

SCHEDULES

SCHEDULE 12

PROTECTIVE PROVISIONS

PART 1

FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

Alternative apparatus

6.—(1) If, in the exercise of the powers conferred by this Order, Network Rail acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of an undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the undertaker in question.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, Network Rail requires the removal of any apparatus placed in that land, it must give to the undertaker in question written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed.

(3) Any alternative apparatus to be constructed in land of Network Rail under this Part of this Schedule is to be constructed in such manner and in such line or situation as may be agreed between the undertaker in question and Network Rail within 21 days of the service of a notice under sub-paragraph (2), or in default of such agreement settled by arbitration in accordance with article 44 (arbitration).

(4) In any case where alternative apparatus is to be provided or constructed under sub-paragraph (2), or if in consequence of the exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus, Network Rail must, subject to sub-paragraph (5), afford to the undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of Network Rail and subsequently for the maintenance of that apparatus.

(5) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of Network Rail, or Network Rail is unable to afford such facilities and rights as are mentioned in sub-paragraph (4), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the undertaker in question must, on receipt of a written notice to that effect from Network Rail, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(6) The undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 44, and after the grant to the undertaker of any such facilities and rights as are referred to in sub-paragraph (4) or (5), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and

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subsequently to remove any apparatus required by Network Rail to be removed under the provisions of this Part of this Schedule.

(7) Regardless of anything in sub-paragraph (6), if Network Rail gives notice in writing to the undertaker in question that it desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of Network Rail, that work, instead of being executed by the undertaker, must be executed by Network Rail without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the undertaker.

(8) Nothing in sub-paragraph (7) authorises Network Rail to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.