

Status: Point in time view as at 07/12/2022.

Changes to legislation: Highways Act 1980, Part II is up to date with all changes known to be in force on or before 13 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 12 **E+W**

PROVISIONS AS TO ORDERS UNDER SECTION 116 AND CONVEYANCES UNDER SECTION 256

PART II **E+W**

APPARATUS OF STATUTORY UNDERTAKERS

- 4 Where this Part of this Schedule applies in relation to a highway, the statutory undertakers whose apparatus is under, in, upon, over, along or across the highway have the same powers and rights in respect of that apparatus, subject to the provisions of this Schedule, as if the order authorising the highway to be stopped up or diverted had not been made or, as the case may be, as if the conveyance of land pursuant to section 256 of this Act had not been made.
- 5 Where a highway is stopped up or diverted in pursuance of an order under section 116 or land is conveyed pursuant to section 256, the statutory undertakers whose apparatus is under, in, upon, over, along or across the highway may, and, if reasonably requested so to do by the authority on whose application the order was made, or who conveyed the land, as the case may be, shall—
- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as they may reasonably determine and have power to place it; or
 - (b) provide other apparatus in substitution for the existing apparatus and place it in such position as aforesaid.
- Any works executed under this paragraph (including the provision of apparatus thereunder) are hereafter in this Part of this Schedule referred to as “undertakers’ works”.
- 6 Subject to the following provisions of this Part of this Schedule, the authority on whose application an order under section 116 stopping up or diverting a highway was made or, as the case may be, the authority who conveyed the land pursuant to section 256, shall pay to any statutory undertakers an amount equal to the cost reasonably incurred by them in or in connection with—
- (a) the execution of undertakers’ works required in consequence of the stopping up or diversion of that highway or, as the case may be, the conveyance of the land, and
 - (b) the doing of any other work or thing rendered necessary by the execution of undertakers’ works.
- 7 If in the course of the execution of undertakers’ works under paragraph 5 above—
- (a) apparatus of better type, of greater dimensions or of greater capacity is placed in substitution for existing apparatus of worse type, of smaller dimensions or of smaller capacity, or

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- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type, dimensions or capacity or the placing of apparatus at that depth, as the case may be, is not agreed by the authority concerned, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the undertakers' works exceeding that which would have been involved if the apparatus placed had been of the existing type, dimensions or capacity, or at the existing depth, as the case may be, the amount which apart from this paragraph would be payable to the undertakers by virtue of paragraph 6 above shall be reduced by the amount of that excess.

8 For the purposes of paragraph 7 above—

- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus;
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined.

9 An amount which apart from this paragraph would be payable to undertakers in respect of works of their by virtue of paragraph 6 above (and having regard, where relevant, to paragraph 7 above) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7½ years earlier so as to confer on the undertakers any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

10 Any question arising under this Part of this Schedule shall, in default of agreement between the parties concerned, be determined by arbitration.

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