

SCHEDULES

SCHEDULE 9

PROTECTIVE PROVISIONS

PART 3

FOR THE PROTECTION OF THE ENVIRONMENT AGENCY

23.—(1) Subject to sub-paragraph (6), the undertaker must from the commencement of the construction of a specified work until the date falling 12 months from the date of completion of such specified work (“the maintenance period”), maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation and on land held by the undertaker for the purposes of or in connection with the specified work, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence. Upon the expiry of the maintenance period, the drainage work must be maintained by the highway authority of the highway to which the specified work relates.

(2) If any such drainage work is not maintained to the reasonable satisfaction of the Agency, the Agency may by notice in writing require the person liable for maintenance to repair and restore the work, or any part of such work, or (if the person liable for maintenance so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed), to remove the work and restore the site to its former condition, to such extent and within such limits as the Agency reasonably requires.

(3) Subject to sub-paragraph (5), if, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the person liable for maintenance, that person has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may do what is necessary for such compliance and any expenditure reasonably incurred by the Agency in so doing shall be recoverable from that person.

(4) If there is any failure by the undertaker to obtain consent or comply with conditions imposed by the Agency in accordance with these protective provisions the Agency may serve written notice requiring the undertaker to cease all or part of the specified works and the undertaker must cease the specified works or part of them until it has obtained the consent or complied with the condition unless the cessation of the specified works or part of them would cause greater damage than compliance with the written notice.

(5) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the Agency must not except in the case of an emergency exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 29.

(6) This paragraph does not apply to—

- (a) drainage works which are vested in the Agency, or which the Agency or another person is liable to maintain and is not proscribed by the powers of this Order from doing so; and

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The M20 Junction 10a Development Consent Order 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part of this Schedule.

Commencement Information

I1 Sch. 9 para. 23 in force at 22.12.2017, see [art. 1](#)

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 2 para. 3(2)(ea) inserted by [S.I. 2019/1271 art. 2\(2\)\(b\)](#)
- Sch. 2 para. 3(6) inserted by [S.I. 2019/1271 art. 2\(3\)](#)