

## SCHEDULES

### SCHEDULE 8

#### PROTECTIVE PROVISIONS

#### PART 3

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

##### *Removal of apparatus*

**40.**—(1) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, TfL requires the removal of any apparatus placed in that land, it must give to the specified undertaker in question written notice of that requirement, together with plans of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a specified undertaker reasonably needs to remove any of its apparatus) TfL must, subject to sub-paragraph (3), afford to the specified undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of TfL and for the subsequent use, maintenance and renewal of that apparatus.

(2) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of TfL, or TfL is unable to afford such facilities and rights as are mentioned in sub-paragraph (1), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the specified undertaker in question must, on receipt of a written notice to that effect from TfL, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(3) The obligation imposed on the specified undertaker under sub-paragraph (2) does not extend to the exercise by the specified undertaker of any power to acquire any land or rights in land by compulsory purchase order.

(4) Any alternative apparatus to be constructed in land of TfL under this Part of this Schedule is to be constructed in such manner and in such line or situation as may be agreed between the specified undertaker in question and TfL or in default of agreement settled by arbitration in accordance with article 45 (arbitration).

(5) The specified undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 45 (arbitration), and after the grant to the specified undertaker of any such facilities and rights as are referred to in sub-paragraphs (1) or (2), proceed with all reasonable despatch to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by TfL to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if TfL gives notice in writing to the specified undertaker in question that it desires itself to execute any work to which this sub-paragraph applies, that work, instead of being executed by the specified undertaker, may be executed by TfL with

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the prior written consent of the specified undertaker (which must not be unreasonably withheld or delayed and is to be subject to any such conditions as are reasonable and proper to protect the apparatus) in accordance with plans and in a position agreed between the specified undertaker and the promoter or, in default of agreement, determined by arbitration, with all reasonable despatch under the superintendence, if given, and to the reasonable satisfaction of the specified undertaker.

(7) In carrying out any work under sub-paragraph (6) TfL must comply with all statutory obligations which would have been applicable had the works been carried out by the specified undertaker.

(8) Sub-paragraph (6) applies to any part of any work necessary in connection with construction of alternative apparatus, or the removal of apparatus required to be removed, as will take place in any land of TfL.

(9) Nothing in sub-paragraph (6) authorises TfL to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 600 millimetres of the apparatus.