

SCHEDULE 10

Protective provisions

PART 19

For the protection of drainage authorities

247.—(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 at least as good repair and condition immediately prior to commencement of the construction of the specified work and keep free from obstruction any part of a drainage work which is situated within land held or occupied by the undertaker in respect of the specified work, 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 during the maintenance period 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, subject to the undertaker having the right to supervise the planning and execution of such works to the extent they may affect the pipeline to the extent that those works are compliant with and do not compromise the undertaker’s ability to comply with the Pipeline Safety Regulations 1996, and may recover any expenditure reasonably incurred by it in doing so from the undertaker. Notwithstanding the foregoing, the drainage authority may not under any circumstances undertake any works to the pipeline itself which could or would conflict with the duties and obligations of the undertaker under the Pipeline Safety Regulations 1996, any direction issued by the Health and Safety Executive under those Regulations or any other health and safety legislation relating to the operation and maintenance of the pipeline.

(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.