE LIMITED

**35.—**(1) In this paragraph—

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail’s apparatus generated by the operation of the authorised works where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised works) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph shall apply to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 29(1) for the relevant part of the authorised works giving rise to EMI (unless the Council has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the Council shall in the design and construction of the authorised works take all measures necessary to prevent EMI and shall establish with Network Rail Infrastructure Limited (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the Council’s compliance with sub-paragraph (3)—

(a) the Council shall consult with Network Rail Infrastructure Limited as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and thereafter shall continue to consult with Network Rail Infrastructure Limited (both before and after formal submission of plans under paragraph 29(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;

(b) Network Rail Infrastructure Limited shall make available to the Council all information in Network Rail Infrastructure Limited’s possession reasonably requested by the Council in respect of Network Rail’s apparatus identified pursuant to paragraph (a); and

(c) Network Rail Infrastructure Limited shall allow the Council reasonable facilities for the inspection of Network Rail’s apparatus identified pursuant to paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail’s apparatus, Network Rail Infrastructure Limited shall not withhold its consent unreasonably to modifications of Network Rail’s apparatus, but the means of prevention and the method of their execution shall be selected in the reasonable discretion of Network Rail Infrastructure Limited, and in relation to such modifications paragraph 29(1) shall have effect subject to this paragraph.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

(6) If at any time prior to the commencement of regular revenue-earning train operations on the new authorised busway comprised in the authorised works and notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing or commissioning of the authorised works causes EMI then the Council shall immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the Council's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in subparagraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred—

- (a) the Council shall afford reasonable facilities to Network Rail Infrastructure Limited for access to the Council's apparatus in the investigation of such EMI;
- (b) Network Rail Infrastructure Limited shall afford reasonable facilities to the Council for access to Network Rail's apparatus in the investigation of such EMI; and
- (c) Network Rail Infrastructure Limited shall make available to the Council any additional material information in its possession reasonably requested by the Council in respect of Network Rail's apparatus or such EMI.

(8) Where Network Rail Infrastructure Limited approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)—

- (a) Network Rail Infrastructure Limited shall allow the Council reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;
- (b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs shall be carried out and completed by the Council in accordance with paragraph 30.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 38(1) shall apply to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which paragraph (6) applies.

(10) For the purpose of paragraph 34(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in article 54 (arbitration) to the Institution of Civil Engineers shall be read as a reference to the Institution of Electrical Engineers.