

## SCHEDULES

### SCHEDULE 12

#### PROTECTIVE PROVISIONS

#### PART 6

#### FOR THE PROTECTION OF CAMBRIDGESHIRE COUNTY COUNCIL IN RESPECT OF THE GUIDED BUSWAY

##### **Damage to guided busway property: costs, losses etc.**

**67.**—(1) Network Rail must pay to the operator all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule which may be occasioned to or reasonably incurred by the operator—

- (a) by reason of the construction or maintenance of a specified work or a protective work or the failure of it; or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work or a protective work,

and Network Rail must indemnify and keep indemnified the operator from and against all claims and demands arising out of or in connection with a specified work or a protective work or any such failure, act or omission and the fact that any act or thing may have been done by the operator on behalf of the operator or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under his supervision will not (if it was done without negligence on the part of the operator or of any person in its employ or of its contractors or agents) excuse Network Rail from any liability under the provisions of this sub-paragraph.

(2) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of such a claim or demand is to be made without the prior consent of Network Rail.

(3) The sums payable by the undertaker under sub-paragraph 67(1) may include a sum equivalent to the relevant costs that the operator has reasonably incurred in order to ensure the on-going provision of the guided busway service or other local services to provide an equivalent transport connectivity as was provided by the guided busway service along any guided busway which is temporarily or permanently unavailable as a result of any of the matters in sub-paragraph (1) provided always that the operator shall not incur any costs pursuant to this paragraph (3) until it first notifies Network Rail of its proposals to ensure continuity of service in the event the guided busway is temporarily or permanently unavailable (such alternative provision to be reasonable having regard to the extent of time the guided busway will be unavailable) and shall take into account representations made by Network Rail.

(4) Subject to the terms of any agreement between the operator and any provider of the guided busway service regarding the timing or method of payment of the relevant costs in respect of that provider, the operator must promptly pay to each provider the amount of any sums which the operator receives under sub-paragraph (3) which relates to the relevant costs of that provider.

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

(5) The obligation under sub-paragraph (3) to pay the operator the relevant costs will, in the event of default, be enforceable directly by any provider concerned to the extent that such sums would be payable to that provider under sub-paragraph (4).

(6) Nothing in this paragraph 67 shall impose any liability on Network Rail with respect to any fees, costs, charges and expenses attributable to the act, neglect, default or omission of the operator or its servants, contractors or agents and any liability of Network Rail under this paragraph shall be reduced proportionately to the extent to which any fees, costs, charges or expenses are attributable to the act, neglect, default or omission of the operator or its servants, contractors or agents.

(7) In this paragraph—

“the relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each provider of the guided busway service as a consequence of any restriction of the use of any guided busway as a result of the construction, maintenance or failure of a specified work or a protective work or any such act or omission as mentioned in sub-paragraph (1); and

“provider of the guided busway service” means any person who is authorised to provide local services using a guided busway pursuant to agreements with the operator.