

SCHEDULES

SCHEDULE 9

PROTECTIVE PROVISIONS

PART 7

FOR THE PROTECTION OF DRAINAGE AUTHORITIES

89.—(1) From the commencement of the construction of any specified work until the date falling 12 months from the date of completion of the specified work (“the maintenance period”), the undertaker must at its expense, maintain in good repair and condition and free from obstruction the drainage work which is situated within the limits of deviation for that specified work and within land held or occupied by the undertaker, whether the drainage work is constructed under this Order or is already in existence.

(2) If any such drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the drainage authority, it may by notice require the undertaker to maintain the drainage work at the undertaker’s expense, or any part of it, to such extent as the drainage authority reasonably requires.

(3) If, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the drainage authority may do what is necessary for such compliance and may recover any expenditure reasonably incurred by it in doing so from the undertaker.

(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the drainage authority must not, except in a case of emergency, exercise the powers of sub-paragraph (3) until the dispute has been finally determined.

(5) This paragraph does not apply to—

- (a) drainage works which are vested in the drainage authority, or which the drainage authority or another person is liable to maintain and is not prevented by this Order from so doing; and
- (b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part of this Schedule provided that any obstruction is removed as soon as reasonably practicable.