

## SCHEDULES

### SCHEDULE 7

#### PROTECTIVE PROVISIONS

##### PART V

##### PROTECTION OF SEWERS

- 1 (1) The following provisions of this Part of this Schedule shall, unless otherwise agreed in writing between the appropriate authority and the sewerage authority concerned, have effect for the protection of the sewerage authorities.
- (2) In this Part of this Schedule—
  - "appropriate authority" does not include the Secretary of State in respect of the A20 improvement works;
  - "sewer" includes any main used for the conveyance of sewage sludge or sewage effluent and any pipe, subway or storm overflow or other apparatus vested in, or maintained by, the sewerage authority for the purposes of sewerage or sewage disposal, but does not include any such apparatus in respect of which the relations between the appropriate authority and the sewerage authority are regulated by the provisions of Part II of the Public Utilities Street Works Act 1950;
  - "the sewerage authority" means the Southern Water Authority and the Thames Water Authority, or either of them, in their capacity as authorities responsible for sewerage and sewage disposal, and includes a local authority as a relevant authority for the purposes of section 15 of the Water Act 1973;
  - "specified work" means so much of any of the works authorised by this Act (other than the A20 improvement works) as may be situated over, or within 15 metres measured in any direction of, or impose any load directly upon, any sewer.
- 2 (1) Before commencing the construction or renewal of any specified work the appropriate authority shall submit to the sewerage authority plans thereof as described in paragraph 3 below (in this Part of this Schedule referred to as "the said plans") and shall not commence that work until the sewerage authority have signified their approval of the said plans.
- (2) The sewerage authority's approval shall not be unreasonably withheld and, if within 56 days after the submission of the said plans the sewerage authority have not approved or disapproved them, they shall be deemed to have approved them.
- 3 (1) The plans to be submitted to the sewerage authority shall be detailed plans, drawings, sections and specifications describing the position and manner in which, and the level at which, any specified work is proposed to be carried out and the position of all sewers of the sewerage authority within the limits of deviation for that work, and

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shall comprise detailed drawings of every alteration which the appropriate authority propose to make in any such sewers.

- (2) For the purpose of the preparation of the said plans the sewerage authority shall, on application by the appropriate authority, permit them to have access to plans in the possession of the sewerage authority and to any of their sewers.
- 4 The appropriate authority shall give to the sewerage authority not less than 28 days' notice of their intention to commence the construction or renewal of a specified work and, except in case of emergency (when they shall give such notice as may be reasonably practicable), of their intention to carry out works of repair or maintenance of a specified work.
- 5 In carrying out any specified work the appropriate authority shall comply with all reasonable requirements of the sewerage authority of which due notice is given to the appropriate authority and shall provide new, altered or substituted sewers, or works for the protection of any sewers of the sewerage authority, in such manner as the sewerage authority shall reasonably require for the protection of, and for preventing injury or impediment to, any such sewer by reason of the specified work.
- 6 All works for the provision of new, altered or substituted sewers or protective works in pursuance of paragraph 5 above shall, where so required by the sewerage authority, be carried out by or under the supervision (if given) of an officer of the sewerage authority duly appointed for the purpose, and all reasonable costs, charges and expenses to which the sewerage authority may be put by reason of such works, whether in the course of the carrying out of the works, or in the preparation or examination of plans or designs or in such supervision as aforesaid, or otherwise, shall be paid to the sewerage authority by the appropriate authority.
- 7 Nothing in paragraphs 5 and 6 above shall require the appropriate authority to provide new or substituted works of better type, of greater dimensions or of greater capacity than those of the works in place of which they are provided except in so far as the placing of works of such type, dimensions or capacity has been specified as necessary in a specification of Works settled under paragraph 2 above.
- 8 When works for the provision of any such new, altered or substituted sewers or protective works have been completed in accordance with paragraph 5 above they shall be maintainable by the sewerage authority.
- 9 The sewerage authority may require such modifications to be made in the said plans as may be reasonably necessary to secure their sewerage system against interference or risk of damage and to provide convenient means of access to their sewers.
- 10 (1) Subject to sub-paragraphs (2) and (3) below, if by reason or in consequence of the construction or failure of any of the works authorised by this Act, or any subsidence resulting from any of those works, any damage to any sewer (other than a sewer intended for removal for the purposes of those works) of the sewerage authority shall be caused, the appropriate authority shall pay the cost reasonably incurred by the sewerage authority in making good such damage and shall—
- (a) make reasonable compensation to the sewerage authority for loss sustained by them; and
  - (b) indemnify the sewerage authority against claims, demands, proceedings, costs, damages and expenses which may be made or taken against, or recovered from or incurred by, the sewerage authority;
- by reason or in consequence of any such damage.

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- (2) Nothing in sub-paragraph (1) above shall impose any liability on the appropriate authority with respect to any damage to the extent that it is attributable to the act, neglect or default of the sewerage authority, their officers, servants, contractors or agents.
- (3) The sewerage authority shall give to the appropriate authority reasonable notice of any claim or demand as aforesaid and no settlement or compromise shall be made without the prior consent of the appropriate authority.
- 11 If, in the carrying out of any specified work, or any work for the provision of new, altered or substituted sewers or protective works in pursuance of paragraph 5 above, the appropriate authority damage or, without the consent of the sewerage authority, alter or in any way interfere with any of their existing sewers the appropriate authority shall—
- (a) pay to the sewerage authority any additional expense to which they may be put in the maintenance, management or renewal of any new, altered or substituted sewer which may be necessary in consequence of the construction of the specified work; and
  - (b) subject to paragraph 13 below, give to the sewerage authority uninterrupted access to any such new, altered or substituted sewer and such facilities as may be reasonably required for the inspection, maintenance, alteration and repair thereof.
- 12 An officer of the sewerage authority duly appointed for the purpose may, subject to paragraph 13 below, enter upon and inspect any specified work or any other works constructed under this Part of this Schedule.
- 13 Access to any sewer under paragraph 11(b) above or entry upon any specified work under paragraph 12 above shall be subject to supervision and control by the appropriate authority but shall be afforded by the appropriate authority as soon as possible and at any reasonable time at which it is required.
- 14 The approval by the sewerage authority of any plans, drawings, sections or specifications or the supervision by them of any work under this Part of this Schedule shall not exonerate the appropriate authority from any liability or affect any claim for damages by the sewerage authority.
- 15 As soon as reasonably practicable after the completion of the carrying out of a specified work, the appropriate authority shall deliver to the sewerage authority a plan and section showing the position and level of that work as constructed and all new, altered or substituted works provided in pursuance of paragraph 5 above.
- 16 Any difference arising between the appropriate authority and the sewerage authority under this Part of this Schedule shall be determined by arbitration.