STATUTORY INSTRUMENTS

2025 No. 1018

INFRASTRUCTURE PLANNING

The M60/M62/M66 Simister Island Interchange Development Consent Order 2025

Made - - - - *9th September 2025*

Coming into force *30th September 2025*

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An application has been made to the Secretary of State under section 37 of the Planning Act 2008(**a**) ("the 2008 Act") in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(**b**) for an Order granting development consent.

The application was examined by a panel of two members ("the Panel") appointed by the Secretary of State pursuant to section 61 and 65 of the 2008 Act and carried out in accordance with Chapter 4 of Part 6 of that Act, and the Infrastructure Planning (Examination Procedure) Rules 2010(**c**).

The panel, having examined the application with the documents that accompanied the application, and considered the representations made and not withdrawn, has, in accordance with section 74(2) of the 2008 Act, submitted a report and recommendation to the Secretary of State.

(**a**) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of, and paragraph 5 of Schedule 13 to, the Localism Act 2011 (c. 20).
(**b**) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2014/469, S.I. 2014/2381, S.I. 2015/377, S.I. 2015/1682, S.I. 2017/524, S.I. 2017/572, S.I. 2018/378, S.I. 2019/734, S.I. 2020/764, S.I. 2020/1534, S.I. 2021/978, S.I. 2022/634, S.I. 2023/1071 and S.I. 2024/332.
(**c**) S.I. 2010/103, amended by S.I. 2012/635 and S.I. 2024/317.

The Secretary of State, having considered the representations made and not withdrawn, and the report of the panel, has decided to make an Order granting development consent for the development described in the application with modifications which, in the opinion of the Secretary of State, do not make any substantial changes to the proposals comprised in the application.

The Secretary of State, in exercise of the powers conferred by sections 114(**a**), 115(**b**), 117(**c**), 120(**d**), 122(**e**), 123(**f**), 138(**g**), and 154 of, and paragraphs 1 to 3, 10 to 15, 17, 19 to 23, 26, 33, 36 and 37 of Part 1 of Schedule 5 to, the 2008 Act, makes the following Order.

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the M60/M62/M66 Simister Island Interchange Development Consent Order 2025 and comes into force on 30th September 2025.

Interpretation

2.—(1) In this Order—

"the 1961 Act" means the Land Compensation Act 1961(**h**);

"the 1965 Act" means the Compulsory Purchase Act 1965(**i**);

"the 1980 Act" means the Highways Act 1980(**j**);

"the 1981 Act" means the Compulsory Purchase (Vesting Declarations) Act 1981(**k**);

"the 1984 Act" means the Road Traffic Regulation Act 1984(**l**);

"the 1990 Act" means the Town and Country Planning Act 1990(**m**);

"the 1991 Act" means the New Roads and Street Works Act 1991(**n**);

"the 2004 Act" means the Traffic Management Act 2004(**o**);

"the 2008 Act" means the Planning Act 2008(**p**);

"address" includes any number or address for the purposes of electronic transmission;

"apparatus" has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act;

"authorised development" means the development and associated development described in Schedule 1 (authorised development), and any other development authorised by this Order, which is development within the meaning of section 32 (meaning of development) of the 2008 Act;

(**a**) Section 114 was amended by paragraph 55 of Part 1 of Schedule 13 to the Localism Act 2011.
(**b**) Section 115 was amended by paragraph 56 of Part 1 of Schedule 13 and Part 20 of Schedule 25 to the Localism Act 2011 and section 160 of the Housing and Planning Act 2016 (c. 22) and section 43 of the Wales Act 2017 (c. 4).
(**c**) Section 117 was amended by paragraph 58 of Part 1 of Schedule 13 and Part 20 of Schedule 25 to the Localism Act 2011.
(**d**) Section 120 was amended by section 140 and paragraph 60 of Part 1 of Schedule 13 to the Localism Act 2011.
(**e**) Section 122 was amended by paragraph 62 of Part 1 of Schedule 13 to the Localism Act 2011.
(**f**) Section 123 was amended by paragraph 62 of Part 1 of Schedule 13 to the Localism Act 2011.
(**g**) Section 138 was amended by section 23(4) of the Growth and Infrastructure Act 2013 (c. 27).
(**h**) 1961 c. 33.
(**i**) 1965 c. 56.
(**j**) 1980 c. 66.
(**k**) 1981 c. 66.
(**l**) 1984 c. 27.
(**m**) 1990 c. 8.
(**n**) 1991 c. 22.
(**o**) 2004 c. 18.
(**p**) 2008 c. 29.

"book of reference" means the document of that description listed in Schedule 10 (certification of plans and documents, etc.) and certified by the Secretary of State as the book of reference for the purposes of this Order;

"bridleway" has the same meaning as in section 329(1) (further provisions as to interpretation) of the 1980 Act;

"building" includes any structure or erection or any part of a building, structure or erection;

"carriageway" has the same meaning as in section 329(1) of the 1980 Act;

"classification of road plans" means the document of that description listed in Schedule 10 and certified by the Secretary of State as the classification of road plans for the purposes of this Order;

"cycle track" has the same meaning as in section 329(1)(**a**) of the 1980 Act and includes a right of way on foot;

"electronic transmission" means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

and in this definition "electronic communications network" has the same meaning as in section 32(1) (meaning of electronic communications networks and services)(**b**) of the Communications Act 2003;

"engineering section drawings" means the document of that description listed in Schedule 10 and certified as the engineering section drawings by the Secretary of State for the purposes of this Order;

"environmental statement" means the document of that description listed in Schedule 10 and certified as the environmental statement by the Secretary of State for the purposes of this Order;

"footpath" and "footway" have the same meaning as in section 329(1) of the 1980 Act;

"highway" has the same meaning as in section 328(1) (meaning of "highway") of the 1980 Act;

"highway authority" has the same meaning as in sections 1 to 3 of the 1980 Act;

"important hedgerow plans" means the document of that description listed in Schedule 10 (certification of plans and documents, etc.) and certified as the important hedgerow plans by the Secretary of State for the purposes of this Order;

"land plans" means the document of that description listed in Schedule 10 (certification of plans and documents, etc.) and certified as the land plans by the Secretary of State for the purposes of this Order;

"limits of deviation" means the limits of deviation referred to in article 6 (limits of deviation) and shown on the works plans;

"local highway authority" has the same meaning as in section 329(1) of the 1980 Act

"maintain" includes to inspect, repair, adjust, alter, improve, preserve, remove, reconstruct, refurbish or replace, provided such works do not give rise to any materially new or materially different effects in comparison with those reported in the environmental statement, and any derivative of "maintain" is to be construed accordingly;

"Order land" means the land shown on the land plans which is within the limits of land to be acquired or used permanently or temporarily, and described in the book of reference;

"Order limits" means the limits of land to be acquired or used permanently or temporarily shown on the land plans and works plans within which the authorised development may be carried out;

(**a**) The definition of "cycle track" in section 329(1) of the 1980 Act was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

(**b**) 2003 c. 21. Section 32(1) was amended by S.I. 2011/1210.

"owner", in relation to land, has the same meaning as in section 7(**a**) (interpretation) of the Acquisition of Land Act 1981;

"relevant planning authority" means the planning authority for the area to which the provision relates;

"special road" means a highway which is a special road in accordance with section 16 (general provision as to special roads) of the 1980 Act or by virtue of an order granting development consent;

"statutory undertaker" means any statutory undertaker for the purposes of section 127(8) (statutory undertakers' land);

"street" means a street within the meaning of section 48(**b**) (streets, street works and undertakers) of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

"street authority", in relation to a street, has the same meaning as in section 49 (the street authority and other relevant authorities) of the 1991 Act;

"streets, rights of way and access plans" means the document of that description listed in Schedule 10 (certification of plans and documents, etc.) and certified as the streets, rights of way and access plans by the Secretary of State for the purposes of this Order;

"traffic authority" has the same meaning as in section 121A(**c**) (traffic authorities) of the 1984 Act;

"trunk road" means a highway which is a trunk road by virtue of—

(a) section 10(**d**) (general provisions as to trunk roads) or 19(1)(**e**) (certain special roads and other highways to become trunk roads) of the 1980 Act;

(b) an order made or direction given under section 10 of that Act;

(c) an order granting development consent; or

(d) any other enactment;

"undertaker" means National Highways Limited (Company No. 09346363), whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ;

"watercourse" includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

"works plans" means the plans listed in Schedule 10 (certification of plans and documents, etc.) and certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the airspace above its surface.

(3) References in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in the Order land.

(4) References in this Order to the creation and acquisition of rights over land include references to rights to oblige a party having an interest in land to grant those rights referenced in this Order, at the direction of the undertaker, either—

(a) to an affected person directly, where that person's land or rights over land have been adversely affected by this Order, and, where that is the case, the rights referenced in this

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(**a**) 1981 c. 67. The definition of "owner" was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34). There are other amendments to section 7 which are not relevant to the Order.

(**b**) Section 48 was amended by section 124(1) and (2) of the Local Transport Act 2008 (c. 26).

(**c**) Section 121A was inserted by section 168(1) of, and paragraph 70 of Schedule 8 to, the New Roads and Street Works Act 1991 (c. 22). It was amended by section 1(6) of, and paragraph 95(2) and (3) of Schedule 1 to, the Infrastructure Act 2015 (c. 7). There are other amendments which are not relevant to this Order.

(**d**) Section 10 was amended by section 22(2) of the 1991 Act, by section 36 of, and paragraph 22 of Schedule 2 to, the Planning Act 2008, and by section 1(6) of, and Schedule 1 to, the Infrastructure Act 2015 (c. 7).

(**e**) Section 19 was amended by section 1(6) of, and Schedule 1 to, the Infrastructure Act 2015 (c. 7). There are other amendments to section 19 that are not relevant to this Order.

Order are to be granted for the benefit of the land in which that affected person has an interest at the time of the making of this Order; or

(b) to any statutory undertaker for the purpose of its undertaking.

(5) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(6) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(7) References in this Order to any statutory body include that body's successor body or bodies as from time to time having jurisdiction over the authorised development.

(8) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the streets, rights of way and access plans.

(9) References in this Order to numbered works are references to works as numbered in Schedule 1 (authorised development).

(10) In this Order, the expression "includes" is to be construed without limitation unless so construing would give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by this Order

3.—(1) Subject to the provisions of this Order, including the requirements in Schedule 2 (requirements), the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

(2) Any enactment applying to land within or adjacent to the Order limits has effect subject to the provisions of this Order.

Maintenance of authorised development

4. The undertaker may at any time maintain the authorised development, except to the extent that this Order, or an agreement made under this Order, provides otherwise.

Maintenance of drainage works

5.—(1) Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise, unless otherwise agreed in writing between the undertaker and the person responsible.

(2) In this article "drainage" has the same meaning as in section 72(**a**) (interpretation) of the Land Drainage Act 1991.

Limits of deviation

6.—(1) In carrying out the authorised development the undertaker may—

(a) deviate laterally from the lines or situations of the authorised development shown on the works plans to the extent of the limits of deviation shown on those plans; and

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(**a**) 1991 c. 59. The definition of "drainage" was substituted by section 100(2) of the Environment Act 1995 (c. 25).

(b) deviate vertically from the levels of the authorised development shown on the engineering section drawings, to a maximum of 0.5 metres upwards or downwards.

(2) The maximum limits of deviation set out in paragraph (1) do not apply where it is demonstrated by the undertaker to the Secretary of State's satisfaction and the Secretary of State, following consultation with the relevant planning authority and, in respect of the authorised development comprising highways other than a special road or a trunk road, the relevant local highway authority, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially different effects in comparison with those reported in the environmental statement.

Benefit of Order

7.—(1) Subject to article 8 (consent to transfer benefit of Order) and paragraph (2), the provisions of this Order conferring powers on the undertaker have effect solely for the benefit of the undertaker.

(2) Paragraph (1) does not apply to the works for which the consent is granted by this Order for the express benefit of owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.

Consent to transfer benefit of Order

8.—(1) Subject to paragraph (5), the undertaker may with the written consent of the Secretary of State—

(a) transfer to another person ("the transferee") any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; or

(b) grant to another person ("the grantee") for a period agreed between the undertaker and the grantee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), include references to the transferee or the grantee.

(3) The exercise by any person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply by or under this Order if those benefits or rights were exercised by the undertaker.

(4) If the benefit of the provisions of this Order relating to compulsory acquisition is transferred or granted to a transferee or grantee pursuant to this article and the transferee or grantee exercises those powers then the undertaker alone is liable for any compensation that is payable to another party as a consequence of the exercise of those powers by the transferee or grantee.

(5) The consent of the Secretary of State is not required for a transfer or grant under this article, where the transfer or grant is made to—

(a) Cadent Gas Limited (company number 10080864) whose registered office is at Pilot Way, Ansty, Coventry, England, CV7 9JU for the purposes of undertaking Works No. 45;

(b) Electricity North West Limited (company number 2366949) whose registered office is at Borron Street, Stockport, Greater Manchester, SK1 2JD for the purposes of undertaking Works Nos. 14, 15 and 33;

(c) Openreach Limited (company number 10690039) whose registered office is at Kelvin House, 123 Judd Street, London WC1H 9NP for the purposes of undertaking Works Nos. 14 and 15;

(d) United Utilities PLC (company number 2366616) whose registered office is at Haweswater House, Lingley Mere Business Park, Lingley Green Avenue, Great Sankey, Warrington, WA5 3LP for the purposes of undertaking Works Nos. 30 and 41; and

(e) Virgin Media Limited (company number 2591237) whose registered office is at 500 Brook Drive, Reading, RG2 6UU for the purposes of undertaking Works No. 45.

Planning permission

9. If planning permission is issued pursuant to the 1990 Act for development any part of which is within the Order limits following the coming into force of this Order that is—

(a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; or

(b) required to complete or enable the construction, use or operation of any part of the development authorised by this order,

then the carrying out of such development, under the terms of the planning permission does not breach the terms of this Order.

PART 3

STREETS

Street works

10.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets as are within the Order limits and may—

(a) break up or open the street, or any sewer, drain or tunnel within or under it;

(b) tunnel or bore under the street or carry out works to strengthen or repair the carriageway;

(c) place or keep apparatus in the street;

(d) maintain, renew or alter apparatus in the street or change its position;

(e) demolish, remove, replace and relocate any street furniture;

(f) execute any works to provide or improve sight lines;

(g) execute and maintain any works to provide hard and soft landscaping;

(h) carry out re-lining and placement of road markings;

(i) remove and install temporary and permanent signage; and

(j) execute any works required for, or incidental to, any works referred to in subparagraphs (a) to (i).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) Subject to article 11 (application of the 1991 Act), the provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1).

Application of the 1991 Act

11.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act as major highway works if—

(a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (which defines what highway authority works are major highway works) of that Act; or

(b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64(**a**) (dual carriageways and roundabouts) of the 1980 Act or section 184(**b**) (vehicle crossings over footways and verges) of that Act.

(2) In Part 3 of the 1991 Act, in relation to works which are major highway works by virtue of paragraph (1), references to the highway authority concerned are to be construed as references to the undertaker.

(3) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers of this Order—

(a) section 56(**c**) (power to give directions as to timing of street works);

(b) section 56A(**d**) (power to give directions as to placing of apparatus);

(c) section 58(**e**) (restrictions on works following substantial road works);

(d) section 58A(**f**) (restriction on works following substantial street works);

(e) section 73A(**g**) (power to require undertaker to re-surface street);

(f) section 73B(**h**) (power to specify timing etc. of re-surfacing);

(g) section 73C(**i**) (materials, workmanship and standard of re-surfacing);

(h) section 78A(**j**) (contributions to costs of re-surfacing by undertaker); and

(i) Schedule 3A(**k**) (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved, under those provisions apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 14 (temporary closure and restriction of use of streets), whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act(**l**) referred to in paragraph (4) are—

(a) section 54(**m**) (advance notice of certain works), subject to paragraph (6);

(b) section 55(**n**) (notice of starting date of works), subject to paragraph (6);

(c) section 57(**o**) (notice of emergency works);

(d) section 59(**p**) (general duty of street authority to co-ordinate works);

(e) section 60 (general duty of undertakers to co-operate);

(f) section 68 (facilities to be afforded to street authority);

(g) section 69 (works likely to affect other apparatus in the street);

(**a**) Section 64 was amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(2) of, and Schedule 9 to, the New Roads and Street Works Act 1991.
(**b**) Section 184 was amended by sections 35, 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48); by section 4 of, and paragraph 45(11) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11); and section 168 of, and paragraph 9 of Schedule 8 and Schedule 9 to, the New Roads and Street Works Act 1991.
(**c**) Section 56 was amended by sections 40 and 43 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
(**d**) Section 56A was inserted by section 44 of the Traffic Management Act 2004.
(**e**) Section 58 was amended by sections 40 and 51 of, and Schedule 1 to, the Traffic Management Act 2004.
(**f**) Section 58A was inserted by section 52 of the Traffic Management Act 2004.
(**g**) Section 73A was inserted by section 55 of the Traffic Management Act 2004.
(**h**) Section 73B was inserted by section 55 of the Traffic Management Act 2004.
(**i**) Section 73C was inserted by section 55 of the Traffic Management Act 2004.
(**j**) Section 78A was inserted by section 57 of the Traffic Management Act 2004.
(**k**) Schedule 3A was inserted by section 52(2) of, and Schedule 4 to, the Traffic Management Act 2004.
(**l**) Sections 54, 55, 57, 60, 68 and 69 were amended by sections 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004.
(**m**) Section 54 was amended by section 49(1) of the Traffic Management Act 2004.
(**n**) Section 55 was amended by sections 49(2) and 51(9) of the Traffic Management Act 2004.
(**o**) Section 57 was amended by section 52(3) of the Traffic Management Act 2004.
(**p**) Section 59 was amended by section 42 of the Traffic Management Act 2004.

(h) section 75(**a**) (inspection fees);

(i) section 76 (liability for cost of temporary traffic regulation); and

(j) section 77 (liability for cost of use of alternative route),

and all such other provisions as apply for the purposes of the provisions mentioned above.

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(7) Nothing in article 12 (construction and maintenance of new, altered or diverted streets and other structures)—

(a) affects the operation of section 87 (prospectively maintainable highways) of the 1991 Act;

(b) means the undertaker is by reason of any duty under that article to maintain a street to be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or

(c) has effect in relation to maintenance works which are street works within the meaning of the 1991 Act to which the provisions of Part 3 of the 1991 Act apply.

Construction and maintenance of new, altered or diverted streets and other structures

12.—(1) Any street (other than a special road or a trunk road) to be constructed under this Order must be completed to the reasonable satisfaction of the local highway authority in whose area the street lies and, unless otherwise agreed in writing with the local highway authority, the street including any culverts or other structures laid under it, must be maintained by and at the expense of the local highway authority from its completion.

(2) Where a street (other than a special road or a trunk road) is altered or diverted under this Order, the altered or diverted part of the street must be completed to the reasonable satisfaction of the street authority in whose area the street lies and, unless otherwise agreed in writing with the street authority, that part of the street, including any culverts or other structures laid under it, must be maintained by and at the expense of the street authority from its completion.

