

SCHEDULES

SCHEDULE 10

PROTECTION OF CERTAIN PERSONS

PART IV

PROTECTION OF MISCELLANEOUS UNDERTAKINGS

28. The provisions of this Part of this Schedule shall have effect—

- (a) in relation to each of the protected persons (save in the case of paragraph 30(4) below, which has effect only in relation to LRT);
- (b) unless otherwise agreed in writing by the protected person and the undertaker.

29. In this Part of this Schedule—

“approval” in relation to specified works means approval of the engineer appointed by the protected person whose protected property is affected by those works such approval not to be unreasonably withheld;

“construction” shall include reconstruction, altering, replacing, relaying, removal, maintenance and repair of the specified works;

“engineer” means the engineer appointed by the protected persons;

“plans” shall include sections, drawings, particulars and schedules of construction;

“protected person” means, severally, LRT, the Arts Council, or the South Bank Board;

“protected property” means in relation to each protected person any lands held or used by that protected person for the purposes of its operation, and any works, apparatus and equipment connected therewith for the maintenance or operation of which that protected person is responsible when the relevant specified works are begun; and

“the specified works” means so much of the authorised works as may be situated within 15 metres (measured in any direction) of, or may in any way affect, protected property and includes the construction of any such work.

30.—(1) The undertaker shall not under the powers conferred by or under this Order without the consent of the protected person, acquire or enter upon, take or use whether temporarily or permanently or acquire any new rights over protected property.

(2) This paragraph shall not prevent the undertaker acquiring the interest of any person other than the protected person in the lands mentioned in sub-paragraph (1) above, required for the purposes of the authorised works.

(3) The undertaker shall not in exercise of the powers of article 3(3) above carry out any works outside the limits of deviation which affect protected property except with the consent of the protected person, which consent shall not be unreasonably withheld but may be given subject to reasonable conditions.

(4) Subject to sub-paragraph (5) below, the powers under article 5 above to break up or open a street shall not be exercisable where the street, not being a highway maintainable at public expense

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(within the meaning of the Highways Act 1980(1)) is under the control or management of, or is maintainable by, LRT, except with the consent of LRT.

(5) Sub-paragraph (4) above shall not apply to the carrying out under this Order of emergency works, within the meaning of Part III of the 1991 Act.

(6) The consent of the protected person under this sub-paragraph shall not be unreasonably withheld but may be given subject to reasonable conditions.

(7) The undertaker shall not in the exercise of the powers conferred by this Order, without the consent of the protected person, prevent or hinder pedestrian or vehicular access to any protected property.

(8) The provisions of Schedule 11 to this Order shall not apply to works, apparatus and equipment to which this Part of this Schedule applies.

(9) The undertaker shall not exercise the powers under article 14(3) or 15 above or the powers under section 11(3) of the 1965 Act, in respect of any protected property except with the consent of the protected person.

31.—(1) The undertaker shall, before commencing the specified works, furnish to the protected person such proper and sufficient plans specified of the specified works as may reasonably be required for the approval of the engineer and shall not commence the specified works until the plans have been approved in writing by the engineer or settled by arbitration.

(2) If, within a period of 56 days beginning with the date on which plans have been furnished to the protected person under sub-paragraph (1) above, the engineer has not notified his disapproval and the grounds of his disapproval, he shall be deemed to have approved the plans as submitted.

(3) If, within a period of 56 days beginning with the date on which plans have been furnished to the protected person under sub-paragraph (1) above, the protected person shall give notice to the undertaker that the protected person desires itself to construct any part of the specified works which in the opinion of the engineer will or may affect the stability of, or the safe operation of protected property, then, if the undertaker desires such part of the specified works to be constructed, the protected person shall construct it with all reasonable dispatch on behalf of and to the reasonable satisfaction of the undertaker in accordance with approved plans.

(4) Upon signifying his approval of the plans the engineer may specify any protective works, whether temporary or permanent, which in his opinion should be carried out before the commencement of the specified works to ensure the stability of protected property, the continuation of the safe and effective operation of the protected person's operation including any relocation of works, apparatus and equipment necessitated by the specified works and the comfort and safety of passengers or customers, and such protective works as may be reasonably necessary for those purposes shall be constructed with all reasonable dispatch, and the undertaker shall not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed.

32.—(1) The undertaker shall give to the engineer not less than 56 days' notice of its intention to commence the construction of any of the specified works and also, except in an emergency (when it shall give such notice as may be reasonably practicable), of its intention to carry out any works for the repair or maintenance of the specified works in so far as such works of repair or maintenance affect or interfere with protected property.

