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SCHEDULE 1

Articles 5, 13, 14 and 15

CLOSURE OF LEVEL CROSSINGS

PART 1

CLOSURE OF LEVEL CROSSINGS
SUBJECT TO OPENING OF NEW HIGHWAY

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Extent of level crossing to be stopped up and discontinued</i>	<i>(3)</i> <i>Extent of highway to be extinguished</i>	<i>(4)</i> <i>Status and extent of new highway</i>
County of Suffolk District of Mid Suffolk Parish of Elmswell	Hawk End Lane between points P040 and P041 Lords No 29 between points P043 and P044	Footpath 012 Elmswell between points P038, P039, P040 and P041 Footpath 009 Elmswell between points P043 and P047 Path not on definitive map between points P044 and P043	Footpath between points P041 and P042 Footpath between points P044 and P045 and between points P046 and P047
Parish of Finningham	Gislingham between points P075 and P075B	Bridleway 010 Finningham between points P074, P075 and P075B	Bridleway between points P074, P076 and P077
Parishes of Gislingham and Wickham Skeith	Paynes between points P079 and P080	Footpath 026 Gislingham between points P078, P079 and P080 Footpath 022 Gislingham between points P080, P081 and P082 Path not on definitive map between points P078, P083 and P080 and between	Footpath between points P082, P085 and P086

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Extent of level crossing to be stopped up and discontinued</i>	<i>(3)</i> <i>Extent of highway to be extinguished</i>	<i>(4)</i> <i>Status and extent of new highway</i>
		points P081 and P084	
District of Babergh Parish of Bentley	Island between points P128A and P130A	Footpath 018 Bentley between points P128, P128A, P130A and P130 Path not on definitive map between points P129, P129A, P131A and P131	Footpath between points P130, P131, P132 and P133 and between points P128, P134 and P135

PART 2

CLOSURE OF LEVEL CROSSINGS NOT SUBJECT TO OPENING OF NEW HIGHWAY

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Extent of level crossing to be stopped up and discontinued</i>	<i>(3)</i> <i>Extent of public right of way to be extinguished</i>
County of Suffolk District of Mid Suffolk Parishes of Bacton, Old Newton with Dagworth and Haughley	Leggetts between points P054 and P054B	Footpath 012 Haughley between points P052 and P053 Footpath 006 Old Newton and Dagworth between points P053, P054, P054A and P054B Path not on definitive map between points P054B and P054C
Parish of Mellis	Abbotts between points P087 and P088	Path not on definitive map between points P087 and P088

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SCHEDULE 2

Articles 5 and 12

REDESIGNATION OF HIGHWAYS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Highway</i>	<i>(3)</i> <i>Current designation</i>	<i>(4)</i> <i>Proposed designation</i>
County of Suffolk District of Mid Suffolk Parish of Mellis	BOAT 011 Mellis between points R001 and R002	Byway open to all traffic	Bridleway

SCHEDULE 3

Articles 5 and 21

LAND IN WHICH ONLY NEW RIGHTS ETC., MAY BE ACQUIRED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>	<i>(3)</i> <i>Purpose for which rights may be acquired</i>
County of Suffolk District of Mid Suffolk Parish of Bacton	06, 07	Access for maintenance
Parish of Elmswell	15, 16, 19, 20, 21, 22, 23, 24	Access for creation of public right of way Access for removal of level crossing
Parish of Haughley	01, 02	Access for removal of level crossing
Parish of Old Newton with Dagworth	07	Access for removal of level crossing
Parish of Finningham	07	Access for maintenance
Parish of Gislingham	02, 08, 09	Access for creation of public right of way Access for removal of level crossing

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SCHEDULE 4

Articles 5 and 22

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the land plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>
County of Suffolk	01, 04, 05, 06, 17, 18	Creation of public right of way
District of Mid Suffolk	08	Access for removal of level crossing
Parish of Elmswell	14, 27, 28, 29, 31, 32, 33, 34	Worksite
Parish of Old Newton and Dagworth	01	Access for removal of level crossing
	02	Access for removal of level crossing and worksite
	04, 05, 06	Worksite
Parish of Haughley	03	Access for removal of level crossing
	04	Worksite
Parish of Bacton	01, 03, 04	Worksite
Parish of Finningham	01, 02, 09, 10, 11	Creation of public right of way
	07, 12	Worksite
Parish of Gislingham	01, 04, 06, 10	Worksite and access for removal of level crossing
	05, 14	Access for removal of level crossing
	07	Worksite
	11, 12	Creation of public right of way
Parish of Mellis	01, 03, 04, 05	Worksite
District of Babergh	06	Creation of public right of way
Parish of Bentley	08	Creation of public right of way and access for removal of level crossing
	09	Worksite

