

SCHEDULES

SCHEDULE 12

PROTECTION OF RAILWAY INTERESTS

16.—(1) Subject to paragraph 19 below, the undertaker shall pay to Railtrack—

- (a) all reasonable costs, charges and expenses incurred by Railtrack and its engineer in considering proposals and giving approval to plans submitted under paragraphs 6 and 8 above (other than in respect of any arbitration), in supplying information under paragraph 19 below, in complying with railway operational procedures in connection with the specified works and, where appropriate, in supervising and monitoring the construction of the specified works;
- (b) all reasonable costs, charges and expenses incurred by Railtrack in constructing any part of the specified works on behalf of the undertaker as provided by paragraph 8(5) above or in constructing any protective or other works under the provisions of paragraph 9 above;
- (c) any additional costs and any losses reasonably incurred by Railtrack by reason of the construction or maintenance of the specified works; and
- (d) any loss or damage occasioned to Railtrack and caused by reason of the failure of the specified work.

(2) The compensation payable under this paragraph shall include a sum equivalent to the relevant costs.

(3) Subject to the terms of any agreement between Railtrack and the operator of a railway asset regarding the terms of payment of the relevant costs in respect of that operator, Railtrack shall promptly pay to each such operator the amount of any compensation which Railtrack receives under this paragraph which relates to the relevant costs of that operator.

(4) The obligation on the undertaker under this paragraph to pay Railtrack the relevant costs shall, in the event of default by the undertaker, be enforceable direct by the operator concerned against the undertaker.

(5) In this paragraph “relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each operator as a consequence of any restriction of use of a station or Railtrack’s network as a result of the construction or maintenance of the specified works or any such failure of the specified works as is mentioned in sub-paragraph 1(d) above.

(6) The sums payable under this paragraph shall include a capitalised sum in respect of the additional cost to Railtrack of—

- (a) maintaining and renewing any protective works or other additions or alterations to railway property; and
- (b) altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of the specified works.