

## SCHEDULES

### SCHEDULE 7

Article 45

#### PROVISIONS RELATING TO STATUTORY UNDERTAKERS, ETC.

##### *Apparatus of statutory undertakers, etc. on land acquired*

1.—(1) Subject to the following provisions of this paragraph, sections 271 to 274 of the 1990 Act (power to extinguish rights of statutory undertakers etc. and power of statutory undertakers etc. to remove or re-site apparatus) shall apply in relation to any land which has been acquired under this Order, or which is held by the Executive and is appropriated or used (or about to be used) by it for the purposes of this Order or for purposes connected therewith; and all such other provisions of that Act as apply for the purposes of those provisions (including sections 275 to 278, which contain provisions consequential on the extinguishment of any rights under sections 271 and 272, and sections 279(2) to (4), 280 and 282 which provide for the payment of compensation) shall have effect accordingly.

(2) In the provisions of the 1990 Act, as applied by sub-paragraph (1)—

- (a) references to the appropriate Minister are references to the Secretary of State;
- (b) references to the purpose of carrying out any development with a view to which land was acquired or appropriated are references to the purpose of carrying out the authorised works; and
- (c) references to land acquired or appropriated as mentioned in section 271(1) of the 1990 Act are references to land acquired, appropriated or used as mentioned in sub-paragraph (1).

(3) Where any apparatus of public utility undertakers or of an operator of an electronic communications code network is removed in pursuance of a notice or order given or made under section 271, 272 or 273 of the 1990 Act, as applied by sub-paragraph (1), any person who is the owner or occupier of premises to which a supply was given from that apparatus shall be entitled to recover from the Executive compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(4) Sub-paragraph (3) shall not apply in the case of the removal of a public sewer but where such a sewer is removed in pursuance of such a notice or order as is mentioned in that paragraph, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer, or
- (b) the owner of a private sewer which communicated with that sewer,

shall be entitled to recover from the Executive compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of making his drain or sewer communicate with any other public sewer or with a private sewage disposal plant.

(5) The provisions of the 1990 Act mentioned in sub-paragraph (1), as applied by that sub-paragraph, shall not have effect in relation to apparatus as respects which Part III of the 1991 Act applies (including that Part as applied by article 3).

(6) In this paragraph—

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“electronic communications code” means the code set out in Schedule 2 to the Telecommunications Act 1984(1);

“electronic communications code network” means an electronic communications network within the meaning of the Communications Act 2003(2) to which the electronic communications code applies; and

“public utility undertakers” has the same meaning as in the Highways Act 1980(3).

#### *Application of electronic communications code*

2.—(1) Paragraph 21 of the electronic communications code shall not apply for the purposes of the authorised works to the extent that such works are regulated by Part XI of the 1990 Act, sections 84 and 85 of the 1991 Act (or regulations made under section 85 of that Act) or sub-paragraph (3).

(2) Paragraph 23 of the electronic communications code shall apply for the purposes of the authorised works, save—

(a) in so far as such works are regulated by the 1991 Act or any regulation made under that Act; or

(b) where the Executive exercises a right under subsection (4)(b) of section 272 of the 1990 Act or under an order made under that section to remove apparatus.

(3) The temporary stopping up, alteration or diversion of any highway under article 13 of this Order shall not affect any right of an operator of a electronic communications code network under paragraph 9 of the electronic communications code in respect of any apparatus which at the time of the stopping up or diversion is in the highway.

(4) In this paragraph—

“apparatus” has the same meaning as in Part III of the 1991 Act; and

“electronic communications code” and “electronic communications code network” have the same meanings as in paragraph 1(6).

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(1) 1984 c. 12; Schedule 2 was amended by the New Roads and Street Works Act 1991, Schedule 8, paragraphs 113 and 115 and the Communications Act 2003, Schedule 3.

(2) 2003 c. 21.

(3) 1980 c. 66.