

SCHEDULE 2

Model provisions for railways

Operations

Operation and use of railways

41.—(1) The undertaker may operate and use the railway and any other elements of the authorised project as a system, or part of a system, of transport for the carriage of passengers and goods.

(2) Nothing in this Order, or in any enactment incorporated with or applied by this Order, shall prejudice or affect the operation of Part 1 of the Railways Act 1993(1) (the provision of railway services).

Fares

42. The undertaker may demand, take and recover or waive such charges for carrying passengers or goods on the railway comprised in the authorised project, or for any other services or facilities provided in connection with the operation of that railway, as it thinks fit.

Deemed consent under section 34 of the Coast Protection Act 1949

43. The undertaker is granted deemed consent under section 34 of the Coast Protection Act 1949(2) to carry out the works described in Schedule H, subject to the requirements set out in that Schedule.

Deemed licence under Part 2 of the Food and Environment Protection Act 1985

44. The undertaker is granted a deemed licence under Part 2 of the Food and Environment Protection Act 1985(3) to carry out the works described in Schedule I, subject to the requirements set out in that Schedule.

Felling or lopping of trees

45.—(1) The undertaker may fell or lop any tree or shrub near any part of the authorised project, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project; or
- (b) from constituting a danger to passengers or other persons using the authorised project.

(2) In carrying out any activity authorised by paragraph (1), the undertaker shall do no unnecessary damage to any tree or shrub and shall pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, shall be determined under Part 1 of the 1961 Act.

(1) 1993 c.43. This Act has been amended by the Transport Act 2000 (c. 38), the Railways and Transport Safety Act 2003 (c.20) and the Railways Act 2005 (c.14). There are other amendments to this Act which are not relevant to this Order.

(2) 1949 c.74. Section 34 has been amended by section 36 of the Merchant Shipping Act 1988 (c.12). There are other amendments to the 1949 Act which are not relevant to this Order.

(3) 1985 c.48. Sections 5 and 6 in Part 2 have been amended by sections 146(2) and 162 of, and Part 8 of Schedule 16 to, the Environmental Protection Act 1990 (c. 43). There are other amendments to the 1985 Act which are not relevant to this Order.

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

Trees subject to tree preservation orders

46.—(1) The undertaker may fell or lop any tree described in Schedule J and identified on the *[insert name]* plan, or cut back its roots if it reasonably believes it to be necessary in order to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project; or
- (b) from constituting a danger to passengers or other persons using the authorised project.

(2) In carrying out any activity authorised by paragraph (1)—

- (a) the undertaker shall do no unnecessary damage to any tree or shrub and shall pay compensation to any person for any loss or damage arising from such activity; and
- (b) the duty contained in section 206(1) of the 1990 Act (replacement of trees) shall not apply.

(3) The authority given by paragraph (1) shall constitute a deemed consent under the relevant tree preservation order.

(4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, shall be determined under Part 1 of the 1961 Act.