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*Status: Point in time view as at 29/12/2003.*

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## SCHEDULE 2

### SUPPLEMENTARY PROVISIONS AS TO THE SCHEDULED WORKS AND OTHER AUTHORISED WORKS

#### PART II

#### REGULATION OF SCHEDULED WORKS AND SUBSIDIARY PROVISIONS

#### SECTION A

#### PROVISIONS APPLICABLE TO CONCESSIONAIRES

##### *Use of electrical energy*

- 3 (1) The following provisions of this paragraph shall apply in respect of the use of electrical energy for the purposes of Works Nos. 3, 4 and 5 (in this section referred to as “the authorised railway”).
- (2) All reasonable precautions shall be taken in constructing, placing and maintaining electric lines and circuits, and in working the authorised railway, to prevent—
- (a) injurious affection (by the discharge of electrical currents into the ground, fusion or electrolytic action) of any gas or water pipes, electric lines or other metallic pipes, structures or substances; or
  - (b) interference with, or with the working of, any wire, line or apparatus used for the purpose of transmitting electrical energy or of [F<sup>1</sup>electronic communications].
- (3) The Secretary of State may make regulations under this paragraph for regulating the use of electrical energy for the operation of the authorised railway, including regulations—
- (a) for preventing injurious affection (by the discharge of electrical currents into the ground, fusion or electrolytic action) of gas or water pipes, electric lines or other metallic pipes, structures or substances; and
  - (b) for minimising, so far as is reasonably practicable, interference with, and with the working of, electric wires, lines and other apparatus whether such apparatus does, or does not, use the earth as a return.
- (4) All reasonable precautions against interference with, or with the working of, any wire, line or apparatus shall be deemed to have been taken if and so long as use is made of either such insulated returns, or of such uninsulated metallic returns of low resistance and of such other means of preventing injurious interference with, and with the working of, electric wires, lines and apparatus, as may be prescribed by the said regulations; and in prescribing such means the Secretary of State shall have regard to the expense involved in relation to the protection afforded.
- (5) The provisions of this paragraph shall not give any right of action in respect of injurious interference with, or with the working of, any electric wire, line or apparatus, or the currents therein, unless in the construction, erection, maintaining and working of such wire, line or apparatus all reasonable and proper precautions, including the use of an insulated return, have been taken to minimise injurious

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interference therewith, and with the currents therein, by or from other electric currents.

- (6) If any difference arises between the Concessionaires and any other person with respect to anything in the foregoing provisions of this paragraph, the difference shall, unless the parties otherwise agree, be determined by the Secretary of State or, at his option, by an arbitrator to be appointed by him, and the costs of such determination shall be in the discretion of the Secretary of State or of the arbitrator, as the case may be.
- (7) The power to make regulations conferred on the Secretary of State by this paragraph shall be exercisable by statutory instrument.
- (8) In this paragraph reference to an insulated return includes a reference to a return by means of a combined neutral and earth cable which is covered by a sheath suitable for protection against corrosion and is approved for use below ground by the Secretary of State for the purpose of any regulations relating to the supply of electricity.

#### Textual Amendments

- F1** Words in Sch. 2 para. 3(2)(b) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\)](#), [Sch. 17 para. 85](#) (with [Sch. 18](#)); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142, art. 1\(3\)](#)); [S.I. 2003/3142, art. 3\(2\)](#) (with [art. 11](#))

#### *Concessionaires' subsidiary works*

- 4 (1) The Concessionaires may, for the purposes of or in connection with their scheduled works, do any of the following things within the limits of deviation for those works, that is to say—
  - (a) make, provide and maintain all such approaches, bridges, subways, interchanges, roundabouts, lifts, stairs, escalators, ramps, passages, means of access, shafts, stagings, buildings, apparatus, plant and machinery as may be necessary or convenient;
  - (b) make junctions and communications (including the provision of steps or ramps for the use of persons on foot) with any existing highway or access way intersected or interfered with by, or contiguous to, any of those works, and widen or alter the line or level of any existing highway or access way for the purpose of connecting it with any of those works or another highway, or of crossing under or over the existing highway or access way;
  - (c) construct, provide and maintain all such embankments, aprons, abutments, retaining walls, wing walls, culverts and other works as may be necessary or convenient;
  - (d) carry out any works, and do any things necessary, for the protection of any adjoining land;
  - (e) alter or remove any structure erected upon any highway or adjoining land and plant trees, shrubs or other vegetation; and
  - (f) raise, sink or otherwise alter the position of any of the steps, areas, cellars, boundary-walls, railings, fences, windows, sewers, drains, watercourses, pipes, spouts or wires of, or connected with, any building, and remove any other obstruction.

