

SCHEDULES

SCHEDULE 6

Section 95.

FURTHER PROVISIONS RELATING TO LAND

Power to place post-boxes etc in streets

- 1 (1) A universal service provider may, for any purpose in connection with the provision of a universal postal service, execute in a street works of any of the kinds mentioned in sub-paragraph (2).
- (2) The kinds of works are—
 - (a) placing a universal postal service letter box or a universal postal service pouch-box in a street,
 - (b) inspecting, maintaining, adjusting, repairing, altering or renewing such apparatus which has been so placed, changing its position or removing it,
 - (c) works needed for, or incidental to, the purposes of any works falling within paragraph (a) or (b) (including, in particular, breaking up or opening a street).
- (3) Accordingly, Part III of the New Roads and Street Works Act 1991 (street works in England and Wales), and the Street Works (Northern Ireland) Order 1995, apply in relation to undertakers' works in exercise of a power conferred by this paragraph.
- (4) For the avoidance of doubt, references in Part III of the Act of 1991 or the Order of 1995 to apparatus shall be construed as including universal postal service letter boxes and universal postal service pouch-boxes.
- (5) Subject to sub-paragraphs (6) and (7), sub-paragraph (1) authorises the universal service provider concerned to execute works of any of the kinds mentioned in sub-paragraph (2) without obtaining any consent which would otherwise be required to be given by the street authority in its capacity as such and, in the case of a maintainable highway, in its capacity as owner.
- (6) Sub-paragraph (5) is without prejudice to—
 - (a) the provisions of Part III of the Act of 1991, or the provisions of the Order of 1995, as to the making of requirements by the street authority or as to the settlement of a plan and section and the execution of the works in accordance with them,
 - (b) section 61 of the Act of 1991 or Article 21 of the Order of 1995 (consent required for protected streets).
- (7) Sub-paragraph (1) does not free the universal service provider concerned from obtaining any other consent, licence or permission which may be required.
- (8) This paragraph binds the Crown.
- (9) In this paragraph references to doing anything in a street shall be construed as including references to doing anything under, over, across, along or upon the street.

Status: This is the original version (as it was originally enacted).

(10) In this paragraph—

“maintainable highway”—

(a) in England and Wales, has the same meaning as in Part III of the Act of 1991 and includes a street in respect of which a declaration has been made under section 87 of that Act (prospectively maintainable highways), and

(b) in Northern Ireland, means a road (within the meaning of the Order of 1995) and includes a street in respect of which a declaration has been made under Article 46 of that Order (prospective roads),

“street” and “street authority”—

(a) in England and Wales, have the same meaning as in Part III of the Act of 1991, and

(b) in Northern Ireland, have the same meaning as in the Order of 1995, and

“universal postal service pouch-box” means any box or receptacle provided by a universal service provider for the temporary storage of postal packets in the course of transmission by post pending their collection for immediate delivery by a person who is in the course of delivering postal packets in connection with the provision of a universal postal service.

(11) In the application of this paragraph to Scotland—

(a) references to streets shall be construed as references to roads and references to street authority shall be construed as references to road works authority,

(b) “maintainable highway” means a public road within the meaning of Part IV of the Act of 1991 and includes a road in respect of which a declaration has been made under section 146 of that Act (prospective public roads),

(c) “road” and “road works authority” have the same meaning as in Part IV of the Act of 1991,

(d) in sub-paragraph (3) for the words from “Part III” to “apply” there shall be substituted “Part IV of the New Roads and Street Works Act 1991 (road works in Scotland) applies”,

(e) in sub-paragraph (4) for the words from “Part III” to “1995” there shall be substituted “Part IV of the Act of 1991”,

(f) in sub-paragraph (6)(a) for the words from “Part III” to “1995,” there shall be substituted “Part IV of the Act of 1991”, and

(g) in sub-paragraph (6)(b) for the words from “61” to “of 1995” there shall be substituted “120 of the Act of 1991”.

Entry on land for exploratory purposes

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- (1) A person authorised in writing by a universal service provider may, at any reasonable time, enter upon and survey any land for the purpose of ascertaining whether the land would be suitable for use for any purpose in connection with the provision of a universal postal service.
 - (2) The power to survey land conferred by this paragraph includes power to search and bore for the purpose of ascertaining the nature of the subsoil.
 - (3) The powers conferred by this paragraph shall not be exercisable in relation to land which is covered by a building or will be so covered on the assumption that any planning permission which is in force is acted on.

Status: This is the original version (as it was originally enacted).