(3) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street or other structure under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street or structure to which the action relates was not dangerous to traffic.

(4) For the purposes of a defence under paragraph (3), the court must have regard to the following matters—

(a) the character of the street or structure and the traffic which was reasonably to be expected to use it;

(b) the standard of maintenance appropriate for a street or structure of that character and used by such traffic;

(c) the state of repair in which a reasonable person would have expected to find the street or structure;

(d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street or structure to which the action relates was likely to cause danger to users of the street or structure; and

(e) where the undertaker could not reasonably have been expected to repair that part of the street or structure before the cause of action arose, what warning notices of its condition had been displayed,

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(**a**) Section 75 was substituted by section 58(2) of the Traffic Management Act 2004.

but for the purposes of such a defence it is not relevant to prove that the undertaker had arranged for a competent person to carry out or supervise the maintenance of the part of the street or structure to which the action relates unless it is also proved that the undertaker had given the competent person proper instructions with regard to the maintenance of the street or structure and that the competent person had carried out those instructions.

Classification of roads etc.

13.—(1) The roads described in Part 1 (special roads) of Schedule 3 (classification of roads, etc.) are to be—

(a) classified as special roads for the purpose of any enactment or instrument which refers to highways classified as special roads; and

(b) provided for the use of traffic of Classes I and II of the classes of traffic set out in Schedule 4(**a**) (classes of traffic for purposes of special roads) to the 1980 Act.

(2) From the date on which the undertaker notifies the Secretary of State that the roads described in Part 1 (special roads) of Schedule 3 (classification of roads, etc.) have been completed and are open for traffic—

(a) the undertaker is the highway authority for those roads; and

(b) they are classified as trunk roads for the purpose of any enactment or instrument which refers to highways classified as trunk roads.

(3) The public rights of way set out in Part 2 (public rights of way) of Schedule 3 and identified on the streets, rights of way and access plans are to be constructed by the undertaker in the specified locations and open for use on—

(a) the date on which the authorised development is open for traffic; or

(b) such date as soon as reasonably practicable following completion of the construction of the public right of way as may be agreed in writing between the undertaker and the local highway authority.

(4) The maintenance accesses and private means of access specified in column (2) of Part 3 (private means of access) of Schedule 3 and identified on the streets, rights of way and access plans are to be constructed by the undertaker in the specified locations and open for use from the date on which the authorised development is open for traffic.

(5) The application of paragraphs (1) to (5) may be varied or revoked by any instrument made under any enactment which provides for the variation or revocation of such matters, including by an instrument made under the 1984 Act where the matter in question could have been included in an order made under that Act.

Temporary closure and restriction of use of streets

14.—(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily close, alter, divert or restrict the use of any street or public right of way and may for any reasonable time—

(a) divert the traffic, or a class of traffic from the street; and

(b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without limitation on the scope of paragraph (1), the undertaker may use any street which has been temporarily closed, altered, diverted or restricted under the powers conferred by this article, and which is within the Order limits, as a temporary working site.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary closure, alteration, diversion or restriction of a street under this article if there would otherwise be no such access.

(**a**) Schedule 4 was amended by section 4 of, and paragraph 21(3) of Schedule 3 to, the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

(4) The undertaker must not temporarily close, alter, divert or restrict any street without the consent of the relevant street authority, which may attach reasonable conditions to any consent but such consent must not be unreasonably withheld or delayed.

(5) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, as if it were a dispute, under Part 1 of the 1961 Act.

(6) If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent.

(7) An application for consent under paragraph (4) must be accompanied by a letter informing the street authority that the provisions of paragraph (6) apply to that application.

Permanent stopping up, restriction of use of streets and public rights of way

15.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development, stop up each of the streets and public rights of way specified in column (1) of Parts 1 and 2 of Schedule 4 (permanent stopping up of streets and public rights of way) to the extent specified and described in column (2) of those Parts of that Schedule.

(2) No public right of way specified in column (1) of Part 2 of Schedule 4 (being a public right of way to be stopped up and for which a substitute is to be provided) is to be wholly or partly stopped up under this article unless—

(a) the new public right of way to be constructed and substituted for it, which is specified in column (3) of Part 2 of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use; or

(b) a temporary alternative route for the passage of such traffic as could have used the public right of way to be stopped up is first provided between the commencement and termination points for the stopping up of the public right of way until the completion and opening of the new public right of way in accordance with sub-paragraph (a).

(3) Where a street specified in column 1 of Part 1 of Schedule 4 has been stopped up under this article—

(a) all rights of way over or along the street so stopped up are extinguished; and

(b) the undertaker may appropriate and use for the purposes of the authorised development so much of the site of the street as is bounded on both sides by land owned by the undertaker.

(4) This article is subject to article 33 (apparatus and rights of statutory undertakers in stopped up streets).

Access to works

16.—(1) The undertaker may, for the purposes of the authorised development, form and lay out means of access, or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

(2) The undertaker may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of, or in connection with, the construction and maintenance of the authorised development.

(3) The undertaker must compensate the person liable for the repair of a road to which paragraph (2) applies for any loss or damage which that person may suffer by reason of the exercise of the power conferred by paragraph (2).

(4) Any dispute as to a person's entitlement to compensation under paragraph (3), or as to the amount of such compensation, is to be determined, in case of dispute, as if it were a dispute under Part 1 of the 1961 Act.

Traffic regulation

17.—(1) This article applies to roads in respect of which the undertaker is not the traffic authority.

(2) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld, the undertaker may, for the purposes of the authorised development—

(a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;

(b) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;

(c) authorise the use as a parking place of any road;

(d) make provision as to the direction or priority of vehicular traffic on any road; and

(e) permit or prohibit vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(3) The power conferred by paragraph (2) may be exercised at any time prior to the expiry of 12 months from the opening of the authorised development for public use but subject to paragraph (7) any prohibition, restriction or other provision made under paragraph (2) may have effect both before and after the expiry of that period.

(4) The undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (5).

(5) The undertaker must not exercise the powers conferred by paragraph (2) unless it has—

(a) given not less than—

(i) 12 weeks' notice in writing of its intention so to do in the case of a prohibition, restriction or other provision intended to have effect permanently; or

(ii) 4 weeks' notice in writing of its intention so to do in the case of a prohibition, restriction or other provision intended to have effect temporarily,

to the chief officer of police and to the traffic authority in whose area the road is situated; and

(b) advertised its intention in such manner as the traffic authority may specify in writing within 28 days of the receipt of notice of the undertaker's intention in the case of sub-paragraph (a)(i), or within 7 days of the receipt of notice of the undertaker's intention in the case of sub-paragraph (a)(ii).

(6) Any prohibition, restriction or other provision made by the undertaker under paragraph (2)—

(a) has effect as if duly made by, as the case may be—

(i) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act; or

(ii) the local authority in whose area the road is situated, as an order under section 32(**a**) (power of local authorities to provide parking places) of the 1984 Act,

and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and

(b) is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the 2004 Act(**b**).

(7) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers of paragraph (2) within a period of 24 months from the opening of the authorised development.

(**a**) Section 32 was amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and by section 168(1) of, and paragraph 39 of Schedule 8 to, the New Works and Street Works Act 1991.

(**b**) 2004 c. 18.

(8) Before exercising the powers conferred by paragraph (2), the undertaker must consult such persons as it considers necessary and appropriate and must take into consideration any representations made to it by any such person.

(9) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

(10) The powers conferred on the undertaker by this article with respect to any road have effect subject to any agreement entered into by the undertaker with any person with an interest in (or who undertakes activities in relation to) premises served by the road.

(11) If the traffic authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (2) the traffic authority is deemed to have granted consent.

(12) Any application for consent under paragraph (2) must be accompanied by a letter informing the traffic authority that the provisions in paragraph (11) apply to that application.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

18.—(1) Subject to paragraphs (3) and (4), the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker under paragraph (1) is to be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991(**a**).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs or the person or body otherwise having authority to give such consent and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

(4) The undertaker must not make any opening into any public sewer or drain pursuant to paragraph (1) except—

(a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and

(b) where that person has been given the opportunity to supervise the making of the opening.

(5) Save where permitted by this Order, the undertaker must not, in carrying out or maintaining works under this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(**b**).

(**a**) 1991 c. 56. Section 106 was amended by section 35(1) and (8), 43(2) and 56(7) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43), sections 36(2) and 99 of the Water Act 2003 (c. 37) and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29).

(**b**) S.I. 2016/1154, amended by S.I. 2018/110.

(8) If a person who receives an application for consent under paragraph (3) or approval under paragraph (4)(a) fails to notify the undertaker of a decision within 28 days of receiving an application that person is deemed to have granted consent or given approval, as the case may be.

(9) An application for consent under paragraph (3) or for approval under paragraph (4)(a) must contain a written statement that the provisions of paragraph (8) apply to that application.

(10) In this article—

(a) "public sewer or drain" means a sewer or drain which belongs to Homes England, the Environment Agency, an internal drainage board, a joint planning board, a local authority, a sewerage undertaker or an urban development corporation;

(b) "main river" means watercourses as defined by section 113(1) of the Water Resources Act 1991(**a**) and shown as such on the statutory main river maps held by the Environment Agency and the Department for Environment, Food and Rural Affairs; and

(c) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991 have the same meaning as in that Act.

Protective work to buildings

19.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building which may be affected by the authorised development as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

(a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or

(b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised the undertaker may (subject to paragraph (5) enter and survey any building falling within paragraph (1) and any land within its curtilage, and place on, leave on and remove from the land any apparatus and equipment for use in connection with the survey.

(4) For the purpose of carrying out protective works under this article to a building the undertaker may (subject to paragraphs (5) and (6))—

(a) enter the building and any land within its curtilage; and

(b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

(a) a right under paragraph (1) to carry out protective works to a building;

(b) a right under paragraph (3) to enter a building and land within its curtilage;

(c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or

(d) a right under paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is

(**a**) 1991 c. 57.

necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 44 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any building or land in relation to which rights under this article have been exercised for any loss or damage arising to them by reason of the exercise of those rights.

(8) Where—

(a) protective works are carried out under this article to a building; and

(b) within the period of 5 years beginning with the day on which the part of the authorised development carried out in the vicinity of the building is first opened for use it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development,

the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Subject to article 43 (no double recovery) nothing in this article relieves the undertaker from any liability to pay compensation under section 152(**a**) (compensation in case where no right to claim in nuisance) of the 2008 Act.

(10) Subject to paragraph (6), section 13(**b**) (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125(**c**) (application of compulsory acquisition provisions) of the 2008 Act.

(11) Any compensation payable under paragraph (7) or (8) is to be determined, as if it were a dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(12) In this article "protective works" in relation to a building means—

(a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the carrying out, maintenance or use of the authorised development; and

(b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised development.

Authority to survey and investigate the land

20.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development including, where reasonably necessary, any land which is outside the Order limits, and—

(a) survey or investigate the land (including any watercourses, ground water, static water bodies or vegetation on the land);

(b) without limitation on the scope of sub-paragraph (a), make any excavations or trial holes and boreholes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer, subsoil and groundwater and remove soil and water samples and discharge water samples on to the land;

(c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land, including making any excavations or trial holes on the land for such purposes; and

(d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes and boreholes.

(**a**) Section 152 was amended by S.I. 2009/1307.

(**b**) Section 13 was amended by sections 62(3), 139(4) to (9) and 148 of, and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(**c**) Section 125 was amended by section 216(3) of, and paragraph 17 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22).

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless no less than 14 days' notice has been served on every owner and occupier of the land giving details of the nature of the surveys and investigations to be undertaken on the land.

(3) Any person entering land under this article on behalf of the undertaker—

(a) must, if so required, before or after entering the land, produce written evidence of their authority to do so; and

(b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes and boreholes.

(4) No trial holes or boreholes are to be made under this article—

(a) in land located within a highway boundary without the consent of the highway authority; or

(b) in a private street without the consent of the street authority,

but such consent must not be unreasonably withheld.

(5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, as if it were a dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) If a highway authority or street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application that authority will be deemed to have granted consent.

(7) Any application for consent under paragraph (4) must be accompanied by a letter informing the local highway authority or street authority that the provisions of paragraph (6) apply to that application.

(8) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

PART 5

POWERS OF ACQUISITION AND POSSESSION OF LAND

Compulsory acquisition of land

21.—(1) The undertaker may acquire compulsorily so much of the Order land as is required to carry out or facilitate, or is incidental to, the authorised development.

(2) This article is subject to—

(a) article 22 (compulsory acquisition of land – incorporation of the mineral code);

(b) article 23 (time limit for exercise of authority to acquire land compulsorily);

(c) paragraph (2) of article 24 (compulsory acquisition of rights and imposition of restrictive covenants);

(d) paragraph (9) of article 30 (temporary use of land for carrying out the authorised development);

(e) paragraph (1)(a) of article 32 (statutory undertakers); and

(f) article 34 (crown rights).

Compulsory acquisition of land – incorporation of the mineral code

22. Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981(**a**) are incorporated in this Order subject to the modifications that—

(a) paragraph 8(3) is not incorporated;

(b) for "the acquiring authority" substitute "the undertaker"; and

(c) for "undertaking" substitute "authorised development".

Time limit for exercise of authority to acquire land compulsorily

23.—(1) After the end of the period of 5 years beginning on the day on which this Order is made—

(a) no notice to treat is to be served under Part 1 (compulsory purchase under the Acquisition of Land Act 1946) of the 1965 Act as modified by article 26 (modification of Part 1 of the 1965 Act); and

(b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 27 (application of the 1981 Act).

(2) The authority conferred by article 30 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker from remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

Compulsory acquisition of rights and imposition of restrictive covenants

24.—(1) Subject to paragraphs (2) to (5), the undertaker may acquire such rights over the Order land, or impose such restrictive covenants affecting the Order land, including rights and restrictive covenants for the benefit of a statutory undertaker or any other person, as may be required for any purpose for which that land may be acquired under article 21 (compulsory acquisition of land) by creating them as well as acquiring rights already in existence.

(2) The power to impose restrictive covenants under paragraph (1) is exercisable only in respect of plots specified in column (1) of Schedule 5.

(3) In the case of the Order land specified in column (1) of Schedule 5 (land in which only new rights etc. may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of such wayleaves, easements, new rights in the land or the imposition of restrictive covenants, as may be required for the purpose specified in relation to that land in column (2) of that Schedule and relating to that part of the authorised development specified in column (3) of that Schedule.

(4) Subject to section 8 (other provisions as to divided land) of, and Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to, the 1965 Act, as substituted by paragraph 5(8) of Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants), where the undertaker acquires a right over land or the benefit of a restrictive covenant affecting land under paragraphs (1) or (3), the undertaker is not required to acquire a greater interest in that land.

(5) Schedule 6 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

(**a**) 1981 c. 67.

Private rights over land

25.—(1) Subject to the provisions of this article, all private rights over land subject to compulsory acquisition under this Order are extinguished from whichever is the earlier of—

(a) the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or

(b) the date of entry on the land by the undertaker under section 11(1)(**a**) (powers of entry) of the 1965 Act.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of the rights or the imposition of restrictive covenants under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right or the burden of the restrictive covenant from whichever is the earlier of—

(a) the date of the acquisition of the right or the benefit of the restrictive covenant by the undertaker, whether compulsorily or by agreement; or

(b) the date of entry on the land by the undertaker under section 11(1) (powers of entry) of the 1965 Act.

(3) Subject to the provisions of this article, all private rights over land owned by the undertaker that are within the Order limits are extinguished on commencement of any activity authorised by this Order which interferes with or breaches those rights.

(4) Subject to the provisions of this article, all private rights over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

(5) Any person who suffers loss by the extinguishment or suspension of any private right under this article is entitled to compensation in accordance with the terms of section 152(**b**) (compensation in case where no right to claim in nuisance) of the 2008 Act to be determined, as if it were a dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) This article does not apply in relation to any right to which section 138(**c**) (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 32 (statutory undertakers) applies.

(7) Paragraphs (1) to (4) have effect subject to—

(a) any notice given by the undertaker before—

(i) the completion of the acquisition of the land or the acquisition of the right or the imposition of the restrictive covenant over or affecting the land;

(ii) the undertaker's appropriation of the land;

(iii) the undertaker's entry onto the land; or

(iv) the undertaker's taking temporary possession of the land,

that any or all of those paragraphs do not apply to any right specified in the notice; and

(b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.

(8) If any such agreement as is referred to in paragraph (7)(b)—

(a) is made with a person in or to whom the right is vested or belongs; and

(b) is expressed to have effect also for the benefit of those deriving title from or under that person,

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(**a**) Section 11(1) was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981, section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), and sections 186 (1) and (2), 187(1) and (2), and 188 of the Housing and Planning Act 2016 (c. 22).

(**b**) Section 152 was amended by S.I. 2009/1307.

(**c**) Section 138 was amended by section 23(1) and (4) of the Growth and Infrastructure Act 2013 (c. 27) and S.I. 2017/1285.

the agreement is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(9) References in this article to private rights over land include any trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

Modification of Part 1 of the 1965 Act

26.—(1) Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act, as applied to this Order by section 125(**a**) (application of compulsory acquisition provisions) of the 2008 Act is modified as follows.

(2) In section 4A(1)(**b**) (extension of time limit during challenge) for "section 23 of the Acquisition of Land Act 1981 (application to the High Court in respect of compulsory purchase order), the three year period mentioned in section 4" substitute "section 118 (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008, the five year period mentioned in article 23 (time limit for exercise of authority to acquire land compulsorily) of the M60/M62/M66 Simister Island Interchange Development Consent Order 2025".

(3) In section 11A(**c**) (powers of entry: further notice of entry)—

(a) in subsection (1)(a), after "land" insert "under that provision"; and

(b) in subsection (2), after "land" insert "under that provision".

(4) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for "section 4 of this Act" substitute "article 23 (time limit for exercise of authority to acquire land compulsorily) of the M60/M62/M66 Simister Island Interchange Development Consent Order 2025".

(5) In Schedule 2A (counter- notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute—

"(2) But see article 28(3) (acquisition of subsoil or airspace only) of the M60/M62/M66 Simister Island Interchange Development Consent Order 2025, which excludes the acquisition of subsoil or airspace only from this Schedule."; and

(b) after paragraph 29, insert—

"PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under articles 19 (protective work to buildings), 20 (authority to survey and investigate land), 30 (temporary use of land for carrying out the authorised development) or 31 (temporary use of land for maintaining the authorised development) of the M60/M62/M66 Simister Island Interchange Development Consent Order 2025.".

Application of the 1981 Act

27.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.

(3) In section 1 (application of Act), for subsection 2 substitute—

"(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.".

(**a**) Section 125 was amended by section 190 of, and paragraph 17 of Schedule 16 to, the Housing and Planning Act 2016.
(**b**) Section 4A(1) was inserted by section 202(1) of the Housing and Planning Act 2016.
(**c**) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016.

(4) In section 5(**a**) (earliest date for execution of declaration), in subsection (2), omit the words from ", and this subsection" to the end.

(5) Omit section 5A(**b**) (time limit for general vesting declaration).