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- (2) The Concessionaires shall pay compensation for any damage done in exercise of the powers conferred by this paragraph.
- (3) Any question of disputed compensation payable under the provisions of this paragraph shall be determined under and in accordance with Part I of the <sup>M1</sup>Land Compensation Act 1961.

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**Marginal Citations**

**M1** 1961 c. 33.

*Use of lagoon for drainage*

- 5 (1) Subject to the requirements of sub-paragraph (2) below, the Concessionaires may—
  - (a) raise, lower or regulate the water, or the level or flow of water, in the Seabrook Stream in such manner as may be necessary or expedient for the construction, maintenance or operation of the drainage lagoon (Work No. 16); and
  - (b) discharge water from the lagoon into the stream at a point immediately below the embankment by which that work is formed.
- (2) In the construction of that embankment, and thereafter in the maintenance and operation of that work, the Concessionaires shall take such steps as may be necessary to ensure compliance with the requirement that the rate at which water is discharged from that work into the stream is never more than such maximum rate nor less than such minimum rate as may be agreed between the Concessionaires and the Southern Water Authority or, in default of agreement or on notice being given by the Secretary of State to the Concessionaires and the water authority, shall be determined by him; and in the exercise of any of the powers of sub-paragraph (1) above the Concessionaires shall comply with such conditions as may be so agreed or determined.
- (3) Before agreeing rates of discharge or conditions under sub-paragraph (2) above the water authority shall consult [<sup>F2</sup>English Nature], the Shepway District Council and the Kent County Council.
- (4) For the purposes of the <sup>M2</sup>Water Resources Act 1963 the provisions of this Act authorising the construction, maintenance and operation of the drainage lagoon shall be treated as if contained in a licence to construct impounding works granted to the Concessionaires subject to the requirement, and to any conditions relating to the exercise of the powers of sub-paragraph (1)(a) above, agreed or determined under sub-paragraph (2) above.
- (5) For the purposes of Part II of the <sup>M3</sup>Control of Pollution Act 1974 the discharge of water under sub-paragraph (1)(b) above shall be treated as if made with the consent of the water authority given in pursuance of that Act subject to such conditions relating to the discharge as may be agreed or determined under sub-paragraph (2) above.
- (6) In any proceedings for failure to comply with any such requirement or condition as is mentioned in sub-paragraph (4) above, it shall be a defence to prove that the failure was wholly or mainly attributable to exceptional shortage of rain, frost, accident or other unavoidable cause.

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**Textual Amendments**

**F2** Words in [Sch. 2 para. 5\(3\)](#) substituted (30.1.2001) by [2000 c. 37, ss. 73\(4\), 103\(2\)](#), [Sch. 8 para. 1\(k\)\(i\)](#)

**Marginal Citations**

**M2** [1963 c. 38.](#)

**M3** [1974 c. 40.](#)

*Safety of lagoon*

- 6 For the purposes of the <sup>M4</sup>Reservoirs Act 1975 (which makes special provision about the construction, use, alteration and inspection of large reservoirs), the drainage lagoon (Work No. 16) shall be treated as a large raised reservoir within the meaning of that Act.