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SCHEDULE 5

Article 7

STREETS SUBJECT TO STREET WORKS

<i>(1)</i>	<i>(2)</i>
<i>Area</i>	<i>Street subject to street works</i>
County of Suffolk District of Babergh Parish of Bentley	Church Road/Bentley Bridge

SCHEDULE 6

Article 9

STREETS TO BE TEMPORARILY STOPPED UP

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<i>Area</i>	<i>Street to be stopped up</i>	<i>Extent of temporary stopping up</i>
County of Suffolk	Footpath 012 Elmswell	Within Order limits
District of Mid Suffolk	Footpath 009 Elmswell	Between points P043 and P047
Parish of Elmswell	Path not on definitive map	Between points P044 and P043
Parish of Finningham	Bridleway 010 Finningham	Between points P074 and P075
Parish of Gislingham	Footpath 026 Gislingham	Between points P078, P079 and P080
Parishes of Gislingham and Wickham Skeith	Footpath 022 Gislingham	Between points P080, P081 and P082
	Path not on definitive map	Between points P078, P083 and P080 and between points P081 and P084
Parish of Mellis	BOAT 011 Mellis/Cow Pasture Lane	Within Order limits
District of Babergh	Footpath 018 Bentley	Between points P128, P128A, P130A and P130
Parish of Bentley	Path not on definitive map	Between points P129, P129A, P131A and P131
	Church Road/Bentley Bridge	Within Order limits

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SCHEDULE 7

Article 11

ACCESS TO WORKS

<i>(1)</i>	<i>(2)</i>
<i>Area</i>	<i>Description of Access</i>
County of Suffolk	Improved access to railway at northern end of Eastlands Lane
District of Mid Suffolk	
Parish of Finningham	

SCHEDULE 8

Article 21

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASING ENACTMENTS FOR CREATION OF NEW RIGHTS

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right, as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the following modification set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act, substitute—

“(5A) If—

- (a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule 8 to the Network Rail (Suffolk Level Crossing Reduction) Order 2020 (“the 2020 Order”);
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 8 to the Network Rail (Suffolk Level Crossing Reduction) Order 2020) to acquire an interest in the land; and
- (c) the acquiring authority enters on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.”

3.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(1) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5(3)—

(1) 1973 c. 26.

- (a) for “land is acquired or taken” substitute “a right over land is purchased”; and
- (b) for “acquired or taken from him” substitute “over which the right is exercisable”.

Application of Part 1 of the 1965 Act

4. Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act, as applied by article 19 (application of Part 1 of the 1965 Act) applies to a compulsory acquisition of rights under article 21(1) (power to acquire new rights)—

- (a) with the modifications specified in paragraph 5; and
- (b) with such other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4(a) are as follows.

(2) References in the 1965 Act to land are, in appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired, or
- (b) the land over which the right is, or is to be, exercisable.

(3) For section 7 (measure of compensation in the case of severance) of the 1965 Act substitute—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard shall be had, not only to the extent (if any) to which the value of the land over which the right is acquired is depreciated by the acquisition of the right, but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

(4) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land)—

- (a) section 9(4) (failure of owners to convey),
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity),
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners), and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be acquired compulsorily is vested absolutely in the acquiring authority.

(5) Section 11(2) (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right as well as the notice required by subsection (1) of that section (as it applies to a compulsory acquisition under article 19(1)), it has power, exercisable in the same circumstances and subject to the same conditions, to enter for the purpose of exercising that right; and sections 11A(3) (powers of entry further notices of entry), 11B(4) (counter-notice requiring possession to be taken on a specified date), 12(5) (penalty

(2) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.

(3) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016.

(4) Section 11B was inserted by section 187(3) of the Housing and Planning Act 2016.

(5) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23) and paragraph 4 of Schedule 16 to the Housing and Planning Act 2016.

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for unauthorised entry) and 13(6) (refusal to give possession to acquiring authority) of that Act are modified accordingly.

(6) Section 20(7) (tenants at will etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right in question.

(7) Section 22 (interests omitted from purchase) of the 1965 Act (as modified by article 19(7)) is modified so as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

(8) For Schedule 2A to the 1965 Act substitute—

“SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1. This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over a house, building or factory.
2. In this Schedule, “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the house, building or factory.
4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the authority must decide whether to—
 - (a) withdraw the notice to treat,
 - (b) accept the counter-notice, or
 - (c) refer the counter-notice to the Upper Tribunal.
6. The authority must serve notice of its decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).
7. If the authority decides to refer the counter-notice to the Upper Tribunal it must do so within the decision period.
8. If the authority does not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

(6) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(7) Section 20 was amended by section 70 of, and paragraph 4 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

9. If the authority serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Determination by Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right,
- (b) the use to be made of the right proposed to be acquired, and
- (c) if the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the authority ought to be required to take.