(6) In section 5B(1)(**c**) (extension of time limit during challenge) for "section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A" substitute "section 118 (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008 the five year period mentioned in article 23 (time limit for exercise of authority to acquire land compulsorily) of the M60/M62/M66 Simister Island Interchange Development Consent Order 2025".

(7) In section 6(1)(b)(**d**) (notices after execution of declaration), for "section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981" substitute "section 134 (notice of authorisation of compulsory acquisition) of the Planning Act 2008".

(8) In section 7(1)(a)(**e**) (constructive notice to treat), omit "(as modified by section 4 of the Acquisition of Land Act 1981)".

(9) In Schedule A1(**f**) (counter-notice requiring purchase of land not in general vesting declaration), omit paragraph 1(2).

(10) References to the 1965 Act in the 1981 Act are to be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 26 (modification of Part 1 of the 1965 Act)) to the compulsory acquisition of land under this Order.

Acquisition of subsoil or airspace only

28.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of or the airspace over the land referred to in paragraph (1) of article 21 (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of or the airspace over land referred to in paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only—

(a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as modified by article 26 (modification of Part 1 of the 1965 Act)) of this Order;

(b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and

(c) section 153(4A)(**g**) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

(4) Paragraphs (2) and (3) are to be disregarded where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory or airspace above a house, building or manufactory.

(**a**) Section 5 was amended by paragraphs 4 and 6 of Schedule 15 to the Housing and Planning Act 2016.
(**b**) Section 5A was inserted by section 182(2) of the Housing and Planning Act 2016 and was amended by section 185(3)(a) of the Levelling-up and Regeneration Act 2023.
(**c**) Section 5B(1) was inserted by section 202(2) of the Housing and Planning Act 2016 and amended by section 185(3)(b) of the Levelling-up and Regeneration Act 2023.
(**d**) Section 6 was amended by section 4 of, and paragraph 52(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and paragraph 7 of Schedule 15 to the Housing and Planning Act 2016.
(**e**) Section 7(1) was substituted by paragraphs 1 and 3 of Schedule 18 to the Housing and Planning Act 2016.
(**f**) Schedule A1 was inserted by paragraph 6 of Part 1 of Schedule 18 to the Housing and Planning Act 2016.
(**g**) Section 153(4A) was inserted by section 200(1) and (2) of the Housing and Planning Act 2016.

Rights under or over streets

29.—(1) The undertaker may enter on and appropriate so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or airspace for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

(a) any subway or underground building; or

(b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, will be entitled to compensation to be determined, in the case of dispute, as if it were a dispute, under Part 1 of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is a statutory undertaker to whom section 85 (sharing cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land for carrying out the authorised development

30.—(1) The undertaker may, in connection with the carrying out of the authorised development, but subject to article 23(2) (time limit for exercise of authority to acquire land compulsorily)—

(a) enter on and take temporary possession of—

(i) the land specified in column (1) of Schedule 7 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (2) of that Schedule relating to the part of the authorised development specified in column (3) of that Schedule; and

(ii) any other Order land in respect of which no notice of entry has been served under section 11(**a**) (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4(**b**) (execution of declaration) of the 1981 Act;

(b) remove any electric line, electrical plant, structures, apparatus, buildings and vegetation from that land;

(c) construct temporary works (including the provision of means of access) and buildings or structures on that land; and

(d) construct any works on that land as are specified in Schedule 1 (authorised development) or undertake any other mitigation works in connection with the authorised development.

(2) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and explain the purpose for which entry is taken in respect of land specified under paragraph 1(a)(ii).

(**a**) Section 11 was amended by section 34(1) of, and paragraph 14(3) of Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 14 of, paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), sections 186, 187 and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16 to, the Housing and Planning Act 2016 and S.I. 2009/1307.

(**b**) Section 4 was amended by section 184 and 185 of, and paragraph 2 of Schedule 18 to, the Housing and Planning Act 2016.

(3) The undertaker must not, without the agreement of the owners of the land, remain in possession of any land under this article—

(a) in the case of land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (3) of Schedule 7; or

(b) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 (execution of declaration) of the 1981 Act in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the condition it was in on the date on which possession of the land was first taken by the undertaker or such other condition as may be agreed with the owners of the land; but the undertaker is not required to—

(a) replace a building removed under this article;

(b) restore the land on which any permanent works have been constructed under paragraph (1)(d);

(c) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development;

(d) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development; or

(e) remove or reposition any apparatus belonging to statutory undertakers or necessary mitigation works.

(5) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) Any dispute as to the removal of temporary works and restoration of land under paragraph (4) does not prevent the undertaker giving up possession of the land.

(8) Subject to article 43 (no double recovery), nothing in this article affects any liability to pay compensation under section 152(**a**) (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(9) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not to be precluded from acquiring any part of the subsoil or airspace over (or rights in the subsoil of or airspace over) that land under article 28 (acquisition of subsoil or airspace only).

(10) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(11) Section 13(**b**) (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(**a**) Section 152 was amended by S.I. 2009/1307.
(**b**) Section 13 was amended by sections 62(3) and 139 of, and paragraphs 27 and 28 of Schedule 13, and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(12) Paragraph (1)(a)(ii) does not authorise the undertaker to take temporary possession of any land which the undertaker is not authorised to acquire under article 21 (compulsory acquisition of land) or 24 (compulsory acquisition of rights and imposition of restrictive covenants).

(13) Nothing in this article prevents the taking of temporary possession more than once in relation to any land specified in paragraph (1).

Temporary use of land for maintaining the authorised development

31.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

(a) enter upon and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development;

(b) enter on any land within the Order limits for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development; and

(c) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

(a) any house or garden belonging to a house; or

(b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering upon and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land explaining the purpose for which entry is taken.

(4) The undertaker is not required to serve notice under paragraph (3) where the undertaker has identified a potential risk to the safety of—

(a) the authorised development or any of its parts;

(b) the public; or

(c) the surrounding environment, and

in such circumstances, the undertaker may enter the land under paragraph (1) subject to giving such period of notice as is reasonably practicable in the circumstances.

(5) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(6) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the condition it was in on the date on which possession of the land was first taken by the undertaker or such other condition as may be agreed with the owners of the land.

(7) Any dispute as to the removal of temporary works and restoration of land under paragraph (6) does not prevent the undertaker giving up possession of the land.

(8) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(9) Any dispute as to a person's entitlement to compensation under paragraph (8), or as to the amount of the compensation, is to be determined as if it were a dispute under Part 1 of the 1961 Act.

(10) Subject to article 43 (no double recovery), nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (8).

(11) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(12) Section 13 (refusal to give possession to the acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(13) In this article "the maintenance period", in relation to any part of the authorised development means the period of 5 years beginning with the date on which that part of the authorised development is first opened for use.

Statutory undertakers

32.—(1) Subject to the provisions of article 24(3) (compulsory acquisition of rights and imposition of restrictive covenants), Schedule 9 (protective provisions) and paragraph (2), the undertaker may—

(a) acquire compulsorily, or acquire new rights or impose restrictive covenants over any Order land belonging to statutory undertakers; and

(b) extinguish the rights of, and remove or reposition apparatus belonging to, statutory undertakers over or within the Order land.

(2) Paragraph (1)(b) has no effect in relation to apparatus in respect of which the following provisions apply—

(a) Part 3 (street works in England and Wales) of the 1991 Act; and

(b) article 33 (apparatus and rights of statutory undertakers in stopped up streets).

Apparatus and rights of statutory undertakers in stopped up streets

33.—(1) Where a street is stopped up under article 15 (permanent stopping up and restriction of use of streets, public rights of way and private means of access), any statutory utility whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 15 any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the undertaker must—

(a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the statutory 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 described in sub-paragraph (a).

(3) Subject to the following provisions of this article, the undertaker must pay to any statutory utility an amount equal to the cost reasonably incurred by the statutory utility in or in connection with—

(a) the execution of the relocation works required in consequence of the stopping up of the street; and

(b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

(4) If in the course of the execution of relocation works under paragraph (2)—

(a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus

placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which, apart from this paragraph, would be payable to the statutory utility by virtue of paragraph (3) is to be reduced by the amount of that excess.

(5) For the purposes of paragraph (4)—

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the statutory utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(7) Paragraphs (3) to (6) do not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—

(a) the allowable costs of the relocation works are to be determined in accordance with section 85 (sharing of cost of necessary measures) of that Act and any regulations for the time being having effect under that section; and

(b) the allowable costs are to be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.

(8) In this article—

(a) "relocation works" means work executed, or apparatus provided, under paragraph (2); and

(b) "statutory utility" means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in section 151(1) (interpretation of chapter 1) of the Communications Act 2003(**a**).

Crown rights

34.—(1) Nothing in this order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee—

(a) to take, use, enter upon or in any manner interfere with any land or rights of any description—

(i) belonging to His Majesty in right of the Crown and forming part of the Crown Estate without the consent in writing of the Crown Estate Commissioners;

(ii) belong to His Majesty in right of the Crown and forming part of the Crown Estate without the consent in writing of the government department having the management of that land; or

(iii) belonging to a government department or held in trust for His Majesty for the purposes of a government department without the consent in writing of that government department.

(b) to exercise any right under this Order compulsorily to acquire an interest in any land which is Crown Land (as defined in the 2008 Act) which is for the time being held

(**a**) 2003 c. 21. There are amendments to section 151 which are not relevant to this Order.

otherwise than by or on behalf of the Crown without the consent in writing of the appropriate Crown authority (as defined in the 2008 Act).

(2) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions and is deemed to have been given in writing where it is sent electronically.

Recovery of costs of new connections

35.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 32 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, 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.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 32, 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,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which article 33 (apparatus and rights of statutory undertakers in stopped up streets) or Part 3 (street works in England and Wales) of the 1991 Act applies.

(4) In this article—

(a) "public communications provider" has the same meaning as in section 151(1) (interpretation of Chapter 1) of the Communications Act 2003; and

(b) "public utility undertaker" means a gas, water, electricity or sewerage undertaker.

PART 6

OPERATIONS

Felling or lopping of trees and removal or management of hedgerows

36.—(1) Subject to paragraph (3), the undertaker may fell or lop any tree or shrub (except for any tree or shrub in ancient woodland) within or overhanging land within the Order limits, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

(a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or

(b) from constituting a danger to persons using the authorised development.

(2) The undertaker may, for the purposes of carrying out the authorised development but subject to paragraph (3), remove, cut back or manage any hedgerow within the Order limits as specified in column (5) of Schedule 8 (hedgerows to be removed or managed) that is required to be removed or managed.

(3) In carrying out any activity authorised by paragraphs (1) or (2), the undertaker must—

(a) do no unnecessary damage to any tree, shrub or hedgerow;

(b) pay compensation to any person for any loss or damage arising from such activity; and

(c) take steps to avoid a breach of the provisions of the Wildlife and Countryside Act 1981(**a**) and the Conservation of Habitats and Species Regulations 2017(**b**) or any successor acts and regulations.

(4) Any dispute as to a person's entitlement to compensation under paragraph (3), or as to the amount of compensation, is to be determined as if it were a dispute under Part 1 of the 1961 Act.

(5) In this article "hedgerow" includes a hedgerow to which the Hedgerow Regulations 1997(**c**) apply and includes important hedgerows.

PART 7

MISCELLANEOUS AND GENERAL

Application of landlord and tenant law

37.—(1) This article applies to—

(a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and

(b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) No such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

(a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;

(b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or

(c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Operational land for purposes of the 1990 Act

38. Development consent granted by this Order is to be treated as a specific planning permission for the purposes of section 264(3) (cases in which land is to be treated as not being operational land for the purposes of that Act) of the 1990 Act.

Defence to proceedings in respect of statutory nuisance

39.—(1) Where proceedings are brought under section 82(1) (summary proceedings by person aggrieved by statutory nuisance) of the Environmental Protection Act 1990(**d**) in relation to a nuisance falling within paragraph (g) of section 79(1) (noise emitted from premises so as to be

(**a**) 1981 c. 69.
(**b**) S.I. 2017/1012.
(**c**) S.I. 1997/1160.
(**d**) 1990 c. 43. There are amendments to this subsection which are not relevant to this Order.

prejudicial to health or a nuisance) of that Act no order is to be made, and no fine may be imposed, under section 82(2)(**a**) of that Act if the defendant shows that the nuisance—

(a) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974(**b**);

(b) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or

(c) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

Protection of interests

40. Schedule 9 (protective provisions) has effect.

Certification of plans and documents, etc.

41.—(1) The undertaker must, as soon as practicable after the making of this Order, submit copies of each of the plans and documents set out in Schedule 10 (certification of plans and documents, etc.) to the Secretary of State for certification as true copies of those plans and documents.

(2) Where any plan or document set out in Schedule 10 requires amendment to accord with the terms of the Secretary of State's decision to make the Order, that plan or document in the form amended to the Secretary of State's satisfaction is the version of the plan or document required to be certified under paragraph (1).

(3) A plan or document so certified will be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

42.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

(a) by post;

(b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or

(c) with the consent of the recipient and subject to paragraphs (5) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document is to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(**a**) Section 82(2) was amended by section 5(2) of the Noise and Statutory Nuisance Act 1993 (c. 40). There are other amendments to the subsection that are not relevant to this Order.

(**b**) 1974 c. 40. Section 61(9) was amended by section 162 of, and paragraph 15(1) and (3) of Schedule 15 to, the Environmental Protection Act 1990 (c. 43). There are other amendments to section 61 which are not relevant to this Order.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978(**a**) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

(a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and

(b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

(a) addressing it to that person by name or by the description of "owner", or as the case may be "occupier", of the land (describing it); and

(b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement will be taken to be fulfilled only where—

(a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;

(b) the notice or document is capable of being accessed by the recipient;

(c) the notice or document is legible in all material respects; and

(d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

(a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and

(b) such revocation will be final and will take effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(9) This article will not be taken to exclude the employment of any method of service not expressly provided for by it.

(10) In this article "legible in all material respects" means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

No double recovery

43. Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law, or under two or more different provisions of this Order.

(**a**) 1978 c. 30.

Arbitration

44. Except where otherwise expressly provided for in this Order and unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the Lands Chamber of the Upper Tribunal) must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers.

Disapplication and modification of legislative provisions

45. The provisions of the Neighbourhood Planning Act 2017(**a**), insofar as they relate to temporary possession of land under articles 30 (temporary use of land for carrying out the authorised development) and 31 (temporary use of land for maintaining the authorised development) of this Order, do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction of the authorised development and, within the maintenance period defined in article 31(13), any maintenance of any part of the authorised development.

Signed by authority of the Secretary of State for Transport

Marco Picardi
Head of Transport and Works Act Orders Unit
Department for Transport

9th September 2025

(**a**) 2017 c. 20.

SCHEDULES

SCHEDULE 1

Articles 2 and 30

AUTHORISED DEVELOPMENT

In the administrative areas of Simister, Kirkhams, Besses o' th' Barn and Unsworth

A nationally significant infrastructure project as defined in sections 14 (nationally significant infrastructure projects: general) and 22(**a**) (highways) of the 2008 Act, and associated development as defined in section 115 of the 2008 Act, comprising:

Work No. 01 – shown on sheet 1 of the works plans as being the construction of a re-aligned M60 on-slip road in cutting (183m in length) comprising 1 lane that merges onto the improved M60 eastbound (Work No. 02) from Junction 17 of the M60.

Work No. 02 – shown on sheets 1 and 2 of the works plans as being the widening from 4 lanes to 5 lanes of the eastbound carriageway of the M60 between Junction 17 and 18 (1586m in length) and incorporating the small section within the Order limits near Sandgate Road, such works including—

(a) the alteration of 1 no. portal gantry above the M60 Motorway within the gantry siting location shown as Gantry Type 1 on sheet 1 of the works plans, including the installation of new signs, signals, sign illumination, control cabinets, power and communication cable connections;

(b) the construction of 2 no. portal gantries above the M60 Motorway within the gantry siting locations shown as Gantry Type 3 on sheets 1 and 2 of the works plans, including the installation of new gantry foundations, gantry structures, earthwork retaining structures, signs, signals, sign illumination, control cabinets, power and communication cable connections; and

(c) the construction of 1 no. cantilever gantry above the M60 Motorway within the gantry siting locations shown as Gantry Type 4 on sheet 1 of the works plans, including the installation of new gantry foundation, gantry structure, earthwork retaining structure, signals, control cabinets, power and communication cable connections.

Work No. 03 – shown on sheets 1 and 2 of the works plans as being the widening from 4 lanes to 5 lanes of the westbound carriageway of the M60 between Junction 18 and 17 (1523m in length). The works include the construction of 2 no. portal gantries above the M60 Motorway within the gantry siting locations shown as Gantry Type 3 on sheets 1 and 2 of the works plans, including the installation of new gantry foundations, gantry structures, earthwork retaining structures, signs, signals, sign illumination, control cabinets, power and communication cable connections.

Work No. 04 – shown on sheet 1 of the works plans as being the construction of a re-aligned M60 off-slip road in cutting (311m in length) comprising 1 lane that widens to 2 lanes and that diverges off the improved M60 westbound (Work No. 03) and connects to Junction 17 of the M60.

Work No. 05 – shown on sheets 1 and 2 of the works plans as being the construction of a new M60 off-slip road on embankment (1911m in length) comprising 2 lanes that diverges from the improved M60 eastbound (Work No. 02), the construction of a new 3-span viaduct structure (Pike Fold Viaduct) and the construction of a re-aligned M60 on-slip road on embankment that merges onto the improved M60 southbound (Work No. 22), commencing from a point 118m east of

(**a**) Section 22 was substituted by S.I. 2013/1883 and amended by section 1(6) of, and paragraph 153 of Schedule 1 to, the Infrastructure Act 2015 (c. 7).

Sandgate Road overbridge and terminating at a point 20m north of M60 Junction 18. Works include removal of Important Hedgerow (HG_08) as described in Schedule 8 of this Order.

Work No. 06 – shown on sheets 1 and 2 of the works plans as being the construction of a temporary haul route (298m in length), required to enable the construction of Work Nos. 02 and 05.

Work No. 07 – shown on sheets 1, 2 and 3 of the works plans as being the construction of a re-aligned M60 off-slip road in cutting (1123m in length) comprising 2 lanes that diverges from the improved M60 northbound (Work No. 18) and construction of a re-aligned M60 on-slip road on embankment that merges onto the improved M60 westbound (Work No. 03), commencing from a point 120m south of Simister Lane overbridge and terminating at a point 250m east of Sandgate Road overbridge. The works include the alteration of 2 no. portal gantries above the M60 Motorway within the gantry siting locations shown as Gantry Type 1 on sheet 2 of the works plans, including the installation of new signs, signals, sign illumination, control cabinets, power and communication cable connections.

Work No. 08 – shown on sheet 1 of the works plans as being the construction of a temporary haul route (135m in length), required to enable the construction of Work Nos. 03 and 07.

Work No. 09 – shown on sheet 2 of the works plans as being the construction of a re-aligned M60 off-slip road in cutting (684m in length) comprising 1 lane that diverges from the improved M60 eastbound (Work No. 02) and construction of a re-aligned M66 on-slip road in cutting comprising 1 lane that connects directly with the existing M66 northbound on-slip, commencing from a point 416m west of M60 Junction 18 and terminating at a point 100m north of M60 Junction 18.