**Marginal Citations**

**M4** [1975 c. 23.](#)

**SECTION B**

PROVISIONS APPLICABLE TO COUNTY COUNCIL

*County Council's subsidiary works*

- 7 (1) The County Council may, for the purposes of or in connection with their scheduled works, do any of the following things within the limits of deviation for those works, that is to say—
- (a) make, provide and maintain all such approaches, bridges, subways, roundabouts, ramps, passages and means of access as may be necessary or convenient;
  - (b) make junctions and communications (including the provision of steps or ramps for the use of persons on foot) with any existing highway or access way intersected or interfered with by, or contiguous to, any of those works, and widen or alter the line or level of any existing highway or access way for the purpose of connecting it with any of those works or another highway, or of crossing under or over the existing highway or access way;
  - (c) construct, provide and maintain all such embankments, aprons, abutments, retaining walls, wing walls, culverts and other works as may be necessary or convenient;
  - (d) carry out any works, and do any things necessary, for the protection of any adjoining land;
  - (e) alter or remove any structure erected upon any highway or adjoining land and plant trees, shrubs or other vegetation; and
  - (f) raise, sink or otherwise alter the position of any of the steps, areas, cellars, boundary-walls, railings, fences, windows, sewers, drains, watercourses, pipes, spouts or wires of, or connected with, any building, and remove any other obstruction.

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- (2) The County Council shall pay compensation for any damage done in exercise of the powers conferred by this paragraph.
- (3) Any question of disputed compensation payable under the provisions of this paragraph shall be determined under and in accordance with Part I of the <sup>M5</sup>Land Compensation Act 1961.

**Marginal Citations****M5** 1961 c. 33.**SECTION C**

## PROVISIONS APPLICABLE TO RAILWAYS BOARD

*Passenger station at Ashford*

- 8 (1) Without prejudice to section 16 of the <sup>M6</sup>Railways Clauses Consolidation Act 1845, as applicable to them, the Railways Board may, on land in the borough of Ashford (town of Ashford) in which they have sufficient right or interest—
- (a) make, maintain and operate a new passenger station adjacent to their existing station at Ashford on any part of the lands in that town numbered 21 on the deposited plans;
  - (b) construct and maintain facilities in connection with the said new passenger station, including a terminal building with frontier control facilities, footbridges linking that station with their said existing station and other works and conveniences, including road vehicle parks, on the lands in that town numbered 3, 16, 18, 20 and 21 on the deposited plans with means of access for vehicles provided in accordance with sub-paragraph (2) below;
  - (c) lay out a new road vehicle park on any part of the lands in that town numbered 25, 27 and 28 to 31 on the deposited plans with means of access for vehicles either to the new road (Work No. 18C) or to such other road as may be agreed between the Railways Board and the Kent County Council or in default of agreement determined by the Secretary of State.
- (2) The means of access for vehicles to the facilities mentioned in sub-paragraph (1)(b) above shall be provided at such points as may be agreed between the Railways Board and the County Council or in default of agreement determined by the Secretary of State.

**Marginal Citations****M6** 1845 c. 20.*Passenger station at Waterloo*

- 9 (1) In connection with the construction of Works Nos. 21, 21A and 21B, the Railways Board may, within the limits of deviation for those works in the London borough of Lambeth—

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- (a) enlarge, improve, and provide frontier control facilities at their existing Waterloo station with all necessary works and conveniences connected therewith;
  - (b) make junctions with and alter the line or level of any street or way adjoining, or affected by the construction of, those works;
  - (c) provide means of access for vehicles to Carlisle Lane at the points marked C and D on the deposited plans and to Upper Marsh at the points so marked E and F; and
  - (d) appropriate, hold and use, for the purposes of Work No. 21 and the works at the station under paragraph (a) above, any lands within the said limits, including any works on those lands previously authorised by any enactment.
- (2) In connection with the construction of Work No. 21, the Railways Board may in the London borough of Lambeth—
- (a) reduce to a width not less than 1.83 metres so much of the footpath known as Leake Court as lies between the points marked G and H on the deposited plans;
  - (b) reduce to a width not less than 15 metres so much of Carlisle Lane as lies within the limits of deviation for that work between the points marked I and J on the deposited plans; and
  - (c) remove the parapets on the western sides of the existing bridges over Westminster Bridge Road and Upper Marsh.

