

## SCHEDULES

### SCHEDULE 6

### Article 25

#### STATUTORY UNDERTAKERS, ETC.

##### *Apparatus of statutory undertakers, etc. on land acquired*

1.—(1) Sections 271 to 274 of the 1990 Act (power to extinguish rights of statutory undertakers, etc. and power of statutory undertakers, etc. to remove or re-site apparatus) shall apply in relation to any land acquired or appropriated by Railtrack under this Order subject to the following provisions of this paragraph; and all such other provisions of that Act as apply for the purposes of those provisions (including sections 275 to 278, which contain provisions consequential on the extinguishment of any rights under sections 271 and 272, and sections 279(2) to (4), 280 and 282, which provide for the payment of compensation) shall have effect accordingly.

(2) In the provisions of the 1990 Act, as applied by sub-paragraph (1) above, references to the appropriate Minister are references to the Secretary of State.

(3) Where any apparatus of public utility undertakers or of a public telecommunications operator is removed in pursuance of a notice or order given or made under section 271, 272 or 273 of the 1990 Act, as applied by sub-paragraph (1) above, any person who is the owner or occupier of premises to which a supply was given from that apparatus shall be entitled to recover from Railtrack compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(4) Sub-paragraph (3) above shall not apply in the case of the removal of a public sewer but where such a sewer is removed in pursuance of such a notice or order as is mentioned in that paragraph, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer, or
- (b) the owner of a private sewer which communicated with that sewer,

shall be entitled to recover from Railtrack compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of making his drain or sewer communicate with any other public sewer or with a private sewage disposal plant.

(5) The provisions of the 1990 Act mentioned in sub-paragraph (1) above, as applied by that sub-paragraph, shall not have effect in relation to apparatus as respects which paragraph 2 below or Part III of the Street Works Act applies.

(6) In this paragraph—

“the 1990 Act” means the Town and Country Planning Act 1990(1);

“public telecommunications operator” means—

- (a) a person authorised, by a licence to which section 9 of the Telecommunications Act 1984(2) applies, to run a public telecommunications system, or

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(1) 1990 c. 8.  
(2) 1984 c. 12.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- (b) a person to whom the telecommunications code has been applied pursuant to section 10 of that Act; and  
“public utility undertakers” has the same meaning as in the Highways Act 1980<sup>(3)</sup>.

*Apparatus of statutory undertakers, etc. in stopped up streets*

2.—(1) On the stopping up under article 8 of this Order of the street specified in Schedule 3 to this Order any statutory utility whose apparatus is under, in, upon, over, along or across the street shall have the same powers and rights in respect of that apparatus, subject to the provisions of this paragraph, as if this Order had not been made.

(2) Where Railtrack exercise the powers of article 8 of this Order to stop up the street specified in Schedule 3 to this Order any statutory utility whose apparatus is under, in, upon, over, along or across the street may and, if reasonably requested so to do by Railtrack shall—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it, or  
(b) provide other apparatus in substitution for the existing apparatus and place it in such position as aforesaid.

(3) The allowable costs of the relocation works shall be determined in accordance with section 85 of the Street Works Act (sharing of cost of necessary measures) and any regulations for the time being having effect under that section, and shall be borne by Railtrack and the statutory utility in such proportions as may be prescribed by any such regulations.

(4) In this paragraph—

“apparatus” has the same meaning as in Part III of the Street Works Act;

“relocation works” means works executed, or apparatus provided, under sub-paragraph (2) above; and

“statutory utility” means a statutory undertaker for the purposes of the Highways Act 1980 or a public telecommunications operator as defined in paragraph 1(6) above.

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(3) 1980 c. 66.