

SCHEDULE 19

Protective Provisions

PART 3

NETWORK RAIL

22.—(1) The undertaker must not exercise the powers conferred by—

- (a) article 27 (authority to survey and investigate the land);
- (b) article 28 (compulsory acquisition of land);
- (c) article 30 (statutory authority to override easements and other rights);
- (d) article 32 (compulsory acquisition of rights and imposition of restrictive covenants);
- (e) article 33 (private rights of way);
- (f) article 35 (acquisition of subsoil and airspace only);
- (g) article 39 (temporary use of land for carrying out authorised development);
- (h) article 41 (temporary use of land for maintaining authorised development);
- (i) article 42 (statutory undertakers);
- (j) or the powers conferred by section 11(3) of the 1965 Act,

in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, or article 42 (statutory undertakers), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail.

(5) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions.

(6) The undertaker shall not place railway property in a position where it cannot be used, or maintained, or is placed at risk of not being capable of use, to run trains safely.