

SCHEDULE 10

Protective Provisions

PART 3

Protection for Anglian Water Services Limited

1. For the protection of Anglian Water, the following provisions of this Schedule have effect unless otherwise agreed in writing between the undertaker and Anglian Water.

2. In this part of this schedule—

“alternative apparatus” means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in not less efficient a manner than previously;

“Anglian Water” means Anglian Water Services Limited (company number 02366656);

“apparatus” means any works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage; and

- (a) any drain or works vested in Anglian Water under The Water Industry Act 1991,
- (b) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102 (4) of The Water Industry Act 1991 or an agreement to adopt made under section 104 of that Act,

and includes a sludge main, disposal main or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any sewer, drain, or works (within the meaning of section 219 of that Act) and any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus.

“functions” includes powers and duties.

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land; and

“plan” includes sections, drawings, specifications and method statements.

3. This Part does not apply to apparatus in respect of which the relations between the undertaker and Anglian Water are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

4. The undertaker must not interfere with, build over or near to any apparatus within the Order land or 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 the standard protection strips which are the strips of land falling, the following distances to either side of the medial line of any apparatus—

- (a) 2.25 metres where the diameter of the pipe is less than 150 millimetres;
- (b) 3 metres where the diameter of the pipe is between 150 and 450 millimetres;
- (c) 4.5 metres where the diameter of the pipe is between 450 and 750 millimetres;
- (d) 6 metres where the diameter of the pipe exceeds 750 millimetres;

unless otherwise agreed in writing with Anglian Water, such agreement not to be unreasonably withheld or delayed, and such provision being brought to the attention of any agent or contractor responsible for carrying out any work on behalf of the undertaker.

5. The alteration, extension, removal or re-location of any apparatus may not be implemented until—

Status: This is the original version (as it was originally made).

- (a) any requirement for any permits under the Environmental Permitting (England and Wales) Regulations 2016 or other legislations and any other associated consents are obtained, and any approval or agreement required from Anglian Water on alternative outfall locations as a result of such re-location are approved, such approvals or agreement from Anglian Water not to be unreasonably withheld or delayed; and
- (b) the undertaker has made the appropriate application required under the Water Industry Act 1991 together with a plan and description of the works proposed and Anglian Water has agreed all of the contractual documentation required under the Water Industry Act 1991, such agreement not to be unreasonably withheld or delayed; and such works to be executed only in accordance with the plan and description submitted and in accordance with such reasonable requirements as may be made by Anglian Water without delay for the alteration or otherwise for the protection of the apparatus, or for securing access to it.

6. In the situation, where in exercise of the powers conferred by the Order, the undertaker acquires any interest in any land in which apparatus is placed and such apparatus is to be relocated, extended, removed or altered in any way, no alteration or extension may take place until Anglian Water has established to its reasonable satisfaction, contingency arrangements in order to conduct its functions for the duration of the works to relocate, extend, remove or alter the apparatus. Anglian Water must use reasonable endeavours to establish contingency arrangements in a timely manner.

7. Regardless of any provision in this Order or anything shown on any plan, the undertaker must not acquire any apparatus otherwise than by agreement, and before extinguishing any existing rights for Anglian Water to use, keep, inspect, renew and maintain its apparatus in the Order land, the undertaker must, with the agreement of Anglian Water, create a new right to use, keep, inspect, renew and maintain the apparatus that is reasonably convenient for Anglian Water such agreement not to be unreasonably withheld or delayed, and to be subject to arbitration under article 37 (arbitration).

8. If the undertaker is unable to create the new rights referred to in paragraph 7, Anglian Water must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible, use its reasonable endeavours to obtain the necessary rights.

9. If in consequence of the exercise of the powers conferred by the Order the access to any apparatus is materially obstructed the undertaker must provide such alternative means of access to such apparatus as enables Anglian Water to maintain or use the apparatus no less effectively than was possible before such obstruction.

10. If in consequence of the exercise of the powers conferred by the Order, previously unmapped sewers, lateral drains or other apparatus are identified by the undertaker, notification of the location of such assets will immediately be given to Anglian Water and afforded the same protection as other Anglian Water assets.

11. If for any reason or in consequence of the construction of any of the works referred to in paragraphs 5 to 7 and 10 above any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker must—

- (a) bear and pay the cost reasonably incurred by Anglian Water in making good any damage or restoring the supply; and
- (b) make reasonable compensation to Anglian Water for any other expenses, loss, damages, penalty or costs properly and reasonably incurred by Anglian Water

by reason or in consequence of any such damage or interruption.

12. Nothing in paragraph 11 above imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of Anglian Water, its officer, servants, contractors or agents.

13. Anglian Water must give the undertaker reasonable notice of any claim or demand pursuant to paragraph 11 and must consider its representations before proceeding further in respect of the claim or demand.

14. Anglian Water must use its reasonable endeavours to mitigate in whole or in part and to minimise any claim, costs, expenses, loss, demands and penalties pursuant to paragraph 11. If requested to do so by the undertaker, Anglian Water shall provide an explanation of how the claim has been minimised

15. Any difference or dispute arising between the undertaker and Anglian Water under this Schedule must, unless otherwise agreed in writing between the undertaker and Anglian Water, be determined by arbitration in accordance with article 37 (arbitration).