Work No. 10 – shown on sheet 2 of the works plans as being the construction of a temporary haul route (268m in length), required to enable the construction of Work Nos. 02, 05, 27 and 29. Works include removal of Important Hedgerow (HG_08) as described in Schedule 8 of this Order.

Work No. 11 – shown on sheet 2 of the works plans as being the construction of a temporary haul route (571m in length), required to enable the construction of Work Nos. 03, 07, 12, 13 and 14.

Work No. 12 – shown on sheet 2 of the works plans as being the construction of a re-aligned M60 on-slip road in cutting (554m in length) comprising 2 lanes that merges onto the improved M60 westbound (Work No. 03) from the improved Junction 18 of the M60 (Work No. 25).

Work No. 13 – shown on sheet 2 of the works plans as being the installation of a drainage attenuation pond and swales, 236m southwest from M60 Junction 18, including excavations, embankments, cuttings, environmental mitigation, and fencing necessary for its construction and operation. Work No. 13 is adjacent to the re-aligned M60 northbound to M60 westbound link (Work No. 07) and is accessed via a new maintenance access track (Work No. 14).

Work No. 14 – shown on sheet 2 of the works plans as being the construction of a new maintenance access track (184m in length) from Corday Lane to the new attenuation pond (Work No. 13). Works to include diversion and/or protection of buried statutory undertaker equipment (Work No. 51).

Work No. 15 – shown on sheet 2 of the works plans as being the construction of a temporary haul route (245m in length), for construction of Work Nos. 03, 07, 09, 14, 16 and 17. Works to include diversion and/or protection of buried statutory undertaker equipment (Work No. 51) to enable construction of a new maintenance access track (Work No. 14).

Work No. 16 – shown on sheet 2 of the works plans as being the construction of a temporary haul route (200m in length), for construction of Work Nos. 03, 07, 13, 14, 15 and 17.

Work No. 17 – shown on sheet 2 of the works plans as being the construction of a re-aligned M60 off-slip road in cutting and on embankment (187m in length) comprising 1 lane that widens to 2 lanes and that diverges from the improved M60 northbound (Work No. 18) and merges with the improved M60 Junction 18 circulatory carriageway (Work No. 25), commencing from a point 10m north of Simister Lane overbridge.

Work No. 18 – shown on sheets 2, 3 and 4 of the works plans as being the improvement of the northbound carriageway of the M60 comprising 5 lanes, commencing at the re-aligned M60 northbound off-slip (Work No. 07) and terminating at the M66 northbound on-slip. The works include the alteration of 1 no. portal gantries shown as Gantry Type 1 on sheet 3 of the works plans.

Work No. 19 – shown on sheet 3 of the works plans as being the construction of a new maintenance access track (231m in length) from the improved M60 northbound carriageway (Work No. 18) to the new attenuation pond (Work No. 21). Works to Important Hedgerow (HG_80) as described in Schedule 8 of this Order.

Work No. 20 – shown on sheet 3 of the works plans as being the establishment of environmental mitigation area(s) to the west of the improved M60 northbound carriageway (Work No. 18) including ecology pond creation, hedgerow planting and species rich grassland seeding to mitigate for biodiversity loss and integrate the authorised development into the surrounding landscape. Works to Important Hedgerow (HG_80) as described in Schedule 8 of this Order.

Work No. 21 – shown on sheet 3 of the works plans as being the installation of a drainage attenuation pond, to the west of the improved M60 northbound carriageway (Work No. 18), including excavations, embankments, cuttings, environmental mitigation, and fencing necessary for its construction and operation. Work No. 21 is adjacent to the improved M60 northbound carriageway (Work No. 18) and is accessed via a new maintenance access track (Work No. 19).

Work No. 22 – shown on sheets 2 and 3 of the works plans as being the widening from 2 lanes to 4 lanes of the southbound carriageway of the M60, commencing at a point 20m north of M60 Junction 18 and terminating 338m south of Simister Lane overbridge. The works include the construction of 1 no. cantilever gantry above the M60 Motorway within the gantry siting locations shown as Gantry Type 4 on sheet 2 of the works plans, including the installation of new gantry foundation, gantry structure, earthwork retaining structure, signals, control cabinets, power and communication cable connections.

Work No. 23 – shown on sheets 2 and 3 of the works plans as being the construction of a re-aligned M62 off-slip road in cutting and on embankment (585m in length) comprising 1 lane that diverges from the M62 westbound and construction of a re-aligned M60 on-slip road in cutting that connects directly with the improved M60 southbound carriageway (Work No. 22), commencing from a point 192m east of M60 Junction 18 and terminating at a point 132m south of Simister Lane overbridge.

Work No. 24 – shown on sheet 2 of the works plans as being the creation of a new emergency service and traffic officer service access road (78m in length) from the improved M60 Junction 18 circulatory carriageway (Work No. 25) to the re-aligned M60 southbound on-slip (Work No. 23).

Work No. 25 – shown on sheet 2 of the works plans as being the modification of the M60 Junction 18 circulatory carriageway (585m in length) including the provision of new wearing course to the pavement, amendment of the road markings and replacement of traffic signals and associated infrastructure.

Work No. 26 – shown on sheet 2 of the works plans as being the creation of a new emergency service and traffic officer service access road (101m in length) from the re-aligned M60 off-slip (Work No. 09) to the improved Junction 18 circulatory carriageway (Work No. 25).

Work No. 27 – shown on sheet 2 of the works plans as being the installation of a drainage attenuation pond, to the north of the new M60 eastbound off-slip carriageway (Work No. 05), including excavations, embankments, cuttings, environmental mitigation, and fencing necessary for its construction and operation. Work No. 27 is adjacent to the new M60 eastbound off-slip carriageway (Work No. 05) and is accessed via a new maintenance access track (Work No. 29).

Work No. 28 – shown on sheet 2 of the works plans as being the re-alignment of the exit road (84m in length) from the improved Junction 18 circulatory carriageway (Work No. 25) to the re-aligned M66 northbound on-slip (Work No. 09).

Work No. 29 – shown on sheet 2 of the works plans as being the construction of a new maintenance access track (535m in length) from Mode Hill Lane to the new attenuation pond (Work No. 27) including the continuation of the temporary haul route (Work No. 10). Works include the removal of Important Hedgerow (HG_80) as described in Schedule 8 of this Order.

Work No. 30 – shown on sheets 2, 4 and 5 of the works plans as being the widening of the southbound carriageway of the M66 (951m in length) comprising of 2 lanes commencing from the new M66 southbound off-slip (Work No. 39) and terminating at a point 20m north of M60 Junction 18 including the alteration of an existing portal gantry and the construction of a new cantilever gantry, comprising—

(a) the construction of 1 no. cantilever gantry above the M66 Motorway within the gantry siting locations shown as Gantry Type 4 on sheet 4 of the works plans, including the installation of new gantry foundation, gantry structure, earthwork retaining structure, signals, control cabinets, power and communication cable connections.

(b) shown on sheet 5 of the works plans as being the construction of 2 no. cantilever gantries above the M66 Motorway within the gantry siting locations shown as Gantry Type 4 on sheet 5 of the works plans, including the installation of new gantry foundations, gantry structures, earthwork retaining structures, signs, signals, sign illumination, control cabinets, power and communication cable connections.

Work No. 31 – shown on sheet 2 of the works plans as being the establishment of environmental mitigation area(s) on Mode Hill Lane/Pole Lane including hedgerow planting and species rich grassland seeding.

Work No. 32 – shown on sheet 2 of the works plans as being the establishment of environmental mitigation area(s) to the west of the improved M66 northbound carriageway (Work No. 18) and north of Mode Hill Lane/Pole Lane including hedgerow planting and species rich grassland seeding.

Work No. 33 – shown on sheets 2 and 4 of the works plans as being the construction of a new temporary haul route (966m in length), which commences from the M66 southbound verge and terminates south of the loop towards M60 Junction 18.

Work No. 34 – shown on sheet 2 of the works plans as being the construction of a new link road on embankment (301m in length) connecting the new M66 southbound off-slip and link road (Work No. 39) to the M62 eastbound on-slip**.**

Work No. 35 – shown on sheet 2 of the works plans as being the construction of a new maintenance access track (722m in length) from Egypt Lane to the new attenuation pond (Work No. 37), the new M60 eastbound off-slip road and link to M60 southbound (Work No. 05) and new M66 southbound off-slip and link road (Work No. 39).

Work No. 36 – shown on sheet number 2 of the works plans as being the establishment of environmental mitigation area(s) to the north east of M60 Junction 18 and south of Egypt Lane, including woodland planting, hedgerow and species rich grassland.

Work No. 37 – shown on sheet 2 of the works plans as being the installation of a drainage attenuation pond and swales, 500m north east from M60 Junction 18, including excavations, embankments, cuttings, environmental mitigation, and fencing necessary for its construction and operation. Work No. 37 is adjacent to the new M60 eastbound to M60 southbound link (Work No. 05) and is accessed via a new maintenance access track (Work No. 35).

Work No. 38 – shown on sheet number 2 of the works plans as being the establishment of environmental mitigation areas to the north east of M60 Junction 18 and north of Egypt Lane, including woodland planting, hedgerow planting and species rich grassland. Works to Important Hedgerow (HG_23) as described in Schedule 8 of this Order.

Work No. 39 – shown on sheets 2 and 4 of the works plans as being the construction of a new M66 southbound off-slip and link road on embankment (944m in length) comprising 2 lanes, and the construction of a new single span bridge structure (Pike Fold Bridge), connecting the improved

M66 southbound carriageway (Work No. 30) with the improved Junction 18 circulatory carriageway (Work No. 25) and the new link road to the M62 eastbound on-slip (Work No. 34).

Work No. 40 – shown on sheets 2 and 4 of the works plans as being works to realign the existing Public Right of Way (footway) 9WHI, due to the construction of the new M60 eastbound off-slip road and link to M60 southbound (Work No. 05), connecting Egypt Lane to existing public right of way (ref. 9WHI), adjacent to the new M66 southbound off-slip and link road (Work No. 39), approximately 200m south of Hills Lane (approximately 673m in length). Works also include mitigation measures comprising netting up to a maximum height of 25 metres on the boundary between the highway and golf course.

Work No. 41 – shown on sheet 4 of the works plans as being the diversion of a buried water main and associated infrastructure due to the construction of the improved M66 southbound carriageway (Work No. 30) and the new M66 southbound off-slip and link road (Work No. 39) (approximately 100m in length).

Work No. 42 – not used.

Work No. 43 – shown on sheet 4 of the works plans as being the installation of a drainage attenuation pond, 200m east of the M66 southbound carriageway, including excavations, embankments, cuttings, environmental mitigation, and fencing necessary for its construction and operation. Work No. 43 is adjacent to the M66 southbound and is accessed via a new maintenance access track (Work No. 44).

Work No. 44 – shown on sheet 4 of the works plans as being the construction of a new maintenance access track (152m in length) from Griffe Lane to the new attenuation pond (Work No. 43). Works to Important Hedgerows (HG_21, HG_22 and HG_39) as described in Schedule 8 of this Order.

Work No. 45 – shown on sheet 1 of the works plans as being the diversion of a low and high voltage electricity cables, low pressure gas main, communications / telephone cables and a water main and associated infrastructure due to the construction of the improved M60 eastbound carriageway (Work No. 02) (approximately 30m in length).

Work No. 46 – shown on sheet 3 of the works plans as being works to realign the existing Public Rights of Way (footway) 28aPRE and 29aPRE to accommodate the construction of the new drainage attenuation pond (Work No. 21) and new maintenance access track (Work No. 19) (approximately 90m in length).

Work No. 47 – shown on sheet 4 of the works plans as being works to realign the existing Public Right of Way (footway) 7WHI to accommodate construction of the new drainage attenuation pond (Work No. 43) and new maintenance access track (Work No. 44) (approximately 90m in length).

Work No. 48 – shown on sheet 1 of the works plans as being the diversion of low and high voltage electricity cables, telecommunications cables and a water main and associated infrastructure due to the construction of the improved M60 eastbound carriageway (Work No. 02) and the improved M60 westbound carriageway (Work No. 03) (approximately 250m in length).

Work No. 49 – shown on sheet 1 of the works plans as being the diversion of low voltage electricity cables, combined sewer, telecommunications cables and a water main and associated infrastructure due to the construction of the improved M60 westbound carriageway (Work No. 03) (approximately 300m in length).

Work No. 50 – shown on sheet 1 of the works plans as being the diversion of low voltage electricity cables and associated infrastructure due to the construction of the improved M60 westbound carriageway (Work No. 03) (approximately 40m in length).

Work No. 51 – shown on sheet 2 of the works plans as being the diversion of low voltage electricity cables and telecommunications cables and associated infrastructure due to the construction of the new maintenance access track (Work No. 14) (approximately 180m in length).

Work No. 52 – shown on sheet 2 of the works plans as being the diversion of low voltage electricity cables, telecommunications cables and a water main and associated infrastructure due to connections required into the main site compound, northwest of M60 Junction 18 (approximately 275m in length).

Work No. 53 – shown on sheet 2 of the works plans as being the construction of maintenance access track (174m in length), which runs parallel to the Junction 18 circulatory carriageway.

Work No. 54 – shown on sheet 1 of the works plans as being the establishment of an environmental mitigation area, north of M60 eastbound carriageway (Work No. 02) and west of Sandgate Road, including woodland planting, hedgerow planting and species rich grassland.

Work No. 55 – shown on sheet 1 of the works plans as being the establishment of an environmental mitigation area, north of M60 eastbound carriageway (Work No. 02) and west of Sandgate Road including woodland planting, hedgerow planting and species rich grassland.

Work No. 56 – shown on sheet 1 of the works plans as being the establishment of an environmental mitigation area, south of M60 westbound carriageway (Work No. 03) west of utilities works (Work No. 50), and west of Sandgate Road, including woodland planting, hedgerow planting and species rich grassland.

Work No. 57 – shown on sheet 2 of the works plans as being the establishment of an environmental mitigation area, north of M60 eastbound to M60 southbound interchange link (Work No. 05) situated between a maintenance access (Work No. 29) and a drainage attenuation pond (Work No. 27), including woodland planting, hedgerow planting and species rich grassland.

Work No. 58 – shown on sheet 2 of the works plans as being the establishment of an environmental mitigation area, southwest of a slip road between the M60 northbound and the M60 westbound (Work No. 07) and southeast of utilities work (Work No. 51), including woodland planting, hedgerow planting and species rich grassland.

Work No. 59 – shown on sheet 2 of the works plans as being the establishment of an environmental mitigation area, inside of the northern loop included in interchange link of M60 eastbound and M60 southbound (Work No. 05) east of a maintenance access (Work No. 35), including woodland planting, hedgerow planting and species rich grassland.

Work No. 60 – shown on sheet 3 of the works plans as being the establishment of an environmental mitigation area, west of the M60 northbound carriageway (Work No. 18) north of a drainage attenuation pond (Work No. 21), including woodland planting, hedgerow planting and species rich grassland.

For the purposes of or in connection with the construction of any of those works, further development within the Order limits which does not give rise to any materially new or materially different effects in comparison with those reported in the environmental statement, consisting of—

(a) alteration of the layout of any street permanently or temporarily, including but not limited to increasing or reducing the width of the carriageway of the street by increasing or reducing the width of any kerb, footpath, footway, cycle track or verge within the street; altering the level or increasing the width of any such kerb, footpath, footway, cycle track or verge; and reducing the width of the carriageway of the street;

(b) works required for the strengthening, improvement, repair, maintenance, or reconstruction of any street;

(c) ramps, steps, means of access, private means of access, non-motorised user routes or links, footpaths, footways, bridleways, equestrian tracks, cycle tracks, byways open to all traffic, restricted byways, laybys and crossing facilities;

(d) embankments, cuttings, excavations, viaducts, bridges, aprons, abutments, shafts, foundations, retaining walls, drainage works, drainage treatment areas, ponds, lagoons, outfalls, ditches, pollution control devices, pumping stations, wing walls, firefighting system water tanks and associated plant and equipment, highway lighting, fencing, noise barriers and culverts;

(e) street works, including breaking up or opening a street, or any sewer, drain or tunnel under it; and tunnelling or boring under a street;

(f) works to place, alter, divert, relocate, protect, remove or maintain the position of apparatus (including statutory undertakers' apparatus), services, plant and other equipment in, under or above a street, or in other land, including mains, sewers, drains, pipes, lights, cables, cofferdams, fencing and other boundary treatments;

(g) works to alter the course of, or otherwise interfere with a watercourse;

(h) landscaping, re-grading, re-profiling, contouring, works associated with the provision of ecological, archaeological and environmental mitigation (such as noise and visual bunds and barriers) and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;

(i) works comprising ground improvement, settlement monitoring and mitigation measures for the benefit or protection of, or in relation to, any land, building or structure, including monitoring and safeguarding of existing infrastructure, utilities and services affected by the authorised development;

(j) works to place, alter, remove or maintain road furniture;

(k) refurbishment works to any existing bridge;

(l) site preparation works, site clearance (including fencing and other boundary treatments, vegetation removal, demolition of existing structures and the creation of alternative highways or footpaths); earthworks (including soil stripping and storage and site levelling);

(m) the felling of trees and hedgerows;

(n) establishment of site construction compounds and working sites, temporary structures, storage areas (including storage of excavated material and other materials), temporary vehicle parking, construction fencing, perimeter enclosure, security fencing, construction related buildings, welfare facilities, office facilities, other ancillary accommodation, construction lighting, haulage roads and other buildings, machinery, apparatus, processing plant, works and conveniences;

(o) the provisions of other works including pavement works, kerbing and paved areas works, signing, signals, highways technology, gantries, street lighting, road restraints, road markings works, traffic management measures including temporary roads and such other works as are associated with the construction of the authorised development;

(p) pumping for the purposes of dewatering excavations and the management of surface water flows and temporary storage, settlement and treatment of surface water flows; and

(q) such other works, working sites, storage areas, works of demolition or works of whatever nature, as may be necessary or expedient for the purposes of, or for purposes associated with or ancillary to, the construction, operation or maintenance of the authorised development.

SCHEDULE 2

Article 3

REQUIREMENTS

PART 1

REQUIREMENTS

Interpretation

1. In this Schedule—

"business day" means a day other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971(**a**);

"commence" means beginning to carry out any material operation (as defined in section 56(4) (time when development begun) of the 1990 Act) forming part of the authorised development other than operations consisting of archaeological investigations and mitigation works, ecological surveys and mitigation works, investigations for the purpose of assessing ground conditions, erection of any temporary means of enclosure, receipt and erection of construction plant and equipment, treatment of any invasive species and the temporary display of site notices or advertisements, and "commencement" is to be construed accordingly;

"Design Council" means the UK's national strategic advisor for design who is a Royal Charter charity (registered charity number 279099);

"first iteration EMP" means the document of that description listed in Schedule 10 (certification of plans and documents, etc.) and certified by the Secretary of State as the first iteration environmental management plan for the purposes of this Order under article 41 (certification of plans and documents, etc.);

"second iteration EMP" means the second version of the first iteration EMP which is refined in advance of construction;

"third iteration EMP" means the third version of the first iteration EMP, which builds upon the second iteration EMP and is refined at the end of the construction stage to support future management and operation;

"the Manual of Contract Documents for Highway Works" means the document of that name published electronically by the strategic highway authorities for England, Scotland, Wales and Northern Ireland, or any equivalent replacement published for that document; and

"REAC" means the register of environmental actions and commitments set out in section 3 of the first iteration EMP.

