

SCHEDULES

SCHEDULE 9

PROTECTIVE PROVISIONS

PART 3

FOR THE PROTECTION OF RAILWAY INTERESTS

21.—(1) The undertaker must not exercise the powers conferred by—

- (a) article 4 (maintenance of the authorised development);
- (b) article 5 (maintenance of the drainage works);
- (c) article 15 (access to works);
- (d) article 18 (discharge of water);
- (e) article 19 (protective work to buildings);
- (f) article 20 (authority to survey and investigate the land);
- (g) article 21 (compulsory acquisition of land);
- (h) article 23 (compulsory acquisition of rights and restrictive covenants);
- (i) article 25 (private rights over land);
- (j) article 28 (acquisition of subsoil or airspace only);
- (k) article 29 (rights under or over streets);
- (l) article 30 (temporary use of land for carrying out the authorised development);
- (m) article 31 (temporary use of land for maintaining the authorised development);
- (n) article 34 (statutory undertakers);
- (o) article 42 (felling or lopping);
- (p) article 43 (trees subject to tree preservation orders),

or the powers conferred by section 11(3) of the 1965 Act, in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, or article 34 (statutory undertakers), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail.

Status: This is the original version (as it was originally made).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

(5) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions and, if applicable, must be subject to first obtaining the consent and/or surrender of any leaseholder of the railway property.