*Railways at Stewart's Lane, Wandsworth*

- 10 (1) In connection with the construction of Works Nos. 23, 23A and 23B, the Railways Board may in the London borough of Wandsworth—
- (a) construct the bridge over Thessaly Road (part of Work No. 23A) so as to provide a headroom not less than 4.40 metres over the surface of the street under the bridge;
  - (b) alter the level of Stewart's Road under the bridge over that road (part of Work No. 23B) so as to provide a headroom not less than 4.57 metres over the surface of the street;
  - (c) provide means of access for vehicles to Ascalon Street at the points marked A and B on the deposited plans, to Stewart's Road at the point so marked C and to Ponton Street at the point so marked D; and
  - (d) appropriate, hold and use, for the purposes of Works Nos. 23A and 23B, any lands within the limits of deviation for those works and any works on those lands previously authorised by any enactment.
- (2) In connection with the construction of Works Nos. 23, 23A and 23B or other works of the Railways Board in the vicinity thereof, the Railways Board may in the London borough of Wandsworth provide, for the purposes of such construction and of the maintenance and operation of those works, means of access for vehicles to Corunna Terrace at the point marked J on the deposited plans.

*Works Nos. 25A and 25B: nature consultations*

- 11 The Railways Board shall not begin to construct Work No. 25A or Work No. 25B until they have consulted—

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- (a) the councils of the London borough of Ealing, the London borough of Hammersmith and Fulham and the Royal borough of Kensington and Chelsea; and
  - (b) the London Wildlife Trust;
- as to the likely effect of the construction of the works on nature conservation.

*Further works and powers*

- 12 The Railways Board may make and maintain the following further works (in so far as they are shown on the deposited plans and sections, in the lines or situations, and according to the levels, so shown) and may exercise the following powers—
- (1) In connection with the construction of Work No. 24, they may in the London borough of Wandsworth—
    - (a) provide means of access for vehicles to Sheepcote Lane at the points marked A and B on the deposited plans; and
    - (b) appropriate, hold and use, for the purposes of that work, any lands within the limits of deviation for that work, including any works on those lands previously authorised by any enactment.
  - (2) In connection with the construction of Works Nos. 25A, 25B and 25C, they may, within the limits of deviation for those works, in the London boroughs of Ealing and Hammersmith and Fulham and the Royal borough of Kensington and Chelsea—
    - (a) make, maintain and operate a maintenance depot; and
    - (b) provide means of access for vehicles to Scrubs Lane and Mitre Way at the points marked B and C respectively on the deposited plans.
  - (3) In connection with the construction of Works Nos. 25A, 25B and 25C and of other works of the Railways Board in the vicinity thereof, they may in those boroughs provide means of access for vehicles to Old Oak Common Lane and Barlby Road at the points marked A and D respectively on the deposited plans.
  - (4) On the completion of Work No. 26A they may, in the parish of Bletchingley in the district of Tandridge, in the county of Surrey, fill in so much of Nutfield Brook between the points marked B and C on the deposited plans as will be rendered unnecessary by that work.
  - (5) In connection with the construction of Works Nos. 30, 30A and 30B, they may in the parishes of Newington and Saltwood, in the district of Shepway, in the county of Kent—
    - (a) provide facilities for making emergency repairs to rolling stock on any part of the lands numbered, in the parish of Newington, 4 to 7, 12, 25, 26, 33 and 36 and, in the parish of Saltwood, 7 and 8 on the deposited plans; and
    - (b) provide means of access for vehicles for construction purposes to the road from Hythe to Bishopsbourne (B2065) at the point marked K on the deposited plans.

*Temporary possession of land*

- 13 (1) Subject to the provisions of this paragraph the Railways Board may, in connection with the construction of their scheduled works specified in column (1) of the following table or any works in connection with those works, enter upon and take possession of the lands in the areas specified in columns (2) and (3) of that table

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for such purposes as are specified in column (4) of that table and may, for any such purpose, remove any structures on those lands and provide means of access to those lands.