Time limits

2. The authorised development must not commence later than the expiration of 5 years beginning with the date that this Order comes into force.

Detailed design

3.—(1) The authorised development must be designed in detail and carried out so that it is compatible with—

(**a**) 1971 c. 80.

(a) the preliminary scheme design shown on the general arrangement plans, works plans and the engineering section drawings;

(b) the design principles set out in the design principles report; and

(c) the report mentioned in sub-paragraph (3),

unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority and local highway authority on matters related to their functions and provided that the Secretary of State is satisfied that any amendments to the general arrangement plans, works plans and the engineering section drawings showing departures from the preliminary scheme design or the design principles would not give rise to any materially new or materially different effects in comparison with those reported in the environmental statement.

(2) Where amended details are approved by the Secretary of State under sub-paragraph (1), those details are deemed to be substituted for the corresponding general arrangement plans, works plans or engineering section drawings and the undertaker must make those amended details available in electronic form for inspection by members of the public.

(3) The report mentioned in sub-paragraph (1) is a report to be prepared by the undertaker of its findings following a review of the detailed design of Pike Fold Viaduct and Pike Fold Bridge, the review to be carried out in consultation with the design review panel, the relevant planning authority and the local highway authority.

(4) In this paragraph—

(a) "design review panel" means a panel appointed by the Design Council to conduct an independent review of certain elements of the proposed design of the authorised development;

(b) "design principles report" means the document of that description listed in Schedule 10 (certification of plans and documents, etc.) and certified by the Secretary of State as the design principles report for the purposes of this Order under article 41 (certification of plans and documents, etc.); and

(c) "general arrangement plans" means the document of that description listed in Schedule 10 (certification of plans and documents, etc.) and certified by the Secretary of State as the general arrangement plans for the purposes of this Order under article 41 (certification of plans and documents, etc.).

Environmental Management Plan

4.—(1) The authorised development must be carried out in accordance with the first iteration EMP.

(2) No part of the authorised development is to commence until a second iteration EMP, substantially in accordance with the first iteration EMP, has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority and, to the extent that it relates to a matter relevant to their function, the Environment Agency.

(3) The undertaker must make the second iteration EMP and the third iteration EMP, in each case substantially in accordance with the first iteration EMP, available in an electronic form suitable for inspection by members of the public.

(4) The second iteration EMP must be written in accordance with ISO 14001 and must—

(a) be in accordance with the mitigation measures set out in the REAC;

(b) contain a record of all sensitive environmental features that have the potential to be affected by the construction of the proposed development;

(c) require adherence to any working hours set out in the REAC or, where no such hours are set, to working hours of 07:00 to 19:00 on Mondays to Fridays and 07:00 to 13:00 on Saturday except for—

(i) installation, maintenance and removal of traffic management layouts;

(ii) demolition of existing structures, construction of new structures, and any potential movements of large transporters to deliver bridge superstructures and gantry steel sections to their permanent locations;

(iii) piling works for structures and retaining walls;

(iv) removal, modification and installation of new signage/technology to existing gantries and traffic signs;

(v) central reservation works where daytime working is not suitable due to existing carriageway widths or proximity to existing slip merges or diverges;

(vi) works on slip roads and designated free flow links where carriageway widths are unsuitable for daytime works;

(vii) online works within the verges which cannot be safely completed as daytime working behind a temporary vehicle restraint barrier;

(viii) cross carriageway duct crossings;

(ix) installation and removal of street lighting and traffic signals;

(x) resurfacing and white lining of the existing carriageway and surfacing works to tie-in the existing carriageway to the new carriageway;

(xi) the use of compounds to facilitate off-peak working;

(xii) emergency and planned carriageway maintenance and repair works;

(xiii) maintenance of plant and equipment requiring continuous operation such as pumps; and

(xiv) as otherwise agreed by the relevant planning authority in advance in writing.

(d) include the following management plans—

(i) Air Quality and Dust Management Plan;

(ii) Noise and Vibration Management Plan;

(iii) Site Waste Management Plan;

(iv) General Ecology Management Plan;

(v) Invasive Species Management Plan;

(vi) Soil Management Plan;

(vii) Materials Management Plan;

(viii) Surface and Groundwater Management Plan;

(ix) Construction Compound Management Plan;

(x) Contaminated Land Management Plan;

(xi) Energy and Resource Use Management Plan;

(xii) Emergency Procedures and Record of any Environmental Incidents;

(xiii) Environmental Constraints Map;

(xiv) Landscape and Ecology Management Plan;

(xv) Carbon Management Plan; and

(xvi) Construction Lighting Plan.

(5) The construction of the authorised development must be carried out in accordance with the approved second iteration EMP.

(6) A third iteration EMP must be developed and completed by the end of construction, commissioning and handover stage of the authorised development, substantially in accordance with the process set out in the approved second iteration EMP.

(7) The third iteration EMP must address the matters set out in the approved second iteration EMP that are relevant to the operation and maintenance of the authorised development, and must contain—

(a) the environmental information needed for the future maintenance and operation of the authorised development;

(b) the long-term commitments to aftercare, monitoring and maintenance activities relating to the environmental features and mitigation measures that will be required to ensure the continued long-term effectiveness of the environmental mitigation measures and the prevention of unexpected environmental impacts during the operation of the authorised development;

(c) provision for the retention of the environmental mitigation areas for the life of the authorised development; and

(d) a record of the consents, commitments and permissions resulting from liaison with statutory bodies.

(8) The authorised development must be operated and maintained in accordance with the third iteration EMP.

(9) In this paragraph—

(a) "environmental mitigation areas" means each of the environmental mitigation areas identified on the works plans comprising Work Nos. 20, 31, 32, 36, 38, 54, 55, 56, 57, 58, 59 and 60; and

(b) "ISO 14001" means the international standards on designing and implementing environmental management systems published by the Internal Standards Organisation.

Landscaping

5.—(1) No part of the authorised development is to commence until a landscaping scheme applicable to that part has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its functions.

(2) The landscaping scheme prepared under sub-paragraph (1) must be in accordance with the mitigation measures set out in the REAC and the environmental masterplan.

(3) The landscaping scheme prepared under sub-paragraph (1) must include details of—

(a) location, number, species mix, size and planting density of any proposed planting;

(b) cultivation, importing of materials and other operations to ensure plant establishment;

(c) existing trees to be retained, with measures for their protection during the construction period in accordance with the arboricultural impact assessment;

(d) proposed finished ground levels including details of changes to existing land levels, gradients for areas of permanent earthworks and cross sections to illustrate slope profiles where embankments are formed;

(e) implementation timetables for all landscaping works;

(f) hard landscaping and materials including colour and boundary treatment of any fences, walls and structures; and

(g) the extent and form of ball stop netting adjacent to Pike Fold Golf Course.

(4) The authorised development must be carried out in accordance with the landscaping scheme approved under sub-paragraph (1).

(5) All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised standards and codes of good practice, as specified in the third iteration EMP.

(6) Any tree or shrub planted as part of the landscaping scheme that, within a period of 5 years after planting, is removed, dies or becomes in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless the Secretary of State, following consultation with the relevant planning authority on matters related to its function, gives written consent to a variation.

(7) In this paragraph—

(a) "arboricultural impact assessment" means the assessment at appendix 7.5 of the environmental statement figures listed in Schedule 10 (certification of plans and documents, etc.) and certified by the Secretary of State as the environmental statement appendices for the purposes of this Order under article 41 (certification of plans and documents, etc.); and

(b) "environmental masterplan" means the plan at figure 2.3 of the environmental statement figures listed in Schedule 10 and certified by the Secretary of State as the environmental statement figures for the purposes of this Order under article 41.

Previously unidentified contaminated land and groundwater

6.—(1) In the event that contaminated land, including groundwater, is found at any time when carrying out the authorised development which was not previously identified in the environmental statement, it must be reported as soon as reasonably practicable to the Secretary of State, the relevant planning authority and the Environment Agency, and the undertaker must complete a risk assessment of the contamination in consultation with the relevant planning authority and the Environment Agency.

(2) Where the completed risk assessment determines that remediation of the contaminated land is necessary, work on or under the contaminated land must cease and must not recommence until a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its function and the Environment Agency.

(3) Remediation must be carried out in accordance with the written scheme approved under sub-paragraph (2).

(4) In this paragraph, "contaminated land" has the same meaning as that given in section 78A of the Environmental Protection Act 1990(**a**).

Protected species

7.—(1) In the event that any protected species which were not previously identified in the environmental statement or pre-construction surveys prepared to inform the second iteration EMP are found at any time when carrying out the authorised development the undertaker must cease the relevant parts of the relevant works and report it immediately to the ECoW.

(2) The relevant parts of the relevant works must not recommence until a written scheme of protection and mitigation measures (including their design and management) has been submitted to and approved in writing by the Secretary of State following consultation with Natural England.

(3) The written scheme must provide for the implementation of appropriate measures to avoid harm to protected species under the supervision of the ECoW.

(4) The undertaker must implement the written scheme approved under sub-paragraph (2) immediately and construction in the area specified in the written scheme must not recommence until any necessary licences are obtained to enable mitigation measures to be implemented.

(5) Within 5 business days of receiving written approval from the Secretary of State to the written scheme approved under sub-paragraph (2), the undertaker must provide to the relevant planning authority—

(a) the approved written scheme of protection and mitigation measures; and

(b) any responses provided by Natural England to the consultation undertaken under sub-paragraph (2).

(6) In this paragraph—

(**a**) 1990 c. 43. Section 78A was inserted by section 57 of the Environment Act 1995 (c. 25) and amended by section 86(2) of the Water Act 2003 (c. 37).

(a) "ECoW" means the ecological clerk of the works appointed to ensure competence and quality in ecological matters whose responsibilities are defined in the first iteration EMP;

(b) "European protected species" has the same meaning as in regulations 42 (European protected species of animals) and 46 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2017(**a**); and

(c) "protected species means" species which are subject to protection under the laws of England or which are European protected species".

Surface and foul water drainage

8.—(1) No part of the authorised development is to commence until for that part written details of the surface and foul water drainage system, in accordance with the mitigation measures set out in the REAC and drainage strategy report including means of pollution control, have been submitted and approved in writing by the Secretary of State following consultation with the relevant planning authority on matters related to its function.

(2) The surface and foul water drainage system must be carried out in accordance with the approved details, unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority.

(3) The Secretary of State may only agree to amendments to the approved details under sub-paragraph (2) if the Secretary of State is satisfied that the amendments would not give rise to any materially new or materially different effects in comparison with those reported in the environmental statement.

(4) In this paragraph, "drainage strategy report" means the report at Appendix 13.7 of the environmental statement appendices listed in Schedule 10 (certification of plans and documents, etc.) and certified by the Secretary of State as the environmental statement appendices for the purposes of this Order under article 41 (certification of plans and documents, etc.).

Archaeological remains

9.—(1) No part of the authorised development is to commence until for that part a written scheme for the investigation of areas of archaeological interest incorporating the mitigation measures set out in the environmental statement and the REAC has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its function.

(2) The authorised development must be carried out in accordance with the scheme approved under sub-paragraph (1).

Traffic Management

10.—(1) No part of the authorised development is to commence until for that part a traffic management plan, which is substantially in accordance with the outline traffic management plan for that part of the authorised development, has been submitted to and approved in writing by the Secretary of State, following consultation with the local highway authority on matters related to its function.

(2) The authorised development must be carried out in accordance with the traffic management plan approved under sub-paragraph (1).

(3) In this paragraph, "outline traffic management plan" means the document listed in Schedule 10 (certification of plans and documents, etc.) and certified by the Secretary of State as the outline traffic management plan for the purposes of this Order under article 41 (certification of plans and documents, etc.).

(**a**) S.I. 2017/1012.

Noise barriers

11.—(1) No part of the authorised development is to commence until a scheme of noise barrier mitigation in respect of the use and operation of that part of the authorised development has been submitted to and approved in writing by the Secretary of State following consultation with the relevant planning authority.

(2) The scheme prepared under sub-paragraph (1) must incorporate the noise barriers in the locations identified in the environmental statement, having regard to its assessment of the environmental effects of the incorporation of those noise barriers, and include details of:

(a) the continuation of noise barrier EB03 to the crossing of Sandgate Road;

(b) the continuation of noise barrier EB04 to the crossing of Sandgate Road;

(c) the continuation of noise barrier EB05 to noise barrier EB07; and

(d) implementation timetables and future maintenance.

(3) The noise barrier mitigation must be implemented in accordance with the scheme approved under sub-paragraph (1) and must be retained thereafter for the life of the authorised development.

Footpath passing through Haweswater underpass

12.—(1) No part of the authorised development is to commence until a scheme detailing improvements to the footpath passing through Haweswater underpass has been submitted to and approved in writing by the Secretary of State following consultation with the relevant planning authority and any statutory undertaker whose apparatus may be impacted by any proposed improvements.

(2) The scheme prepared under sub-paragraph (1) must incorporate details of improvements to the path between Heybrook Close and Parrenthorn Road which passes through the underpass, details of any lighting, a timescale for implementation and details of future maintenance.

(3) The scheme approved under sub-paragraph (1) must be implemented in accordance with the approved details prior to bringing into use the authorised development and thereafter must be retained for the life of the authorised development.

Flood risk assessment

13.—(1) The undertaker is required to consider the Flood and Coastal Erosion Risk Data published quarterly by the Environment Agency in its flood risk assessment, in consultation with the Environment Agency.

(2) The undertaker is required to carry out the authorised development in accordance with the flood risk assessment.

Amendments to approved details

14. With respect to any requirement which requires the authorised development to be carried out in accordance with the details or schemes approved under this Schedule, the approved details or schemes are taken to include any amendments that may subsequently be approved in writing by the Secretary of State.

PART 2

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Applications made under requirements

15.—(1) Where an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement (including consent, agreement or approval in

respect of part of a requirement) included in this Order the Secretary of State must give notice to the undertaker of the decision on the application within a period of 8 weeks beginning with—

(a) the day immediately following that on which the application is received by the Secretary of State;

(b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 16 (further information); or

(c) such longer period as may be agreed between the undertaker and the Secretary of State.

(2) Subject to sub-paragraph (3), in the event that the Secretary of State does not determine an application within the period set out in sub-paragraph (1), the Secretary of State is taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Where—

(a) an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement included in this Order;

(b) the Secretary of State does not determine such application within the period set out in sub-paragraph (1); and

(c) the application is accompanied by a report from a body required to be consulted under the requirement that considers it likely that the subject matter of the application would give rise to any materially new or materially worse effects in comparison with those reported in the environmental statement,

the application is taken to have been refused by the Secretary of State at the end of that period.

Consultation

16. In relation to any provision of this Schedule requiring details to be submitted to the Secretary of State for approval following consultation by the undertaker with another party, the undertaker must provide such other party with not less than 15 business days for any response to the consultation and thereafter the details submitted to the Secretary of State for approval must be accompanied by a summary report setting out the consultation undertaken by the undertaker to inform the details submitted including copies of any representations made by a consultee about the proposed application and the undertaker's response to those representations.

Further information

17.—(1) In relation to any part of an application made under this Schedule, the Secretary of State has the right to request such further information from the undertaker as is necessary to enable the Secretary of State to consider the application.

(2) In the event that the Secretary of State considers such further information to be necessary the Secretary of State must, within 21 business days of receipt of the application, notify the undertaker in writing specifying the further information required and (if applicable) to which part of the application it relates.

(3) In the event that the Secretary of State does not give such notification within that 21 business day period the Secretary of State is deemed to have sufficient information to consider the application and is not subsequently entitled to request further information without the prior agreement of the undertaker.

(4) Where further information is requested under this paragraph in relation to part only of an application, that part is treated as separate from the remainder of the application for the purposes of calculating the time periods referred to in paragraph 15 (applications made under requirements) and in this paragraph.

(5) When making an application for consent under sub-paragraph (1), the undertaker must include a letter informing the Secretary of State of the period mentioned in sub-paragraph (2) and the effect of sub-paragraph (3).

Register of requirements

18.—(1) The undertaker must, as soon as practicable following the making of this Order, establish and maintain in an electronic form suitable for inspection by members of the public a register of those requirements contained in Part 1 of this Schedule that provide for further approvals to be given by the Secretary of State.

(2) The register must set out in relation to each such requirement the status of the requirement, in terms of whether any approval to be given by the Secretary of State has been applied for or given, providing an electronic link to any document containing any approved details.

(3) The register must be maintained by the undertaker for a period of 3 years following completion of the authorised development.

Anticipatory steps towards compliance with any requirement

19. If, before the coming into force of this Order, the undertaker or any other person has taken any steps that were intended to be steps towards compliance with any provision of Part 1 of this Schedule, those steps may be taken into account for the purpose of determining compliance with that provision if they would have been valid steps for that purpose had they been taken after this Order came into force.

