

SCHEDULES

SCHEDULE 19

PROTECTIVE PROVISIONS

PART 5

FOR THE PROTECTION OF THE TRUST

41.—(1) Network Rail must not in the exercise of the powers conferred by this Order permanently obstruct or interfere with pedestrian or vehicular access to the waterways unless such permanent obstruction or interference with such access is with the consent of the Trust.

(2) Nothing in article 22 (discharge of water) authorises Network Rail—

(a) to discharge any water directly or indirectly into the relevant part of the waterway; or

(b) to carry out any works to, or make any opening in, or otherwise interfere with, the relevant part of the waterway (including the banks and bed thereof),

except with the consent of the Trust and in accordance with plans approved by, and under the supervision (if given) of, the engineer.

(3) Network Rail must not exercise the powers conferred by article 23 (protective works to buildings, roads and apparatus of a statutory undertaker) in relation to any building forming part of the waterways, or situated on land or property of the Trust forming part of the waterways, except with the consent of the Trust.

(4) Network Rail must not exercise the powers conferred by article 24 (power to survey and investigate land) or the powers conferred by section 11(3) of the 1965 Act in relation to the waterways except with the consent of the Trust.

(5) Network Rail must not exercise the powers conferred by section 271 or 272 of the 1990 Act, as applied by Schedule 18 to this Order, so as to permanently divert any right of access to the waterways, but any such right of access may be permanently diverted with the consent of the Trust.

(6) The consent of the Trust under any of sub-paragraphs (1), (3), (4) and (5) and the approval of plans under sub-paragraph (2) must not be unreasonably withheld or delayed but may be given subject to reasonable conditions which in the case of article 22 (discharge of water) may include conditions—

(a) specifying the maximum volume of water which may be discharged in any period; and

(b) authorising the Trust on giving reasonable notice (except in an emergency, when the Trust may require immediate suspension) to Network Rail to require Network Rail to suspend the discharge of water or reduce the flow of water where this is necessary by reason of any operational requirement of the Trust and where a reasonable alternative is available to enable Network Rail to discharge the water in question during the period of the suspension.