

SCHEDULE 10

Protective provisions

PART 19

For the protection of drainage authorities

246.—(1) Any specified work in relation to an ordinary watercourse, and all protective works required by the drainage authority under paragraph 244, must be constructed to the reasonable satisfaction of the drainage authority and an officer of the drainage authority is entitled, on giving such notice as may be reasonable in the circumstances, to inspect and watch the construction of such works.

(2) The undertaker must give to the drainage authority not less than 14 days' notice of its intention to commence construction of any specified work and the undertaker must give to the drainage authority notice of completion of a specified work not later than 7 days after the date on which it is brought into use.

(3) If any part of a specified work in, over or under any ordinary watercourse is constructed otherwise than in accordance with the requirements of this Part of this Schedule or as agreed between the undertaker and the drainage authority, the drainage authority may by notice require the undertaker at its own expense to comply with the requirements of this Part of this Schedule or (if the undertaker so elects and the drainage authority in writing consents, such consent not to be unreasonably withheld) at the undertaker's expense to remove, alter or pull down the work and, where removal is agreed, to restore the site to its former condition to such extent and within such limits as the drainage authority reasonably requires.

(4) Subject to sub-paragraph (5), if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (3) is served upon the undertaker, it has failed to begin taking steps to comply with the requirements of the notice and subsequently to make reasonably expeditious progress toward their implementation, the drainage authority may execute the works specified in the notice, 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 any expenditure reasonably incurred by it in so doing is to be recoverable 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.

(5) In the event of any dispute as to whether sub-paragraph (3) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the drainage authority must not, except in an emergency, exercise the powers conferred by sub-paragraph (4) until the dispute has been finally determined.