SCHEDULE 3

Article 13

CLASSIFICATION OF ROADS, ETC

PART 1

SPECIAL ROADS

(1) *Road*	*(2)* *Extent*
M60 mainline (eastbound)	Between point 1/01 on Sheet 1 and 2/02 on Sheet 2 of the classification of roads plans, for a distance of 1587 metres
M60 mainline (westbound)	Between point 1/04 on Sheet 1 and 2/13 on Sheet 2 of the classification of roads plans, for a distance of 1523 metres
M60 slip road (eastbound) to M66 (northbound)	Between point 1/02 on Sheet 1 and 2/03 on Sheet 2 of the classification of roads plans, for a distance of 1032 metres
M60 (northbound) to M60 slip road (westbound)	Between point 2/12 on Sheet 2 and 1/03 on Sheet 1 of the classification of roads plans, for a distance of 952 metres
M60 (northbound) to M60 slip road (westbound) (via Junction 18)	Between point 2/12 on Sheet 2 and 1/03 on Sheet 1 of the classification of roads plans, for a distance of 932 metres
Northern Loop	Between point 2/01 on Sheet 2 and 2/06 on Sheet 2 of the classification of roads plans, for a distance of 1454 metres
Junction 18	Located at point 2/10 on Sheet 2 of the classification of roads plans, for a distance of 573 metres
M60 mainline (northbound) to M66 (northbound)	Between point 3/03 on Sheet 3 and 2/04 on Sheet 2 of the classification of roads plans, for a distance of 792 metres
M66 mainline (southbound) to M60 mainline (southbound)	Between point 4/01 on Sheet 4 and 3/02 on Sheet 3 of the classification of roads plans, for a distance of 1676 metres
M66 slip road (southbound) to M62 (eastbound)	Between point 4/02 on Sheet 4 and 2/07 on Sheet 2 of the classification of roads plans, for a distance of 798 metres
M66 slip road (southbound) to M62 (eastbound) (via Junction 18)	Between point 4/02 on Sheet 4 and 2/08 on Sheet 2 of the classification of roads plans, for a distance of 851 metres
M62 Slip Road (westbound) to M66 (southbound)	Between point 2/09 on Sheet 2 and 3/01 on Sheet 3 of the classification of roads plans, for a distance of 574 metres

PART 2

PUBLIC RIGHTS OF WAY

(1) *Public right of way*	*(2)* *Extent*
Footpath 28aPRE and 29aPRE, Simister/Heaton Park (Work No. 46)	91 metres of footpath (174 metres including retained) between points 3/1 and 3/A on Sheet 3 of the streets, rights of way and access plans
Footpath 9WHI, Simister (Work No. 40)	673 metres of footpath (757 metres including retained) around the Northern Loop between points 4/4 on Sheet 4 and 2/E on Sheet 2 of the streets, rights of way and access plans
Footpath 7WHI, Unsworth (Work No. 47)	91 metres of footpath (110 metres including retained) between points 4/2 and 4/B on Sheet 4 of the streets, rights of way and access plans

PART 3

PRIVATE MEANS OF ACCESS

(1) *Road*	*(2)* *Extent*
Maintenance Access Track MA1, Simister (Work No. 29)	As shown between points 2/2 and 2/A on Sheet 2 of the streets, rights of way and access plans for a distance of 535 metres
Maintenance Access Track MA2, Simister (Work No. 35)	As shown between points 2/3 and 2/D on Sheet 2 of the streets, rights of way and access plans for a distance of 722 metres
Maintenance Access Track MA3, Simister (Work No. 53)	As shown between points 2/4 and 2/F on Sheet 2 of the streets, rights of way and access plans for a distance of 174 metres
Maintenance Access Track MA4, Simister (Work No. 14)	As shown between points 2/6 and 2/H on Sheet 2 of the streets, rights of way and access plans for a distance of 184 metres
Maintenance Access Track MA5, Simister/Heaton Park (Work No. 19)	As shown between points 3/2 and 3/B on Sheet 3 of the streets, rights of way and access plans for a distance of 231 metres
Maintenance Access Track MA6, Unsworth (Work No. 44)	As shown between points 4/1 and 4/A on Sheet 4 of the of the streets, rights of way and access plans for a distance of 152 metres

SCHEDULE 4

Article 15

PERMANENT STOPPING UP OF STREETS AND PUBLIC RIGHTS OF WAY

PART 1

STREETS TO BE STOPPED UP AND FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

(1) *Street to be stopped up*	*(2)* *Extent of stopping up*
M60 (eastbound) to M60 Junction 18 signalised junction	Existing section of 339 metres of public road, to be stopped up between points 2/1 to 2/B shown on Sheet 2 of the streets, rights of way and access plans
M62 (westbound) to M60 (southbound) (via Junction 18)	Existing section of 252 metres of public road, to be stopped up between points 2/5 to 2/G shown on Sheet 2 of the streets, rights of way and access plans
M66 (southbound) to M62 (eastbound) (via Junction 18)	Existing section of 661 metres of public road, to be stopped up between points 4/3 on Sheet 4 to point 2/C shown on Sheet 2 of the streets, rights of way and access plans

PART 2

PUBLIC RIGHTS OF WAY TO BE STOPPED UP AND FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

(1) *Public right of way to be stopped up*	*(2)* *Extent of stopping up*	*(3)* *New public right of way to be substituted or provided*
Footpath 28aPRE and 29aPRE, Simister/Heaton Park (Work No. 46)	198 metres of Footpath PR2 to be stopped up shown on Sheet 3 of the streets, rights of way and access plans	91 metres of footpath (174 metres including retained) between points 3/1 and 3/A on Sheet 3 of the streets, rights of way and access plans
Footpath 9WHI, Simister (Work No. 40)	757 metres of Footpath PR1 to be stopped up shown on Sheet 2 of the streets, rights of way and access plans	673 metres of footpath (757 metres including retained) around the Northern Loop between point 4/4 on Sheet 4 and point 2/E shown on Sheet 2 of the streets, rights of way and access plans
Footpath 7WHI, Unsworth (Work No. 47)	60 metres of Footpath PR3 to be stopped up shown on Sheet 4 of the streets, rights of way and access plans	91 metres of footpath (110 metres including retained) between points 4/2 and 4/B shown on sheet 4 of the streets, rights of way and access plans

SCHEDULE 5

Article 24(2)

LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

(1) *Plot Reference Number shown on Land Plans*	*(2)* *Purpose for which rights and restrictive covenants over land may be acquired*	*(3)* *Relevant part of the authorised development*
Land Plans – Sheet 1		
1/6b	Required to operate, access and maintain the authorised development. Right to pass and repass with or without plant and vehicles and access highways. To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.	Work No. 02
1/6c	Required to operate, access and maintain the authorised development. Right to pass and repass with or without plant and vehicles and access highways. To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.	Work No. 02
1/33b	Required to operate, access and maintain the authorised development. Right to pass and repass with or without plant and vehicles and access highways. To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.	Work No. 02
1/34	Required for maintenance and access for utilities diversions. Rights to install, maintain and use ducts, cables and apparatus for utilities and electronic	Work No. 50

	communications operators. Right to pass and repass with or without plant and vehicles and access highways. To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.	
Land Plans – Sheet 2		
2/1at	Required to construct, operate, access and maintain the authorised development. Rights to maintain and to pass and repass with or without plant and vehicles and access highways. To include the imposition of restrictive covenants to prevent works and mitigation features being removed or maintenance being made materially more difficult.	Work No. 35, 36, 37, and 38
2/1au	Required to construct, operate, access and maintain the authorised development. Rights to maintain and to pass and repass with or without plant and vehicles and access highways. To include the imposition of restrictive covenants to prevent works and mitigation features being removed or maintenance being made materially more difficult.	Work No. 35, 36, 37, and 38
2/1ax	Required to construct, operate, access and maintain the authorised development. Rights to maintain and to pass and repass with or without plant and vehicles and access highways. To include the imposition of restrictive covenants to prevent works and mitigation features being removed or maintenance being made materially more difficult.	Work No. 35, 36, 37, and 38
2/4b	Required to construct, operate, access and maintain environmental mitigation areas and the authorised development.	Work Nos. 31 and 32

	Rights to maintain and to pass and repass with or without plant and vehicles and access highways. To include the imposition of restrictive covenants to prevent works and mitigation features being removed or maintenance being made materially more difficult.	
2/4e	Required to construct, operate, access and maintain the authorised development. Rights to maintain and to pass and repass with or without plant and vehicles and access highways. To include the imposition of restrictive covenants to prevent works and mitigation features being removed or maintenance being made materially more difficult.	Work No. 35, 36, 37, and 38
2/4f	Required to construct, operate, access and maintain the authorised development. Rights to maintain and to pass and repass with or without plant and vehicles and access highways. To include the imposition of restrictive covenants to prevent works and mitigation features being removed or maintenance being made materially more difficult.	Work No. 35, 36, 37, and 38
2/4g	Required to construct, operate, access and maintain the authorised development. Rights to maintain and to pass and repass with or without plant and vehicles and access highways. To include the imposition of restrictive covenants to prevent works and mitigation features being removed or maintenance being made materially more difficult.	Work No. 35, 36, 37, and 38
2/4h	Required to construct, operate, access and maintain the authorised development. Rights to maintain and to pass and repass with or without plant and vehicles and access highways.	Work No. 35, 36, 37, and 38

	To include the imposition of restrictive covenants to prevent works and mitigation features being removed or maintenance being made materially more difficult.	
2/4i	Required to construct, operate, access and maintain the authorised development. Rights to maintain and to pass and repass with or without plant and vehicles and access highways. To include the imposition of restrictive covenants to prevent works and mitigation features being removed or maintenance being made materially more difficult.	Work No. 35, 36, 37, and 38
2/5d	Required for maintenance and access for utilities diversions. Rights to install, maintain and use ducts, cables and apparatus for utilities and electronic communications operators. Right to pass and repass with or without plant and vehicles and access highways. To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.	Work No. 52
2/7c	Required for maintenance and access for utilities diversions. Rights to install, maintain and use ducts, cables and apparatus for utilities and electronic communications operators. Right to pass and repass with or without plant and vehicles and access highways. To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.	Work No. 52
2/8c	Rights to install, maintain and use ducts, cables and apparatus for utilities and electronic communications operators. Right to pass and repass with	Work No. 51

	or without plant and vehicles and access highways. To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.	
2/8d	Rights to install, maintain and use ducts, cables and apparatus for utilities and electronic communications operators. Right to pass and repass with or without plant and vehicles and access highways. To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.	Work No. 51
2/9	Required for maintenance and access for utilities diversions. Rights to install, maintain and use ducts, cables and apparatus for utilities and electronic communications operators. Right to pass and repass with or without plant and vehicles and access highways. To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.	Work No. 52
2/10	Required for maintenance and access for utilities diversions. Rights to install, maintain and use ducts, cables and apparatus for utilities and electronic communications operators. Right to pass and repass with or without plant and vehicles and access highways. To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.	Work No. 52
2/13a	Required to construct, operate,	Work Nos. 31 and 32

	access and maintain environmental mitigation areas and the authorised development. Rights to maintain and to pass and repass with or without plant and vehicles and access highways. To include the imposition of restrictive covenants to prevent works and mitigation features being removed or maintenance being made materially more difficult.	
2/13b	Required to construct, operate, access and maintain environmental mitigation areas and the authorised development. Rights to maintain and to pass and repass with or without plant and vehicles and access highways. To include the imposition of restrictive covenants to prevent works and mitigation features being removed or maintenance being made materially more difficult.	Work Nos. 31 and 32
2/16c	Required to construct, operate, access and maintain the authorised development. Right to pass and repass with or without plant and vehicles and access highways. To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.	Work No. 37
2/16e	Required to construct, operate, access and maintain the authorised development. Rights to maintain and to pass and repass with or without plant and vehicles and access highways. To include the imposition of restrictive covenants to prevent works and mitigation features being removed or maintenance being made materially more difficult.	Work No. 35, 36, 37, and 38
Land Plans – Sheet 4		

4/2b	Required to construct, operate, access and maintain utilities diversions including a water main and the authorised development. Rights to install, maintain and use ducts, cables and apparatus for utilities and electronic communications operators. Right to pass and repass with or without plant and vehicles and access highways. To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.	Work No. 41
4/2c	Required to construct, operate, access and maintain attenuation and drainage features and the authorised development. Rights to maintain and to pass and repass with or without plant and vehicles and access highways. To include the imposition of restrictive covenants to prevent works and drainage features being removed or maintenance being made materially more difficult.	Work No. 43
4/3	Required to construct, operate, access and maintain attenuation and drainage features and the authorised development. Rights to maintain and to pass and repass with or without plant and vehicles and access highways. To include the imposition of restrictive covenants to prevent works and drainage features being removed or maintenance being made materially more difficult.	Work No. 43
4/6	Required to construct, operate, access and maintain attenuation and drainage features and the authorised development. Rights to maintain and to pass and repass with or without	Work No. 43 and 44

	plant and vehicles and access highways. To include the imposition of restrictive covenants to prevent works and drainage features being removed or maintenance being made materially more difficult.	

SCHEDULE 6

Article 24

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS AND IMPOSITION OF RESTRICTIVE COVENANTS

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or the imposition of a restrictive covenant as they apply in respect of compensation for the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act substitute—

"(5A) If—

(a) the acquiring authority enters on land for the purposes of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule 6 to the M60/M62/M66 Simister Island Interchange Development Consent Order 2025 ("the 2025 Order"));

(b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 6 to the 2025 Order) to acquire an interest in the land; and

(c) the acquiring authority enters on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.".

3.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(**a**) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5(3)—

(a) for "land is acquired or taken from" substitute "a right or restrictive covenant over land is purchased from or imposed on"; and

(b) for "acquired or taken from him" substitute "over which the right is exercisable or the restrictive covenant enforceable".

Application of Part 1 of the 1965 Act

4. Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and modified by article 26 (modification of Part 1 of the 1965 Act)) to the acquisition of land under article 21 (compulsory acquisition of land), applies to the compulsory acquisition of a right by the creation of a new right, or to the imposition of a restrictive covenant under article 24 (compulsory acquisition of rights and imposition of restrictive covenants)—

(a) with the modifications specified in paragraph 5; and

(b) with such other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4(a) are as follows.

(**a**) 1973 c. 26.

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the context) as referring to, or as including references to—

(a) the right acquired or to be acquired, or the restrictive covenant imposed or to be imposed; or

(b) the land over which the right is or is to be exercisable, or the restrictive covenant is or is to be enforceable.

(3) For section 7 (measure of compensation in case of severance) of the 1965 Act substitute—

"**7.** In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the restrictive covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.".

(4) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

(a) section 9(4) (failure by owners to convey);

(b) paragraph 10(3) of Schedule 1 (owners under incapacity);

(c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and

(d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

(5) Section 11(**a**) (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right or restrictive covenant, as well as the notice of entry required by subsection (1) of that section (as it applies to compulsory acquisition under article 21), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant; and sections 11A(**b**) (powers of entry: further notices of entry), 11B(**c**) (counter-notice requiring possession to be taken on specified date), 12(**d**) (unauthorised entry) and 13(**e**) (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

(6) Section 20(**f**) (tenants at will, etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 26(4) is also modified so as to enable the acquiring authority in circumstances corresponding to those

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(**a**) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.

(**b**) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016.

(**c**) Section 11B was inserted by section 187(3) of the Housing and Planning Act 2016.

(**d**) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23).

(**e**) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15)

(**f**) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

referred to in that section, to continue to be entitled to exercise the right acquired or enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

(8) For Schedule 2A of the 1965 Act substitute—

"SCHEDULE 2A

Section 8

COUNTER-NOTICE REQUIRING PURCHASE OF LAND NOT IN NOTICE TO TREAT

Introduction

1.—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and has not executed a general vesting declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 as applied by article 27 (application of the 1981 Act) of the M60/M62/M66 Simister Island Interchange Development Consent Order 2025 in respect of the land to which the notice to treat relates.

(2) But see article 28(3) (acquisition of subsoil or airspace only) of the M60/M62/M66 Simister Island Interchange Development Consent Order 2025 which excludes the acquisition of subsoil or airspace only from this Schedule.

2. In this Schedule, "house" includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory ("the owner") may serve a counter-notice requiring the acquiring authority to purchase the owner's interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

(a) withdraw the notice to treat,

(b) accept the counter-notice, or

(c) refer the counter-notice to the Upper Tribunal.

6. The acquiring authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served ("the decision period").

7. If the acquiring authority decides to refer the counter-notice to the Upper Tribunal it must do so within the decision period.

8. If the acquiring authority does not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the acquiring authority serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Determination by the Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

(a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or

(b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

(a) the effect of the acquisition of the right or the imposition of the covenant,

(b) the proposed use of the right or covenant, and

(c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.

13. If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the acquiring authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph it must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.".

SCHEDULE 7

Article 30

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

(1) *Plot reference Number shown on Land Plans*	*(2)* *Purpose for which temporary possession may be taken*	*(3)* *Relevant part of the authorised development*
Land Plans – Sheet 1		
1/1e	Required to provide a working area for improving the carriageway of the M60, installing gantries and utilities diversions	Work Nos. 03, 48 and 49 as shown on sheets 1 and 2 of the works plans
1/1f	Required to provide a working area for widening the carriageway of the M60, installing gantries and utilities diversions	Work Nos. 02, 45 and 48 as shown on sheets 1 and 2 of the works plans
1/1g	Required to provide a working area for widening the carriageway of the M60 and installing gantries	Work No. 03 as shown on sheets 1 and 2 of the works plans
1/1j	Required to provide a working area for improving the carriageway of the M60 and utilities diversions	Work No. 50 as shown on sheet 1 of the works plans
1/3c	Required to provide a working area for improving the carriageway of the M60 and utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/3d	Required to provide a working area for improving the carriageway of the M60 and utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/3e	Required to provide a working area for widening the carriageway of the M60, installing gantries and utilities diversions	Work Nos. 03, 48 and 49 as shown on sheets 1 and 2 of the works plans
1/3f	Required to provide a working area for widening the carriageway of the M60 and installing gantries	Work No. 03 as shown on sheets 1 and 2 of the works plans
1/3h	Required for utilities diversions	Work No. 50 as shown on sheet 1 of the works plans
1/5a	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5b	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5c	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5d	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans

1/5e	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5f	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5g	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5h	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5i	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5j	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5k	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5l	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5m	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5n	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5o	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5p	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5q	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5r	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5s	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5t	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5u	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5v	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5w	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5x	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5y	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5z	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5aa	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5ab	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5ac	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5ad	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5ae	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans

1/5af	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5ag	Required to provide a working area for improving the carriageway of the M60, installing gantries and utilities diversions	Work Nos. 02, 45 and 48 as shown on sheets 1 and 2 of the works plans
1/5ah	Required for utilities diversions	Work No. 45 as shown on sheet 1 of the works plans
1/5ai	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5aj	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5ak	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5al	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5am	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5an	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5ao	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5ap	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5aq	Required to provide a working area for widening the carriageway of the M60, installing gantries and utilities diversions	Work Nos. 03 and 49 as shown on sheets 1 and 2 of the works plans
1/5ar	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5as	Required to provide a working area for widening the carriageway of the M60, installing gantries and utilities diversions	Work Nos. 03 and 49 as shown on sheets 1 and 2 of the works plans
1/5at	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5au	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5av	Required for utilities diversions	Work Nos. 45 and 48 as shown on sheet 1 of the works plans
1/5aw	Required for utilities diversions	Work Nos. 45 and 48 as shown on sheet 1 of the works plans
1/5ax	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5ay	Required for utilities diversions	Work Nos. 48 and 49 as shown on sheet 1 of the works plans
1/5az	Required for utilities diversions	Work Nos. 48 and 49 as shown on sheet 1 of the works plans