- (4) In this paragraph “building” includes any garden, yard, outhouses and appurtenances belonging to or usually enjoyed with a building.
- 3 (1) A person authorised to enter upon any land under paragraph 2 shall not demand to do so as of right unless—
- (a) 28 days notice of the intended entry has been given to the occupier, and
 - (b) if required to do so, he has produced evidence of his authority and has stated the purpose of his entry.
- (2) No person may carry out works authorised by paragraph 2(2) unless notice of the proposed works was included in the notice given under sub-paragraph (1).
- (3) If the land in question is held by statutory undertakers and they object to the works on the ground that the carrying out of the works would be seriously detrimental to the carrying on of their undertaking, the authority of the appropriate Minister shall be required for the carrying out of works authorised by paragraph 2(2).
- (4) In sub-paragraph (3) as it relates to England and Wales—
- “appropriate Minister” means the person indicated by section 265 of the Town and Country Planning Act 1990,
 - “statutory undertakers” means any persons who, by virtue of section 262 of the Town and Country Planning Act 1990, are or are treated as statutory undertakers for the purposes of that Act or any provision of that Act.
- (5) In that sub-paragraph as it relates to Scotland—
- “appropriate Minister” means—
 - (a) in relation to any function which, by virtue of section 53 of the Scotland Act 1998, is exercisable by them as the appropriate Minister within the meaning of section 217 of the Town and Country Planning (Scotland) Act 1997, the Scottish Ministers,
 - (b) in any other case, the Minister indicated by that section,
- “statutory undertakers” means any persons who, by virtue of section 214 of the Town and Country Planning (Scotland) Act 1997, are or are treated as statutory undertakers for the purposes of that Act or any provision of that Act.
- and this sub-paragraph has effect notwithstanding the repeal of section 217 of the Town and Country Planning (Scotland) Act 1997 by paragraph 127(3) of Schedule 2 to the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999.
- (6) In that sub-paragraph as it relates to Northern Ireland—
- “appropriate Minister” means—
 - (a) in relation to a statutory undertaker carrying on any railway, road transport or dock or harbour undertaking or the airport operator (within the meaning of the Airports (Northern Ireland) Order 1994) of any airport to which Article 25 of that Order applies, the Minister for Regional Development,
 - (b) in relation to a statutory undertaker carrying on any water transport or inland navigation, the Minister of Culture, Arts and Leisure,
 - (c) in any other case, the Minister of Enterprise, Trade and Investment,
- “statutory undertaker” has the same meaning as in Article 2(2) of the Planning (Northern Ireland) Order 1991.

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- 4 (1) Any person who intentionally obstructs a person acting in the exercise of any power conferred by paragraph 2 shall be guilty of an offence.
- (2) A person who commits an offence under sub-paragraph (1) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- 5 (1) If in the exercise of any power conferred by paragraph 2 any damage is caused to land or moveables, any person interested in the land or moveables may recover compensation in respect of that damage from the universal service provider on whose behalf the power is exercised; and if in consequence of the exercise of such a power a person is disturbed in his enjoyment of any land or moveables, he may recover compensation from the universal service provider in respect of that disturbance.
- (2) In relation to England and Wales, any question of disputed compensation under sub-paragraph (1) shall be referred to and determined by the Lands Tribunal; and sections 2 and 4 of the Land Compensation Act 1961 shall apply in relation to the determination subject to any necessary modifications.
- (3) In relation to Scotland, any question of disputed compensation under sub-paragraph (1) shall be referred to and determined by the Lands Tribunal for Scotland; and sections 9 and 11 of the Land Compensation (Scotland) Act 1963 shall apply in relation to the determination subject to any necessary modifications.
- (4) In relation to Northern Ireland, any question of disputed compensation under sub-paragraph (1) shall be referred to and determined by the Lands Tribunal for Northern Ireland; and the determination shall be deemed to be a determination to which section 31 of the Land Development Values (Compensation) Act (Northern Ireland) 1965 applies.
- (5) In this paragraph “moveables” means—
- (a) in relation to England and Wales and Northern Ireland, chattels, and
 - (b) in relation to Scotland, corporeal moveables.

Acquisition of land by agreement

- 6 For the purpose of the acquisition by agreement by a universal service provider for any purpose in connection with the provision of a universal postal service of land in England and Wales, the provisions of Part I of the Compulsory Purchase Act 1965 (so far as applicable), other than sections 4 to 8 and section 31, shall apply.
- 7 For the purpose of the acquisition by agreement by a universal service provider for any purpose in connection with the provision of a universal postal service of land in Scotland, section 188(2) of the Town and Country Planning (Scotland) Act 1997 (incorporation of Lands Clauses Acts) shall, with any necessary modifications, apply for the purposes of this Act as it applies for the purposes of that Act.
- 8 For the purpose of the acquisition by agreement by a universal service provider for any purpose in connection with the provision of a universal postal service of land in Northern Ireland, the Lands Clauses Acts shall be incorporated with this Act except for sections 127 to 133 (sale of superfluous land) and sections 150 and 151 (access to the special Act) of the Lands Clauses Consolidation Act 1845.

Power to sell Duchy of Lancaster land

- 9 If a universal service provider proposes to acquire by agreement any land belonging to Her Majesty in right of the Duchy of Lancaster for any purpose in connection

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with the provision of a universal postal service, the Chancellor and Council of the Duchy of Lancaster may sell that land to him.

Supplementary

- 10 Any land acquired by agreement by a universal service provider by virtue of any of paragraphs 6 to 9 shall be deemed for all purposes to have been acquired by him for the purposes of his undertaking as a universal service provider.