13. If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”.

SCHEDULE 9

Article 32

FOR THE PROTECTION OF DRAINAGE
AUTHORITIES AND THE ENVIRONMENT AGENCY

1.—(1) The following provisions of this Schedule apply for the protection of the drainage authority unless otherwise agreed in writing between Network Rail and the drainage authority.

(2) In this Schedule—

“the Agency” means the Environment Agency;

“a category 1 specified work” means so much of any permanent or temporary work or operation authorised by this Order (which includes any dredging and any geotechnical investigations that may be undertaken) consists of—

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- (a) erecting any structure (whether temporary or permanent) in, over or under a main river if the work is likely to affect any drainage work which is or includes a main river or the volumetric rate of flow of water in or flowing to or from any main river;
- (b) the carrying out of any work of alteration or repair of any structure (whether temporary or permanent) in, over or under a main river if the work is likely to affect the flow of water in the main river or to affect any drainage work;
- (c) erecting or altering any structure (whether temporary or permanent) designed to contain or divert the floodwaters of any part of a main river; or
- (d) any work or operation that is in, on, under, over or within 16 metres of a drainage work which is or includes a main river or is otherwise likely to affect any such drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work.

“a category 2 specified work” means any of the following—

- (a) erecting any mill dam, weir or other like obstruction to the flow of any ordinary watercourse, or raising or otherwise altering any such obstruction;
- (b) erecting a culvert in any ordinary watercourse;
- (c) altering a culvert in a manner that would be likely to affect the flow of any ordinary watercourse; or
- (d) altering, removing or replacing a structure or feature designated by a local drainage authority under Schedule 1 to the Flood and Water Management Act 2010⁽⁸⁾;

“construction” includes execution, placing, altering, replacing, relaying and removal and “construct” and “constructed” are construed accordingly;

“the drainage authority” means—

- (a) in relation to a category 1 specified work, the Agency;
- (b) in relation to a category 2 specified work, the drainage board concerned within the meaning of section 23 (prohibition on obstructions etc in watercourses) of the Land Drainage Act 1991⁽⁹⁾.

“drainage work” means any watercourse and includes any land which provides or is expected to provide flood storage capacity for any watercourse and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence or tidal monitoring;

“the fishery” means any waters containing fish and fish in such waters and the spawn, habitat or food of such fish;

“a main river” and “ordinary watercourse” have the meanings given by respectively the Water Resources Act 1991⁽¹⁰⁾ and the Land Drainage Act 1991;

“plans” includes sections, drawings, specifications and method statements;

“specified work” means a category 1 specified work or a category 2 specified work.

2.—(1) Before beginning to construct any specified work, Network Rail must submit to the drainage authority plans of the specified work and such further particulars available to it as the drainage authority may within 28 days of the receipt of the plans reasonably require.

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the drainage authority, or determined under paragraph 11.

(3) Any approval of the drainage authority required under this paragraph—

⁽⁸⁾ 2010 c. 29.

⁽⁹⁾ 1991 c. 59.

⁽¹⁰⁾ 1991 c. 57.

- (a) must not be unreasonably withheld;
- (b) is deemed to have been given if it is neither given nor refused within 2 months of the receipt of the plans for approval and, in the case of a refusal, accompanied by a statement of the grounds of refusal; and
- (c) may be given subject to such reasonable requirements as the drainage authority may make for the protection of any drainage work, fishery, water resources, or for the prevention of flooding or pollution or in the discharge of its environmental duties.

(4) The drainage authority must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b).

3. Without limitation on the scope of paragraph 2, the requirements which the drainage authority may make under that paragraph include conditions requiring Network Rail at its own expense to construct such protective works, whether temporary or permanent, before or during the construction of the specified works (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

- (a) to safeguard any drainage work against damage; or
- (b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased,

by reason of any specified work.

4.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the drainage authority under paragraph 3, must be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved under this Schedule; and
- (b) to the reasonable satisfaction of the drainage authority,

and an officer of the drainage authority is entitled to watch and inspect the construction of such works.

(2) Network Rail must give to the drainage authority not less than 14 days' notice in writing of its intention to commence construction of any specified work and notice in writing of its completion not later than 7 days after the date on which it is completed.