1/5aaa	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5aab	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5aac	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5aad	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5aae	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/5aaf	Required for utilities diversions	Work Nos. 48 and 49 as shown on sheet 1 of the works plans
1/6a	Required for utilities diversions	Work No. 49 as shown on sheet 1 of the works plans
1/6d	Required to provide a working area for widening the carriageway of the M60 and installing gantries	Work No. 02 as shown on sheets 1 and 2 of the works plans
1/7	Required for utilities diversions	Work No. 45 as shown on sheet 1 of the works plans
1/8a	Required for utilities diversions	Work Nos. 45 and 48 as shown on sheet 1 of the works plans
1/8b	Required to provide a working area for widening the carriageway of the M60, installing gantries and environmental mitigation	Work Nos. 02, 54 and 55 as shown on sheets 1 and 2 of the works plans
1/9	Required to provide a working area for widening the carriageway of the M60, installing gantries and utilities diversions	Work Nos. 03, 48 and 49 as shown on sheets 1 and 2 of the works plans
1/10	Required to provide a working area for widening the carriageway of the M60 and installing gantries	Work No. 03 as shown on sheets 1 and 2 of the works plans
1/11	Required to provide a working area for widening the carriageway of the M60 and installing gantries	Work No. 03 as shown on sheets 1 and 2 of the works plans
1/12	Required to provide a working area for widening the carriageway of the M60 and installing gantries	Work No. 03 as shown on sheets 1 and 2 of the works plans
1/13	Required to provide a working area for widening the carriageway of the M60 and installing gantries	Work No. 03 as shown on sheets 1 and 2 of the works plans
1/14a	Required to provide a working area for widening the carriageway of the M60 and installing gantries	Work No. 03 as shown on sheets 1 and 2 of the works plans
1/14b	Required to provide a working	Work No. 03 as shown on

	area for widening the carriageway of the M60 and installing gantries	sheets 1 and 2 of the works plans
1/14c	Required to provide a working area for widening the carriageway of the M60 and installing gantries	Work No. 03 as shown on sheets 1 and 2 of the works plans
1/15	Required to provide a working area for widening the carriageway of the M60 and installing gantries	Work No. 03 as shown on sheets 1 and 2 of the works plans
1/16	Required to provide a working area for widening the carriageway of the M60 and installing gantries	Work No. 03 as shown on sheets 1 and 2 of the works plans
1/17a	Required to provide a working area for widening the carriageway of the M60, installing gantries and environmental mitigation	Work Nos. 02, 54 and 55 as shown on sheets 1 and 2 of the works plans
1/17b	Required to provide a working area for widening the carriageway of the M60, installing gantries and environmental mitigation	Work Nos. 02, 54 and 55 as shown on sheets 1 and 2 of the works plans
1/17c	Required to provide a working area for widening the carriageway of the M60, installing gantries and environmental mitigation	Work Nos. 02, 54 and 55 as shown on sheets 1 and 2 of the works plans
1/17d	Required to provide a working area for widening the carriageway of the M60, installing gantries and environmental mitigation	Work Nos. 02, 54 and 55 as shown on sheets 1 and 2 of the works plans
1/17e	Required to provide a working area for widening the carriageway of the M60, installing gantries and environmental mitigation	Work Nos. 02, 54 and 55 as shown on sheets 1 and 2 of the works plans
1/18a	Required to provide a working area for widening the carriageway of the M60, installing gantries and environmental mitigation	Work Nos. 02, 54 and 55 as shown on sheets 1 and 2 of the works plans
1/18b	Required to provide a working area for widening the carriageway of the M60, installing gantries and environmental mitigation	Work Nos. 02, 54 and 55 as shown on sheets 1 and 2 of the works plans
1/18c	Required to provide a working area for widening the carriageway of the M60, installing gantries and environmental mitigation	Work Nos. 02, 54 and 55 as shown on sheets 1 and 2 of the works plans
1/19	Required to provide a working	Work Nos. 02, 54 and 55 as

	area for widening the carriageway of the M60, installing gantries and environmental mitigation	shown on sheets 1 and 2 of the works plans
1/20	Required to provide a working area for widening the carriageway of the M60, installing gantries and environmental mitigation	Work Nos. 02, 54 and 55 as shown on sheets 1 and 2 of the works plans
1/22a	Required to provide a working area for widening the carriageway of the M60, installing gantries and environmental mitigation	Work Nos. 02, 54 and 55 as shown on sheets 1 and 2 of the works plans
1/22b	Required to provide a working area for widening the carriageway of the M60, installing gantries and environmental mitigation	Work Nos. 02, 54 and 55 as shown on sheets 1 and 2 of the works plans
1/23	Required to provide a working area for widening the carriageway of the M60 and installing gantries	Work No. 03 as shown on sheets 1 and 2 of the works plans
1/24	Required to provide a working area for widening the carriageway of the M60, installing gantries and environmental mitigation	Work Nos. 02, 54 and 55 as shown on sheets 1 and 2 of the works plans
1/25	Required to provide a working area for widening g the carriageway of the M60, installing gantries and environmental mitigation	Work Nos. 02, 54 and 55 as shown on sheets 1 and 2 of the works plans
1/26	Required to provide a working area for widening the carriageway of the M60, installing gantries and environmental mitigation	Work Nos. 02, 54 and 55 as shown on sheets 1 and 2 of the works plans
1/27	Required to provide a working area for widening the carriageway of the M60, installing gantries and environmental mitigation	Work Nos. 02, 54 and 55 as shown on sheets 1 and 2 of the works plans
1/28	Required to provide a working area for widening the carriageway of the M60, installing gantries and environmental mitigation	Work Nos. 02, 54 and 55 as shown on sheets 1 and 2 of the works plans
1/29	Required to provide a working area for widening the carriageway of the M60, installing gantries and environmental mitigation	Work Nos. 02, 54 and 55 as shown on sheets 1 and 2 of the works plans
1/30	Required to provide a working area for widening the carriageway of the M60,	Work Nos. 02, 54 and 55 as shown on sheets 1 and 2 of the works plans

	installing gantries and environmental mitigation	
1/31a	Required to provide a working area for widening the carriageway of the M60, installing gantries and environmental mitigation	Work Nos. 02, 54 and 55 as shown on sheets 1 and 2 of the works plans
1/31b	Required to provide a working area for widening the carriageway of the M60, installing gantries and environmental mitigation	Work Nos. 02, 54 and 55 as shown on sheets 1 and 2 of the works plans
1/32	Required to provide a working area for widening the carriageway of the M60, installing gantries and environmental mitigation	Work Nos. 02, 54 and 55 as shown on sheets 1 and 2 of the works plans
1/33a	Required to provide a working area for widening the carriageway of the M60 and installing gantries	Work No. 02 as shown on sheets 1 and 2 of the works plans
Land Plans – Sheet 2		
2/1e	Required for provision of a temporary construction compound	All works
2/2	Required to provide a working and material storage area for widening the carriageway of the M60 and installing gantries, temporary haul routes, drainage attenuation and utilities diversions	Work Nos. 03, 07, 08, 11, 12, 13, 14, 15, and 16 as shown on sheets 1, 2 and 3 of the works plans
2/3a	Required to provide a working and material storage area for widening the carriageway of the M60 and installing gantries, temporary haul routes, drainage attenuation and utilities diversions	Work Nos. 03, 07, 08, 11, 12, 13, 14, 15, and 16 as shown on sheets 1, 2 and 3 of the works plans
2/3c	Required to provide a working and material storage area for widening the carriageway of the M60 and installing gantries, temporary haul routes, drainage attenuation and utilities diversions	Work Nos. 03, 07, 08, 11, 12, 13 and 14 as shown on sheets 1, 2 and 3 of the works plans
2/4a	Required to provide a working and material storage area for widening the carriageway of the M60 and installing gantries, temporary haul routes, drainage attenuation and utilities diversions	Work Nos. 03, 07, 08, 11, 12, 13, 14, 15, and 16 as shown on sheets 1, 2 and 3 of the works plans
2/5a	Required to provide a working and material storage area for widening the carriageway of	Work Nos. 02, 05, 06, 09, 10, 27, 29 and 57 as shown on sheets 1 and 2 of the works

	the M60 and installing gantries, temporary haul routes, drainage attenuation and environmental mitigation	plans
2/5b	Required for provision of a temporary construction compound	All works
2/5e	Required for provision of a temporary construction compound	All works
2/5i	Required for provision of a temporary construction compound	All works
2/6	Required for utilities diversions	Work No. 52 as shown on sheet 2 of the works plans
2/7a	Required for utilities diversions	Work No. 52 as shown on sheet 2 of the works plans
2/7b	Required for utilities diversions	Work No. 52 as shown on sheet 2 of the works plans
2/8b	Required to provide a working and material storage area for widening the carriageway of the M60 and installing gantries, temporary haul routes, drainage attenuation and utilities diversions	Work Nos. 03, 07, 08, 11, 12, 13 and 14 as shown on sheets 1, 2 and 3 of the works plans
2/8e	Required to provide a working and material storage area for widening the carriageway of the M60 and installing gantries, temporary haul routes, drainage attenuation, environmental mitigation and utilities diversions	Work Nos. 03, 07, 08, 11, 12, 13, 14, 15, 16, 17, 25, 51 and 58 as shown on sheets 1, 2 and 3 of the works plans
2/11	Required to provide a working and material storage area for widening the carriageway of the M60 and installing gantries, temporary haul routes, drainage attenuation, environmental mitigation and utilities diversions	Work Nos. 03, 07, 08, 11, 12, 13, 14, 15, 16, 17, 25, 51 and 58 as shown on sheets 1, 2 and 3 of the works plans
2/12	Required for utilities diversions	Work No. 51 as shown on sheet 2 of the works plans
2/16f	Required to provide access for landscaping works drainage attenuation and environmental mitigation	Work Nos. 37 and 38 as shown on sheet 2 of the works plans
Land Plans – Sheet 4		
4/8b	Required for provision of a temporary construction compound and material storage area	Work Nos. 43, 44 and 47 as shown on sheet 4 of the works plans

SCHEDULE 8

Article 36

HEDGEROWS TO BE REMOVED OR MANAGED

The hedgerow identifications in the table below are taken from Appendix 8.1 UK Habitats Survey Report of the Environmental Statement and are within the Order Limits. Volume 2.9 – Important Hedgerow Plans – TR010064/APP/2.9.

(1) *Hedgerow identification*	*(2)* *Work Numbers*	*(3)* *Important hedgerow*	*(4)* *Reason for importance*	*(5)* *Work to be undertaken*
HG_01; Defunct, native species poor	n/a	No	None	Management / Cutting back
HG_05; Defunct, native species poor	n/a	No	None	Management / Cutting back
HG_06; Defunct, native species poor	n/a	No	None	Management / Cutting back
HG_07; Defunct, native species poor	n/a	No	None	Management / Cutting back
HG_08; Defunct, native species poor	Work No. 29	Yes	Ecological	Full removal
HG_09; Defunct, native species poor	n/a	No	None	Management / Cutting back
HG_10; Intact, native species poor	n/a	No	None	Management / Cutting back
HG_11; Defunct, native species poor	n/a	No	None	Management / Cutting back
HG_20; Defunct, native species poor	n/a	No	None	Management / Cutting back
HG_21; Defunct, native species poor	Work No. 44	Yes	Archaeology	Partial removal / Management / Cutting back
HG_22; Defunct, native species poor	Work No. 44	Yes	Archaeology	Management / Cutting back
HG_23; Defunct, native species poor	Work No. 38	Yes	Historical	Management / Cutting back
HG_25; Defunct, native species poor	n/a	No	None	Management / Cutting back
HG_26; Defunct, native species poor	n/a	No	None	Management / Cutting back

HG_29; Intact, native species poor	n/a	No	None	Management / Cutting back
HG_34; Defunct, native species poor	n/a	No	None	Management / Cutting back
HG_36; Defunct, native species poor	n/a	No	None	Management / Cutting back
HG_37; Defunct, native species poor	n/a	No	None	Management / Cutting back
HG_39; Defunct, native species poor	Work No. 44	Yes	Archaeology	Management / Cutting back
HG_41; Intact, native species poor	n/a	No	None	Management / Cutting back
HG_43; Intact, native species poor	n/a	No	None	Management / Cutting back
HG_44; Defunct, native species poor	n/a	No	None	Management / Cutting back
HG_45; Defunct, native species poor	n/a	No	None	Management / Cutting back
HG_47; Intact, native species poor	n/a	No	None	Management / Cutting back
HG_80; Defunct, native species poor	Work Nos. 19 and 20	Yes	Historical	Management / Cutting back

SCHEDULE 9

Articles 32 and 40

PROTECTIVE PROVISIONS

PART 1

FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

1.—(1) For the protection of the utility undertakers referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and the utility undertaker concerned.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and the utility undertaker concerned, where the benefit of this Order is transferred or granted to another person under article 8 (consent to transfer benefit of Order), any agreement of the type mentioned in sub-paragraph (1) has effect as if it had been made between the utility undertaker concerned and the transferee or grantee (as the case may be).

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to the utility undertaker concerned (but see paragraph 11(3)(b)).

2. In this Part of this Schedule—

"alternative apparatus" means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

"apparatus" means—

(a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(**a**)), belonging to or maintained by that utility undertaker;

(b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter within the meaning of Part 1 of the Gas Act 1986(**b**) for the purposes of gas supply;

(c) in the case of a water undertaker, mains, pipes or other apparatus belonging to or maintained by that undertaker for the purposes of water supply; and

(d) in the case of a sewerage undertaker—

(i) any drain or works vested in the utility undertaker under the Water Industry Act 1991(**c**); and

(ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4)(**d**) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104(**e**) (agreement to adopt sewers, drains or sewage disposal works at a future date) of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any

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(**a**) 1989 c. 29. The definition of "electrical plant" (in section 64) was amended by section 108 of, paragraphs 24 and 38(1) and (3) of Schedule 6 to, the Utilities Act 2000 (c. 27).

(**b**) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45), and was further amended by section 76 of the Utilities Act 2000.

(**c**) 1991 c. 56.

(**d**) Section 102(4) was amended by section 96(1)(c) of the Water Act 2003 (c. 37) and by section 56 of, and paragraph 90 of Schedule 7 to, the Water Act 2014 (c. 21).

(**e**) Section 104 was amended by sections 96(4) and 101(2) of, and Part 3 of Schedule 9 to, the Water Act 2003 and section 42(3) of the Flood and Water Management Act 2010 (c. 29) and section 11(1) and (2) of, and paragraphs 2 and 91 of Schedule 7 to, the Water Act 2014.

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;

"plan" includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

"utility undertaker" means—

(a) any licence holder within the meaning of Part 1 (electricity supply) of the Electricity Act 1989;

(b) a gas transporter within the meaning of Part 1 (gas supply) of the Gas Act 1986;

(c) a water undertaker within the meaning of the Water Industry Act 1991; and

(d) a sewerage undertaker within the meaning of Part 1 (preliminary) of the Water Industry Act 1991,

for the area of the authorised development, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

On street apparatus

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

Apparatus in stopped up streets

4.—(1) Where any street is stopped up under article 15 (permanent stopping up, restriction of use of streets and public rights of way), any utility undertaker whose apparatus is in the street has the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to the utility undertaker legal easements reasonably satisfactory to the utility undertaker in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of the utility undertaker to require the removal of that apparatus under paragraph 7 or the power of the undertaker to carry out works under paragraph 9.

(2) Regardless of the temporary stopping up or diversion of any highway under the powers conferred by article 14 (temporary closure and restriction of use of streets), a utility undertaker is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

Protective works to buildings

5. The undertaker, in the case of the powers conferred by article 19 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus.

Acquisition of land

6. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

7.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of a utility undertaker to maintain that apparatus in that land must not be extinguished, until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (6).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed the utility undertaker must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 44 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 44, and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that the undertaker desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 44 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

9.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 7(2) (removal of apparatus), the undertaker must submit to the utility undertaker in question a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If a utility undertaker, in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances.

Expenses and costs

10.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker all expenses reasonably incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 7(2) (removal of apparatus).

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 44 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1), if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

11.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraphs 5 (protective works to buildings) or 7(2) (removal of apparatus), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative 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 a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

(a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and

(b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the undertaker,

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

(2) The fact that any act or thing may have been done by a utility undertaker on behalf of the undertaker or in accordance with a plan approved by a utility undertaker or in accordance with any requirement of a utility undertaker or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1).

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to—

(a) any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents; or

(b) any part of the authorised development carried out by a utility undertaker in the exercise of any of functions conferred by this Order pursuant to a transfer or grant under article 8 (consent to transfer benefit of Order).

(4) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Co-operation

12. Where in consequence of the proposed construction of any part of the authorised development, the undertaker or a utility undertaker requires the removal of apparatus under paragraph 7(2) (removal of apparatus) or a utility undertaker makes requirements for the protection or alteration of apparatus under paragraph 9 (retained apparatus), the undertaker must use best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the utility undertaker's undertaking and each utility undertaker must use its best endeavours to co-operate with the undertaker for that purpose.

13. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaker in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 2

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

14. For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

15. In this Part of this Schedule—

"the 2003 Act" means the Communications Act 2003(**a**);

"electronic communications apparatus" has the same meaning as in the electronic communications code;

"the electronic communications code" has the same meaning as in Chapter 1 of Part 2 of the 2003 Act;

"electronic communications code network" means—

(a) so much of an electronic communications network or infrastructure system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106(**b**) (application of the electronic communications code) of the 2003 Act; and

(b) an electronic communications network which the undertaker is providing or proposing to provide;

"electronic communications code operator" means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act;

"infrastructure system" has the same meaning as in the electronic communications code and references to providing an infrastructure system are to be construed in accordance with paragraph 7(2) (infrastructure system) of that code; and

"operator" means the operator of an electronic communications code network.

16. The exercise of the powers conferred by article 32 (statutory undertakers) is subject to Part 10 (undertaker's works affecting electronic communications apparatus) of the electronic communications code.

17.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or its construction, or of any subsidence resulting from any of those works—

(a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), or other property of an operator; or

(b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) 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 an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(**a**) 2003 c. 21.

(**b**) Section 106 was amended by section 4(3) to (9) of the Digital Economy Act 2017 (c. 30). See also Schedule 3A to the 2003 Act, which was inserted by section 4 of, and Schedule 1 to, the Digital Economy Act 2017.

(4) Any difference arising between the undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 44 (arbitration).

(5) This Part of this Schedule does not apply to—

(a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 of the 1991 Act; or

(b) any damages, or any interruptions, caused by electro-magnetic interference arising from the construction or use of the authorised development.

(6) Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 3

FOR THE PROTECTION OF CADENT GAS LIMITED

Application

18. For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect.

Interpretation

19. In this Part of this Schedule—

"alternative apparatus" means appropriate alternative apparatus to the reasonable satisfaction of Cadent to enable Cadent to fulfil its statutory functions in a manner no less efficient than previously;

"apparatus" means any gas mains, pipes, pressure governors, ventilators, cathodic protections, cables or other apparatus belonging to or maintained by Cadent for the purposes of Cadent's undertaking together with any replacement apparatus and such other apparatus constructed pursuant to this Order that becomes operational apparatus of Cadent for the purposes of Cadent's undertaking and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

"Cadent" means Cadent Gas Limited and includes its successors in title or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

"Cadent's undertaking" means the rights, duties and obligations of Cadent Gas Limited as a public gas transporter within the meaning of Section 7(**a**) (licensing of public gas transporters) of the Gas Act 1986;

"commence" has the same meaning as in paragraph 1, Part 1 of Schedule 2 (requirements) to the Order and "commencement" shall be construed to have the same meaning save that for the purposes of this Part of this Schedule the terms "commence" and "commencement" include any below ground surveys, monitoring, work operations, remedial work in respect of any contamination or other adverse ground condition, the receipt and erection of construction plant and equipment, and non-intrusive investigations for the purpose of assessing ground conditions;

"deed of consent" means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

(**a**) Section 7 was amended by section 5 of the Gas Act 1995 (c. 45), section 76 of the Utilities Act 2000 (c. 27) and regulation 18 of the Electricity and Gas (Internal Markets) Regulations 2011 (S.I. 2011/2704).