(2) The specified works shall, when commenced, be carried out with all reasonable dispatch in accordance with the plans approved or deemed to be approved or settled as aforesaid and under the supervision (if given), and to the reasonable satisfaction, of the engineer, and in such manner as to cause as little damage as may be to protected property and as little interference as may be with the

(1) 1980 c. 66.

conduct of protected person's operation and the use by passengers or customers of its property and, if any damage to protected property or any such interference is caused by the carrying out of the specified works, the undertaker shall, notwithstanding any such approval as aforesaid, make good such damage and shall pay on demand to the protected person all reasonable expenses to which the protected person may be put and compensation for any loss which the protected person may sustain by reason of any such damage or interference.

(3) Nothing in this paragraph shall impose any liability on the undertaker with respect to any damage, cost, expense or loss which is attributable to the act, neglect or default of a protected person or its servants or agents.

33. Without prejudice to the generality of paragraphs 31 and 32 above a protected person may, in approving the plans of or in supervising the carrying out of the specified works or of any protective works carried out by the undertaker by virtue of the provisions of paragraph 31(3) above, require that—

- (a) nothing shall be done by or on behalf of the undertaker which unreasonably impedes the free, uninterrupted and safe flow of passengers or customers;
- (b) dust sheets and other works and working methods are used so as to prevent so far as practicable any dust or dirt from the relevant works affecting such persons; and
- (c) adequate signing of all alterations of routes for such persons and of any hazards or obstructions to the free movement of such persons is provided.

34. The undertaker shall at all times afford reasonable facilities to the engineer for access to the specified works during their construction and shall supply him with all such information as he may reasonably require with regard to those specified works or the method of construction thereof.

35. During the construction of any part of the specified works under paragraph 31 above by a protected person under this Part of this Schedule, the protected person shall at all times afford reasonable facilities to the undertaker and its agents for access to those works, and shall supply the undertaker with such information as they may reasonably require with regard to such works or the method of construction thereof.

36.—(1) If any alterations or additions either permanent or temporary, to protected property are reasonably necessary during the construction of the specified works, or during a period of 12 months after the completion thereof, in consequence of the construction of the specified works, such alterations and additions may be carried out by the protected person after giving the undertaker reasonable notice of its intention to carry out such alterations or additions and the undertaker shall pay the protected person on demand the cost thereof as certified by the engineer, including in respect of permanent alterations and additions a capitalised sum representing any increase in the costs which may be expected to be reasonably incurred by the protected person in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If the cost of maintaining, working or renewing protected property is reduced in consequence of any such alterations or additions, a capitalised sum representing such saving shall be set off against any sum payable by the undertaker to the protected person under this paragraph.

37. The undertaker shall repay to any protected person all costs, charges and expenses reasonably incurred by the protected person—

- (a) in constructing any part of the specified works on behalf of the undertaker or any protective works under the provisions of paragraph 31 above, including, in respect of any permanent protective works, a capitalised sum representing the costs which may be expected to be reasonably incurred by the protected person in maintaining and renewing such works;
- (b) in respect of the employment of any inspectors, signalmen, watchmen and other persons whom it is reasonably necessary to appoint for inspecting, signalling, watching and

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lighting its protected property in order to prevent, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of the specified works;

- (c) resulting from any speed restrictions which in the opinion of the engineer are necessary by reason of the construction or failure of the specified works, or from the substitution or diversion of services which may be reasonably necessary for the same reason;
- (d) in respect of any additional temporary lighting of its protected property in the vicinity of the specified works, being lighting made reasonably necessary by reason of the construction or failure of the specified works; and
- (e) in respect of the consideration of plans and the supervision by the engineer of the construction of the specified works.

38.—(1) The undertaker shall be responsible for and make good to the protected person, all costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule which may be occasioned to, or reasonably incurred by, the protected person—

- (a) by reason of the construction of the specified works or the failure thereof, or
- (b) by reason of any act or omission of the undertaker, of any person in his employ, or of his contractors or others whilst engaged upon the construction of the specified works,

and the undertaker shall indemnify the protected person from and against all claims and demands arising out of or in connection with the construction of the specified works or any such failure, act or omission, and the fact that any act or thing may have been done in accordance with any requirement of the engineer or under his supervision, shall not (if it was not attributable to the act, neglect or default of the protected person, or of any person in their employ, or of their contractors or agents) excuse the undertaker from any liability under the provisions of this Part of this Schedule.

(2) The protected person shall give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the undertaker.

39. Any difference arising between the undertaker and a protected person under this Part of this Schedule (other than a difference as to the meaning or construction of this Part of this Schedule) shall be resolved by arbitration under article 36 above.