

SCHEDULE

PROTECTIVE PROVISIONS

Part III

PROTECTION OF POWERGEN PLC

- 3.—(1) This paragraph applies where—
- (a) either—
 - (i) any costs, charges, damages or expenses are occasioned to or reasonably incurred by PowerGen by reason of—
 - (A) the failure of the works; or
 - (B) any act or omission of the Company or of any persons in their employment or of their contractors or others whilst engaged upon the construction or maintenance of the works or upon operations carried out under article (Power to dredge) of this Order; or
 - (ii) any claim or demand arises out of or in connection with the construction or maintenance of the works or any such failure, act or omission as aforesaid; and
 - (b) as a result of any such failure, act or omission or of the construction or maintenance of the works, any thing forming part of the works or used in connection with the construction or maintenance of the works or in connection with any such operations as aforesaid is carried downstream and causes damage to the PowerGen works.
- (2) Where this paragraph applies, then (subject to paragraphs (3) and (4) below) the Company shall—
- (a) be responsible for and make good to PowerGen all such costs, charges, damages and expenses as are mentioned in paragraph (1)(a)(i) above; and
 - (b) indemnify PowerGen from and against all such claims and demands as are mentioned in paragraph (1)(a)(ii) above.
- (3) Nothing in this paragraph shall impose any liability on the Company in respect of any such claim or demand in so far as and to the extent to which it is attributable to the act, neglect or default of any person other than the Company, their contractors, agents, workmen or servants.
- (4) PowerGen shall give to the Company immediate notice of any such claim or demand as is mentioned in paragraph(1)(a)(ii) above, and no settlement or compromise thereof shall be made except with the consent of the Company who (if they so elect) shall at their expense have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the same.