The Table

(1) Works Nos.	(2) Area	(3) Number of land shown on deposited plans	(4) Purpose for which temporary possession may be taken
23, 23A and 23B	London borough of Wandsworth	26	The provision of vehicular access for construction.
		48	The provision of a working site and vehicular access for construction.
25A, 25B and 25C	London borough of Hammersmith and Fulham	4 and 8	The provision of a working site and vehicular access for construction.
26 and 26A	District of Tandridge (parish of Nutfield)	1, 2, 4 to 7 and 7A	The provision of a working site and vehicular access for construction to Coopers Hill Road at the point marked A on the deposited plans.
	District of Tandridge (parish of Bletchingley)	1, 2 and 5 to 7	The provision of a working site and vehicular access for construction to Outwood Lane at the point marked B on the deposited plans.
28A and 28B	Borough of Maidstone (parish of Lenham)	2 and 4	The provision of a working site and vehicular access for construction to Ham Lane at the point marked A on the deposited plans.
		10 and 11	The provision of a working site and vehicular access for construction to Lenham Road at the



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point marked B on  
the deposited plans.

- (2) Not less than 28 days before entering upon and taking temporary possession of any land under this paragraph the Railways Board shall give notice to the owners and occupiers of the land.
- (3) The Railways Board shall not, without the agreement of the owners and occupiers, remain in possession of any part of any land under this paragraph after a period of one year from the completion of the work or (as the case may be) all the works specified in relation to that land in column (1) of the table in sub-paragraph (1) above.
- (4) Except in the case of the land in the London borough of Wandsworth numbered 26 on the deposited plans, all private rights of way over any land of which the Railways Board take temporary possession under this paragraph shall be suspended and unenforceable for so long as the Railways Board remain in lawful possession of the land.
- (5) Before giving up possession of any land of which they have taken temporary possession under this paragraph, the Railways Board shall remove all temporary works and restore the land to the reasonable satisfaction of the owners and occupiers of the land.
- (6) The Railways Board shall not be empowered to purchase compulsorily, or be required to purchase, any part of any land of which they have taken temporary possession under this paragraph.
- (7) The Railways Board shall pay compensation to—
  - (a) the owner or occupier of any land of which they take temporary possession under this paragraph for any damage resulting from the exercise of the powers of this paragraph in relation to that land; and
  - (b) any person who suffers damage by reason of the suspension of any right under this paragraph.
- (8) Nothing in this paragraph shall affect liability to compensate under section 6 or 43 of the <sup>M7</sup>Railways Clauses Consolidation Act 1845, as incorporated with this Act, or section 10(2) of the <sup>M8</sup>Compulsory Purchase Act 1965, as applied by section 37 of this Act, or under any other enactment, except so far as compensation is payable under sub-paragraph (7) above.
- (9) Any dispute as to a person's entitlement to compensation under this paragraph, or as to the amount of the compensation, shall be determined under and in accordance with Part I of the <sup>M9</sup>Land Compensation Act 1961.

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**Marginal Citations**

**M7** 1845 c. 20.

**M8** 1965 c. 56.

**M9** 1961 c. 33.

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## SECTION D

### PROVISIONS APPLICABLE TO CONCESSIONAIRES, COUNTY COUNCIL AND RAILWAYS BOARD

#### *Use of sewers, etc. for removing water*

- 14 (1) The appropriate authority may use for the discharge of any water pumped or found during the construction of the scheduled works or any works in connection with those works any available stream or watercourse or any public sewer, and for that purpose may lay down, take up and alter conduits, pipes and other works and may make any convenient connections with any such stream, watercourse or public sewer within the limits of deviation for their scheduled works.
- (2) The appropriate authority shall not under the powers of this paragraph discharge any water into any sewer vested in or under the control of a water authority, internal drainage board or local authority except with the consent of that authority or board (which shall not be unreasonably withheld) and subject to such terms and conditions as that authority or board may reasonably impose; and the appropriate authority shall not make an opening into any such sewer except in accordance with plans reasonably approved by, and under the superintendence (if given) of, that authority or board.
- (3) The discharge of water under the powers conferred by this paragraph into any stream shall not prejudice the application of Part II of the <sup>M10</sup>Control of Pollution Act 1974 but section 31 of that Act shall have effect in relation to discharges under the powers of this paragraph into any relevant waters within the meaning of that section as if no matter so discharged were trade or sewage effluent or other matter mentioned in subsection (2)(e) of that section.
- (4) In the exercise of their powers under this paragraph the appropriate authority shall not damage or interfere with—
- (a) the bed of any watercourse forming part of the main river of a water authority or the banks thereof within the meaning of section 116 of the <sup>M11</sup>Land Drainage Act 1976; or
  - (b) a metropolitan watercourse within the meaning of paragraph 1 of Schedule 5 to that Act.
- (5) The appropriate authority shall take all such steps as may be reasonably required to secure that any water discharged under the powers of this paragraph shall be as free as may be reasonably practicable from any gravel, chalk, soil or other solid substance or matter in suspension.
- (6) Any difference arising between the appropriate authority and a water authority, internal drainage board or local authority under this paragraph shall be determined by arbitration.