(3) If any part of a specified work or any protective work required by the drainage authority is constructed otherwise than in accordance with the requirements of this Schedule, the drainage authority may by notice in writing require Network Rail at Network Rail's own expense to comply with the requirements of this Schedule or (if Network Rail so elects and the drainage authority in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the drainage authority reasonably requires.

(4) Subject to sub-paragraph (5) and paragraph 7, if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (3) is served upon Network Rail, it has failed to begin taking steps to comply with the requirements of the notice and subsequently to make reasonably expeditious progress towards their implementation, the drainage authority may execute the works specified in the notice and any expenditure incurred by it in so doing is recoverable from Network Rail.

(5) In the event of any dispute as to whether sub-paragraph (3) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the drainage authority must not except in an emergency exercise the powers conferred by sub-paragraph (4) until the dispute has been finally determined.

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(6) If by reason of construction of the specified work the Agency's access to flood defences or equipment maintained for flood defence purposes is materially obstructed, Network Rail must provide such alternative means of access to allow the Agency to maintain the flood defence or use the equipment no less effectively than before the obstruction.

5. Subject to paragraph 7, if by reason of the construction of any specified work or of the failure of any such work the efficiency of any drainage work for flood defence purposes is impaired, or that drainage work is otherwise damaged, such impairment or damage must be made good by Network Rail to the reasonable satisfaction of the drainage authority and if Network Rail fails to do so, the drainage authority may make good the same and recover from Network Rail the expense reasonably incurred by it in so doing.

6.—(1) Network Rail must take all such measures as may be reasonably practicable to prevent any interruption of the free passage of fish in the fishery during the construction of any specified work.

(2) If by reason of—

- (a) the construction of any specified work; or
- (b) the failure of any such work,

damage to a fishery is caused, or the drainage authority has reason to expect that such damage may be caused, the drainage authority may serve notice on Network Rail requiring it to take such steps as may be reasonably practicable to make good the damage, or, as the case may be, to protect the fishery against such damage.

(3) Subject to paragraph 8, if within such time as may be reasonably practicable for that purpose after the receipt of written notice from the drainage authority of any damage or expected damage to a fishery, Network Rail fails to take such steps as are described in sub-paragraph (2), the drainage authority may take those steps and may recover from Network Rail the expense reasonably incurred by it in doing so.

(4) Subject to paragraph 7, in any case where immediate action by the drainage authority is reasonably required in order to secure that the risk of damage to the fishery is avoided or reduced, the drainage authority may take such steps as are reasonable for the purpose, and may recover from Network Rail the reasonable cost of so doing provided that notice specifying those steps is served on Network Rail as soon as reasonably practicable after the drainage authority has taken, or commenced to take, the steps specified in the notice.

7. Nothing in paragraphs 4(4), 5, 6(3) and (4) authorises the drainage authority to execute works on or affecting an operational railway forming part of Network Rail's network without the prior consent in writing of Network Rail such consent not to be unreasonably withheld or delayed.

8. Network Rail must indemnify the drainage authority in respect of all costs, charges and expenses which the drainage authority may reasonably incur or have to pay or which it may sustain—

- (a) in the examination or approval of plans under this Schedule; and
- (b) in the inspection of the construction of the specified works or any protective works required by the drainage authority under this Schedule.

9.—(1) Without affecting the other provisions of this Schedule, Network Rail must indemnify the drainage authority from all claims, demands, proceedings, costs, charges, penalties, damages, expenses and losses, which may be made or taken against, recovered from, or incurred by, the drainage authority by reason of—

- (a) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence;
- (b) any damage to the fishery;

(c) any raising or lowering of the water table in land adjoining the authorised development or any sewers, drains and watercourses;

(d) any flooding or increased flooding of any such lands, or

(e) inadequate water quality in any watercourse or other surface waters or in any groundwater, which is caused by the construction of any of the specified works or any act or omission of Network Rail, its contractors, agents or employees whilst engaged upon the work.

(2) The drainage authority must give to Network Rail reasonable notice of any such claim or demand and no settlement or compromise may be made without the agreement of Network Rail which agreement must not be unreasonably withheld or delayed.

10. The fact that any work or thing has been executed or done by Network Rail in accordance with plans approved by the drainage authority, or to the drainage authority's satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve Network Rail from any liability under the provisions of this Schedule.

11. Any dispute arising between Network Rail and the drainage authority under this Schedule, if the parties agree, is to be determined by arbitration under article 34 (arbitration), but otherwise is to be determined by the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State for Transport acting jointly on a reference to them by Network Rail or the drainage authority, after notice in writing by one to the other.