

## SCHEDULE 6

### PROTECTIVE PROVISIONS

#### PART 1

#### FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

1.—(1) For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

(2) In this Part of this Schedule—

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system are to be construed in accordance with paragraph 1(3A) of that code;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in section 106(1) of the 2003 Act (application of the electronic communications code)<sup>M1</sup>;

“electronic communications code network” means—

- (a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and
- (b) an electronic communications network which the Secretary of State is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

“operator” means the operator of an electronic communications code network.

#### Commencement Information

**I1** Sch. 6 para. 1 in force at 14.4.2020, see [art. 1](#)

#### Marginal Citations

**M1** [Section 106](#) was substituted by the Digital Economy Act 2017 c.30, [section 4](#).

2. The exercise of the powers of article 29 (statutory undertakers) is subject to Part 10 of Schedule 3A<sup>M2</sup> of the 2003 Act.

#### Commencement Information

**I2** Sch. 6 para. 2 in force at 14.4.2020, see [art. 1](#)

#### Marginal Citations

**M2** [Part 10](#) was substituted by Digital Economy Act 2017, section 4(2), Schedule 1.

*Changes to legislation: There are currently no known outstanding effects for the The Reinforcement to the North Shropshire Electricity Distribution Network Order 2020, PART 1. (See end of Document for details)*

3.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or its construction any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), or other property of an operator, the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage and make reasonable compensation to that operator for any other expenses, loss, or costs incurred by it, by reason, of any such damage, provided that the operator is not entitled to recover any indirect or consequential losses or losses of profits from the undertaker.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 38 (arbitration).

---

**Commencement Information**

**I3** Sch. 6 para. 3 in force at 14.4.2020, see [art. 1](#)

4. This Part of this Schedule does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 of the 1991 Act; or
- (b) any damage, or any interruption, caused by electro-magnetic interference (if any) arising from the construction or use of the authorised development.

---

**Commencement Information**

**I4** Sch. 6 para. 4 in force at 14.4.2020, see [art. 1](#)

5. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

---

**Commencement Information**

**I5** Sch. 6 para. 5 in force at 14.4.2020, see [art. 1](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Reinforcement to the North Shropshire Electricity Distribution Network Order 2020, PART 1.