#### **Marginal Citations**

**M10** 1974 c. 40.

**M11** 1976 c. 70.

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### *Underpinning of buildings*

- 15 (1) If in the construction of any of the scheduled works or any works in connection with any such work (“the work in question”) it becomes necessary to do so, the appropriate authority may, and if required by the owner or lessee shall, underpin or otherwise strengthen any building within 35 metres of the work in question in accordance with the provisions of this paragraph.
- (2) Except in case of emergency, the appropriate authority shall give to the owner, lessee or occupier of a building, or the owner or lessee of a building shall give to the appropriate authority, at least 28 days’ notice in writing of the intention or (as the case may be) requirement, to underpin or otherwise strengthen that building under this paragraph, and if within 21 days of the giving of such notice the owner, lessee or occupier or (as the case may be) the appropriate authority give a counter-notice in writing disputing the necessity of the underpinning or strengthening, the question of necessity shall be settled by arbitration.
- (3) The appropriate authority may, at any time after the underpinning or strengthening of any building under the foregoing provisions of this paragraph is completed and before the expiration of a period of five years from the bringing into use of the work in question, enter upon and survey the building and, after complying with the foregoing provisions of this paragraph, carry out such further underpinning or strengthening of the building as they may deem necessary or expedient or, if the owner, lessee or occupier of the building disputes the necessity or expediency, as may be settled by arbitration.
- (4) Where any question of necessity or expediency is referred to arbitration under the foregoing provisions of this paragraph and the arbitrator, after inspecting the building, decides that the underpinning or strengthening is necessary or (as the case may be) that the further underpinning or strengthening is necessary or expedient, the arbitrator may, and if so required by the owner, lessee or occupier shall, prescribe the manner in which the underpinning or strengthening is to be carried out and the appropriate authority shall underpin or strengthen the building accordingly.
- (5) For the purpose of determining how to exercise their powers and duties under this paragraph the appropriate authority may at any reasonable time enter and survey any building within 35 metres of any of their scheduled works.
- (6) The appropriate authority shall pay compensation to the owner, lessee and occupier of every building underpinned or strengthened in pursuance of the powers conferred by this paragraph for any damage which they may suffer by reason of the exercise of those powers.
- (7) Nothing in this paragraph shall affect liability to compensate under section 6 of the <sup>M12</sup>Railways Clauses Consolidation Act 1845, as incorporated with this Act, or section 10(2) of the <sup>M13</sup>Compulsory Purchase Act 1965, as applied by section 37 of this Act, or under any other enactment, except so far as compensation is payable under sub-paragraph (6) above.
- (8) Any dispute as to a person’s entitlement to compensation under this paragraph, or as to the amount of the compensation, shall be determined under and in accordance with Part I of the <sup>M14</sup>Land Compensation Act 1961.
- (9) Section 30 of the Compulsory Purchase Act 1965 shall apply to the service of notices under this paragraph with any necessary modifications.

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- (10) In this paragraph “building” includes any structure and, in the case of a work under the surface of the ground, reference to a building within 35 metres of that work includes reference to any building within 35 metres of the point on the surface below which the work is situated.

**Marginal Citations**

**M12** 1845 c. 20.

**M13** 1965 c. 56.

**M14** 1961 c. 33.

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