

SCHEDULE

PROTECTIVE PROVISIONS

Part III

PROTECTION OF POWERGEN PLC

2.—(1) If, during the construction of a tidal work or within 10 years after the completion of such work and wholly or partly in consequence of its construction or, if during the exercise of the powers conferred by article 10 (Power to dredge) of this Order or within 10 years thereafter and wholly or partly in consequence thereof there is caused or created an accumulation or erosion, the Company, if so requested by PowerGen, before or within the period of 10 years after such completion or exercise, shall remedy such accumulation or erosion in the manner specified in sub-paragraph (3) below and, if they refuse or fail so to do, PowerGen may itself cause the work to be done and may recover the reasonable cost thereof from the Company.

(2) Should any accumulation or erosion in consequence of such construction or exercise arise within the said period of 10 years and be remedied in accordance with sub-paragraph (3) below, any recurrence of such accumulation or erosion shall from time to time be so remedied by the Company during the said period of 10 years and at any time thereafter, save that the Company's obligation under this paragraph shall cease in the event that following the remedying of any accumulation or erosion a period of 10 years elapses without any further accumulation or erosion being caused or created in consequence of such construction or exercise.

(3) For the purposes of sub-paragraphs (1) and (2) above—

- (a) in the case of an accumulation, the remedy shall be its removal; and
- (b) in the case of erosion, the remedy shall be the carrying out of such protective works or measures as may be necessary and the reimbursing to PowerGen of its reasonable costs of carrying out such reconstruction works as may be necessary:

Provided that in the event that surveys, inspections, tests or sampling establish to the reasonable satisfaction of PowerGen that such accumulation or erosion would have been caused in any event by factors other than the construction of a tidal work or the exercise of the powers conferred by the said article 10, the Company shall be liable to remedy such accumulation or erosion only to the extent that the same is attributable to such construction or exercise as aforesaid.

(4) For the purposes of sub-paragraph (1) above the date of completion of a work shall be the date on which it is brought into use.