

*Changes to legislation:* There are currently no known outstanding effects for the Water Resources Act 1991, Cross Heading: General provisions protecting undertakings. (See end of Document for details)

## SCHEDULES

### SCHEDULE 22

#### PROTECTION FOR PARTICULAR UNDERTAKINGS

##### Modifications etc. (not altering text)

C1 Sch. 22 applied (1.12.1991) by [Land Drainage Act 1991 \(c. 59, SIF 73:1\)](#), **ss. 67(2), 76(2)**

##### *General provisions protecting undertakings*

- 1 (1) Nothing in any of the provisions of this Act conferring power on the [<sup>F1</sup>appropriate agency] to carry out any works shall confer power to do anything, except with the consent of the persons carrying on an undertaking protected by this paragraph, which, whether directly or indirectly, so interferes or will so interfere—
- (a) with works or property vested in or under the control of the persons carrying on that undertaking, in their capacity as such; or
  - (b) with the use of any such works or property,
- as to affect injuriously those works or that property or the carrying on of that undertaking.
- (2) A consent for the purposes of sub-paragraph (1) above may be given subject to reasonable conditions but shall not be unreasonably withheld.
- (3) Subject to the following provisions of this Schedule, any dispute—
- (a) as to whether anything done or proposed to be done interferes or will interfere as mentioned in sub-paragraph (1) above;
  - (b) as to whether any consent for the purposes of this paragraph is being unreasonably withheld; or
  - (c) as to whether any condition subject to which any such consent has been given was reasonable,
- shall be referred to the arbitration of a single arbitrator to be appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers.
- (4) The following are the undertakings protected by this paragraph, that is to say-
- (a) the undertakings of the Civil Aviation Authority, [<sup>F2</sup>the Coal Authority] and [<sup>F3</sup>a universal service provider (so far as it is his undertaking in relation to the provision of a universal postal service)];
  - (b) the undertaking of any water undertaker or sewerage undertaker;
  - [<sup>F4</sup>(c) any undertaking consisting in the provision of an electronic communications network;]
  - (d) any airport to which Part V of the <sup>M1</sup>Airports Act 1986 applies;

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- (e) the undertaking of any public gas supplier within the meaning of Part I of the <sup>M2</sup>Gas Act 1986;
  - (f) the undertaking of any person authorised by a licence under Part I of the <sup>M3</sup>Electricity Act 1989 to generate, [<sup>F5</sup>supply or participate in the transmission of] electricity;
  - (g) the undertaking of any navigation authority, harbour authority or conservancy authority or of any internal drainage board;
  - (h) the undertaking of any railway company;
  - (i) any public utility undertaking carried on by a local authority under any Act or under any order having the force of an Act.
  - [<sup>F6</sup>(j) the undertaking of any licensed operator, within the meaning of the Coal Industry Act 1994;]
  - [<sup>F7</sup>(k) the undertaking of a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services) to the extent that it is the person's undertaking as licence holder.]
- (4A) In sub-paragraph (4)(a) above "universal service provider" has the same meaning as in [<sup>F8</sup>Part 3 of the Postal Services Act 2011]; and the reference to the provision of a universal postal service shall be construed in accordance with [<sup>F9</sup>that Part].
- (5) For the purposes of this paragraph any reference in this paragraph, in relation to any such airport as is mentioned in sub-paragraph (4)(d) above, to the persons carrying on the undertaking is a reference to the airport operator.
- (6) The reference in sub-paragraph (1) above to the provisions of this Act conferring power to carry out works includes (without prejudice to the extent of that reference apart from this sub-paragraph) a reference to any provisions of any order under section 108 of this Act by virtue of which any such power is conferred.

#### Textual Amendments

- F1** Words in Sch. 22 para. 1(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 2 para. 314\(2\)](#) (with Sch. 7)
- F2** Words in Sch. 22 para. 1(4)(a) substituted (31.10.1994) by 1994 c. 21, s. 67, [Sch. 9 para. 43\(1\)\(a\)](#) (with s. 40(7)); S.I. 1994/2553, [art. 2](#)
- F3** Words in Sch. 22 para. 1(4)(a) substituted (26.3.2001) by S.I. 2001/1149, [art. 3\(1\)](#), [Sch. 1 para. 89\(2\)](#)
- F4** Sch. 22 para. 1(4)(c) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 17 para. 114\(2\)](#) (with Sch. 18); S.I. 2003/1900, [arts. 1\(2\)](#), 2(1), [Sch. 1](#) (with [art. 3](#)) (as amended by S.I. 2003/3142, [art. 1\(3\)](#)); S.I. 2003/3142, [art. 3\(2\)](#) (with [art. 11](#))
- F5** Words in Sch. 22 para. 1(4)(f) substituted (1.9.2004) by [Energy Act 2004 \(c. 20\)](#), s. 198(2), [Sch. 19 para. 18](#); S.I. 2004/2184, [art. 2\(2\)](#), [Sch. 2](#)
- F6** Sch. 22 para. 1(4)(j) inserted (31.10.1994) by 1994 c. 21, s. 67, [Sch. 9 para. 43\(1\)\(b\)](#) (with s. 40(7)); S.I. 1994/2553, [art. 2](#)
- F7** Sch. 22 para. 1(4)(k) inserted (1.4.2001) by 2000 c. 38, s. 37, [Sch. 5 para. 15](#) (with s. 106); S.I. 2001/869, [art. 2](#)
- F8** Words in Sch. 22 para. 1(4A) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\)](#), s. 93(2)(3), [Sch. 12 para. 138\(a\)](#); S.I. 2011/2329, [art. 3](#)
- F9** Words in Sch. 22 para. 1(4A) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\)](#), s. 93(2)(3), [Sch. 12 para. 138\(b\)](#); S.I. 2011/2329, [art. 3](#)

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**C1** Sch. 22 para. 1(4)(e) amended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(2)(n)**; S.I. 1996/218, **art. 2**

**Marginal Citations**

**M1** 1986 c. 31.

**M2** 1986 c. 44.

**M3** 1989 c. 29.

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