"facilities and rights" for construction and for maintenance include any appropriate working areas required to reasonably and safely undertake that construction or maintenance, and any necessary rights of access;

"functions" includes powers and duties;

"ground mitigation scheme" means a scheme approved by Cadent (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

"ground monitoring scheme" means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for Cadent's approval a ground mitigation scheme;

"ground subsidence event" means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

"maintain" and "maintenance" for the purposes of this Part of this Schedule shall have effect as if Cadent's existing apparatus was authorised development and as if the term maintain includes protect and use;

"plan" or "plans" include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

"rights" includes restrictive covenants and, in relation to decommissioned apparatus, the surrender of rights, release of liabilities and transfer of decommissioned apparatus; and

"specified works" means any of the authorised development or activities (including maintenance) undertaken in association with the authorised development which—

(a) will or may be situated over, or within, 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under sub-paragraph 24(2) (removal of apparatus) or otherwise; or

(b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under sub-paragraph 24 or otherwise.

On Street Apparatus

20.—(1) This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Cadent are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act except for—

(a) paragraphs 21 (apparatus of Cadent in stopped up streets), 26 (retained apparatus: protection of Cadent), 27 (expenses) and 28 (indemnity); and

(b) where sub-paragraph (2) applies, paragraphs 24 and 25 (facilities and rights for alternative apparatus).

(2) This sub-paragraph applies where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within the existing adopted public highway, notwithstanding that any diversion may be carried out under the provisions of Part 3 of the 1991 Act.

(3) Paragraph 27 does not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—

(a) the allowable costs of the relocation works are to be determined in accordance with section 85 (sharing of cost of necessary measures) of that Act and any regulations for the time being having effect under that section; and

(b) the allowable costs are to be borne by the undertaker and Cadent in such proportions as may be prescribed by any such regulations.

Apparatus of Cadent in stopped up streets

21.—(1) Where any street is stopped up under article 15 (permanent stopping up, restriction of use of streets and public rights of way), if Cadent has any apparatus in the street or accessed via that street Cadent is entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to Cadent, or procure the granting to Cadent of legal easements reasonably satisfactory to Cadent in respect of such apparatus and access to it prior to the stopping up of any such street or highway, but nothing in this paragraph shall affect any right of the undertaker or of Cadent to require the removal of that apparatus under paragraph 24 (removal of apparatus).

(2) Notwithstanding the temporary alteration, diversion or restriction of use of any street under the powers of article 14 (temporary closure and restriction of use of streets), Cadent will be at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as it would have been entitled to do immediately before such temporary alteration, diversion or restriction of use in respect of any apparatus which at the time of the stopping up or diversion was in that street.

Protective works to buildings

22. The undertaker must exercise the powers conferred by article 19 (protective work to buildings) so as not to obstruct or render less convenient the access to any apparatus without the written consent of Cadent such consent not to be unreasonably withheld or delayed.

Acquisition of land

23.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any interest in land or appropriate, acquire, extinguish, interfere with or override any easement or other interest in land of Cadent otherwise than by agreement.

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out or maintenance of any part of the authorised development (or in such other timeframe as may be agreed between Cadent and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of Cadent or affect the provisions of any enactment or agreement regulating the relations between Cadent and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as Cadent reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between Cadent and the undertaker acting reasonably and which must be no less favourable on the whole to Cadent unless otherwise agreed by Cadent, and it will be the responsibility of the undertaker to procure or secure the consent to and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised development or maintenance thereof.

(3) The undertaker and Cadent agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus, including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by Cadent and other enactments relied upon by Cadent as of right or other use in relation to the apparatus, then the provisions in this Schedule prevail.

(4) Any agreement or consent granted by Cadent under paragraph 26 (retained apparatus: protection of Cadent) or any other paragraph of this Part of this Schedule, is not to be taken to constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement under sub-paragraph (1) that involves de-commissioned apparatus being left in situ the undertaker must accept a surrender of any existing easement or other interest of Cadent in such decommissioned apparatus and release Cadent from all liabilities in respect of such de-commissioned apparatus from the date of such surrender.

(6) Where an undertaker acquires land which is subject to any Cadent right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 24 (removal of apparatus) do not apply, the undertaker must, unless Cadent agrees otherwise:

(a) retain any notice of Cadent's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and

(b) (where no such notice of Cadent's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of Cadent's easement, right or other interest in relation to such acquired land.

Removal of apparatus

24.—(1) If, in the exercise of the powers conferred by this Order, including pursuant to any agreement reached in accordance with paragraph 23 (acquisition of land), the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed under this Part of this Schedule and any right of Cadent to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, is in operation, and the facilities and rights referred to in sub-paragraph (2) have been provided, to the reasonable satisfaction of Cadent and in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to Cadent advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Cadent reasonably needs to move or remove any of its apparatus) the undertaker must afford to Cadent to its satisfaction (taking into account sub-paragraph 25(1) (facilities and rights for alternative apparatus) below) the necessary facilities and rights:

(a) for the construction of alternative apparatus; and

(b) subsequently for the maintenance of that apparatus.

(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Cadent must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation does not extend to the requirement for Cadent to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Cadent and the undertaker.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to Cadent of such facilities and rights as are referred to in sub-paragraph (2) or (3), then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

25.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for Cadent facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Cadent and must be no less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by Cadent.

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under sub-paragraph (1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed then the terms and conditions to which those facilities and rights are subject in the matter may be referred to arbitration in accordance with paragraph 32 (arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to Cadent as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of Cadent

26.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to Cadent a plan and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to Cadent under sub-paragraph (1) must include a method statement and describe—

(a) the exact position of the works;

(b) the level at which these are proposed to be constructed or renewed;

(c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;

(d) the position of all apparatus;

(e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and

(f) any intended maintenance regimes.

(3) The undertaker must not commence any specified works until Cadent has given written approval of the plan so submitted (and the ground monitoring scheme if required).

(4) Any approval of Cadent given under sub-paragraph (3)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5); and

(b) must not be unreasonably withheld or delayed and Cadent must meaningfully engage with the undertaker within 28 days of the date of submission of the plan under sub-paragraph (1).

(5) Cadent may require such modifications to be made to the plan as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Specified works must only be executed in accordance with—

(a) the plan submitted under sub-paragraph (1) (and ground monitoring scheme if required), as approved or as amended from time to time by agreement between the undertaker and Cadent; and

(b) all conditions imposed under sub-paragraph (4)(a), and Cadent will be entitled to watch and inspect the execution of those works.

(7) Where Cadent requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Cadent's satisfaction prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required prior to commencement.

(8) If Cadent, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 18 to 20 and 23 to 25 apply as if the removal of the apparatus had been required by the undertaker under sub-paragraph 24(2) (removal of apparatus).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan (and ground monitoring scheme if required), instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan (and ground monitoring scheme if required).

(10) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development (including such an event attributable to its maintenance)—

(a) the undertaker must implement an appropriate ground mitigation scheme; and

(b) Cadent retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 27 (expenses).

(11) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works but in that case it must give to Cadent notice as soon as is reasonably practicable and a plan of those works and must comply with the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances.

(12) In this paragraph, "emergency works" means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

Expenses

27.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to Cadent on demand all charges, costs and expenses reasonably anticipated or reasonably incurred by Cadent in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised development including without limitation—

(a) any costs reasonably incurred by or compensation properly paid by Cadent in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including professional fees) incurred by Cadent as a consequence of Cadent;

(i) using its own compulsory purchase powers to acquire any necessary rights under sub-paragraph 24(3) if it elects to do so; or

(ii) exercising any compulsory purchase powers under this Order transferred to or benefitting Cadent;

(b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;

(c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;

(d) the approval of plans;

(e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;

(f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule; and

(g) any watching brief pursuant to sub-paragraph 26(6) (retained apparatus: protection of Cadent).

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 32 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Cadent by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances (or it would be unlawful due to a statutory or regulatory change) to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to Cadent in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on Cadent any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

28.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised development (including works carried out under article 19 (protective work to buildings)) by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by the undertaker) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development) or property of Cadent, or there is any interruption in any service provided, or in the supply of any goods, by Cadent, or Cadent becomes liable to pay any amount to any third party, the undertaker will—

(a) bear and pay on demand accompanied by an invoice or claim from Cadent, the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and

(b) indemnify Cadent for any other expenses, loss, demands, proceedings, damages, claims, penalty, compensation or costs properly incurred by, paid by or recovered from Cadent, by reason or in consequence of any such damage or interruption or Cadent becoming liable to any third party as aforesaid other than arising from any default of Cadent.

(2) The fact that any act or thing may have been done by Cadent on behalf of the undertaker or in accordance with a plan approved by Cadent or in accordance with any requirement of Cadent or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless Cadent fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of—

(a) any damage or interruption to the extent that it is attributable to the neglect or default of Cadent, its officers, servants, contractors or agents;

(b) any part of the authorised development carried out by Cadent in the exercise of any functions conferred by this Order pursuant to a grant or transfer under article 8 (Consent to transfer benefit of Order); and

(c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable at the commencement of the relevant works referred to in sub-paragraph (1).

(4) Cadent must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

Enactments and agreements

29. Except where in this Part of this Schedule provides otherwise or by agreement in writing between Cadent and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Cadent in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

30.—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or Cadent requires the removal of apparatus under sub-paragraph 24(2) (removal of apparatus) or Cadent makes requirements for the protection or alteration of apparatus under paragraph 26 (retained apparatus: protection of Cadent), the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Cadent's undertaking and Cadent must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever Cadent's consent, agreement or approval is required in relation to plans, documents or other information submitted by Cadent or the taking of action by Cadent, it must not be unreasonably withheld or delayed.

Access

31. If in consequence of any agreement reached in accordance with sub-paragraph 23(1) (acquisition of land) or the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative rights and means of access to

such apparatus as will enable Cadent to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

32. Save for differences or disputes arising under sub-paragraphs 24(2), 24(4) (removal of apparatus) and 26(11) (retained apparatus: protection of Cadent) any difference or dispute arising between the undertaker and Cadent under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Cadent, be determined by arbitration in accordance with article 32 (arbitration).

Notices

33. Notwithstanding article 42 (service of notices) the plans submitted to Cadent by the undertaker pursuant to sub-paragraph 26(1) (retained apparatus: protection of Cadent) must be sent via email to Cadent Gas Limited Plant Protection at plantprotection@cadentgas.com as well as via post to Plant Protection, Cadent Gas Limited, Brick Kiln Street, Hinckley, Leicestershire, LE10 0NA or such other address as Cadent may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 4

FOR THE PROTECTION OF NATIONAL GRID AS ELECTRICITY UNDERTAKER

Application

34.—(1) For the protection of National Grid as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Grid.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Grid, where the benefit of this Order is transferred or granted to another person under article 8 (consent to transfer benefit of Order)—

(a) any agreement of the type mentioned in sub-paragraph (1) has effect as if it had been made between National Grid and the transferee or grantee (as the case may be); and

(b) written notice of the transfer or grant must be given to National Grid on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Grid (but see paragraph 44(3)(b) (indemnity).

Interpretation

35. In this Part of this Schedule—

"alternative apparatus" means appropriate alternative apparatus to the reasonable satisfaction of National Grid to enable National Grid to fulfil its statutory functions in a manner no less efficient than previously;

"apparatus" means any electric lines or electrical plant as defined in the Electricity Act 1989, belonging to or maintained by National Grid together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of National Grid for the purposes of transmission, distribution or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

"authorised works" has the same meaning as is given to the term "authorised development" in article 2(1) of this Order and includes any associated development authorised by the Order and

for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

"commence" and "commencement" in paragraph 42 (retained apparatus: protection) of this Part of this Schedule includes any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment,

"deed of consent" means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

"functions" includes powers and duties;

"ground mitigation scheme" means a scheme approved by National Grid (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

"maintain" and "maintenance" includes the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Grid including construct, use, repair, alter, inspect, renew or remove the apparatus;

"National Grid" means National Grid Electricity Transmission Plc or any successor as a licence holder within the meaning of Part 1 of the Electricity Act 1989;

"plan" or "plans" include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

"specified works" means any of the authorised works or activities undertaken in association with the authorised works which—

(a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 40(2) (removal of apparatus) or otherwise; or

(b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 40(2) or otherwise.

36. Except for paragraphs 37 (apparatus in stopped up streets), 42 (retained apparatus: protection*)* and 44 (indemnity) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of National Grid, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Grid are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

Apparatus of National Grid in stopped up streets

37.—(1) Where any street is stopped up under article 15 (permanent stopping up, restriction of use of streets and public rights of way), if National Grid has any apparatus in the street or accessed via that street National Grid has the same rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to National Grid, or procure the granting to National Grid of, legal easements reasonably satisfactory to National Grid in respect of such apparatus and access to it prior to the stopping up of any such street but nothing in this paragraph affects any right of the undertaker or National Grid to require the removal of that apparatus under paragraph 40 or the power of the undertaker, subject to compliance with this sub-paragraph, to carry out works under paragraph 42.

(2) Notwithstanding the temporary alteration, diversion, prohibition or restriction of the use of any highway under the powers of article 14 (temporary closure and restriction of use of streets), National Grid is at liberty at all times to take all necessary access across any such altered, diverted, prohibited or restricted highway and to execute and do all such works and things in, upon or under

any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the alteration, diversion, prohibition or restriction of the use was in that highway.

Protective works to buildings

38. The undertaker must exercise the powers conferred by article 19 (protective work to buildings) so as not to obstruct or render less convenient the access to any apparatus without the written consent of National Grid (such consent not to be unreasonably withheld).

Acquisition of land

39.—(1) Regardless of any provision in this Order or anything shown on the land plans, the undertaker may not acquire any interest in land or apparatus or override any easement or other interest of National Grid otherwise than by agreement.

(2) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between National Grid and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of National Grid or affect the provisions of any enactment or agreement regulating the relations between National Grid and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Grid reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Grid and the undertaker acting reasonably and which must be no less favourable on the whole to National Grid unless otherwise agreed by National Grid, and it will be the responsibility of the undertaker to procure and secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) The undertaker and National Grid agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Grid or other enactments relied upon by National Grid as of right or other use in relation to the apparatus, then the provisions in this Schedule prevail.

(4) Any agreement or consent granted by National Grid under paragraph 42 or any other paragraph of this Part of this Schedule, is not to be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

40.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Grid to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Grid in accordance with sub-paragraph (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Grid advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Grid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to National Grid to its reasonable satisfaction (taking into account paragraph 41(1)) the necessary facilities and rights—

(a) for the construction of alternative apparatus in other land of, or secured by, the undertaker; and

(b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Grid must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation does not extend to the requirement for National Grid to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between National Grid and the undertaker.

(5) National Grid must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the grant to National Grid of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

41.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Grid facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National Grid and must be no less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Grid.

(2) If the facilities and rights to be afforded by the undertaker under paragraph 41(1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the matter may be referred to arbitration in accordance with paragraph 48 (Arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Grid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection

42.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Grid a plan of the works to be executed and seek from National Grid details of the underground extent of their electricity tower foundations.

(2) In relation to works which will or may be situated on, over, under or within 15 metres measured in any direction of any apparatus, or involve embankment works within 15 metres of any apparatus, the plan to be submitted to National Grid under sub-paragraph (1) must include a method statement and describe—

(a) the exact position of the works;

(b) the level at which these are proposed to be constructed or renewed;

(c) the manner of their construction or renewal including details of excavation, positioning of plant;

(d) the position of all apparatus;

(e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;

(f) any intended maintenance regimes; and

(g) an assessment of risks of rise of earth issues.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity tower or between any two or more electricity towers, the plan to be submitted under sub-paragraph (1) must, in addition to the matters set out in sub-paragraph (2), include a method statement describing—

(a) details of any cable trench design including route, dimensions, clearance to pylon foundations;

(b) demonstration that pylon foundations will not be affected prior to, during and post construction;

(c) details of load bearing capacities of trenches;

(d) details of any cable installation methodology including access arrangements, jointing bays and backfill methodology;

(e) a written management plan for high voltage hazard during construction and ongoing maintenance of any cable route;

(f) written details of the operations and maintenance regime for any cable, including frequency and method of access;

(g) assessment of earth rise potential if reasonably required by National Grid's engineers; and

(h) evidence that trench bearing capacity is to be designed to support overhead line construction traffic of up to 26 tonnes in weight.

(4) The undertaker must not commence any works to which sub-paragraphs (2) or (3) apply until National Grid has given written approval of the plan so submitted.

(5) Any approval of National Grid required under sub-paragraphs (4)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and,

(b) must not be unreasonably withheld.

(6) In relation to any work to which sub-paragraphs (2) or (3) apply, National Grid may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage, for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Works executed under sub-paragraphs (2) or (3) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (6), as approved or as amended from time to time by agreement between the undertaker and National Grid and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) by National Grid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid will be entitled to watch and inspect the execution of those works.

(8) Where under sub-paragraph (6) National Grid requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Grid's satisfaction prior to the commencement of any specified works for which protective works are required and National Grid must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(9) If National Grid in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 34 to 36 and 39 to 41 apply as if the removal of the apparatus had been required by the undertaker under paragraph 40(2).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(11) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works but in that case it must give to National Grid notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (6) to (8) insofar as is reasonably practicable in the circumstances.

(12) In sub-paragraph (11) "emergency works" means works whose execution at the time when they are executed is required in order to put an end to or to prevent the occurrence of circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

Expenses

43.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to National Grid within 30 days of receipt of an itemised invoice or claim from National Grid all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by National Grid in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works including without limitation—

(a) any costs reasonably incurred by or compensation properly paid by National Grid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Grid as a consequence of National Grid;

(i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 40(3); or

(ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Grid;

(b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;

(c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;

(d) the approval of plans;

(e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works; and

(f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of

agreement, is not determined by arbitration in accordance with paragraph 48 (*arbitration*) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to National Grid by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Grid in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Grid any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

44.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of National Grid, or there is any interruption in any service provided, or in the supply of any goods, by National Grid, or National Grid becomes liable to pay any amount to any third party, the undertaker will—

(a) bear and pay on demand accompanied by an invoice or claim from National Grid the cost reasonably and properly incurred by National Grid in making good such damage or restoring the supply; and

(b) indemnify National Grid for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid, by reason or in consequence of any such damage or interruption or National Grid becoming liable to any third party as aforesaid other than arising from any default of National Grid.

(2) The fact that any act or thing may have been done by National Grid on behalf of the undertaker or in accordance with a plan approved by National Grid or in accordance with any requirement of National Grid or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless National Grid fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of—

(a) any damage or interruption to the extent that it is attributable to the neglect or default of National Grid, its officers, servants, contractors or agents; or

(b) any part of the authorised works carried out by National Grid in the exercise of any functions conferred by this Order pursuant to a grant or transfer under article 8 (consent to transfer benefit of Order).

(4) National Grid must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) National Grid must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) National Grid must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within National Grid's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Grid's control and if reasonably requested to do so by the undertaker National Grid must provide an explanation of how the claim has been minimised, where relevant.

Enactments and agreements

45. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Grid in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

46.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or National Grid requires the removal of apparatus under paragraph 40(2) or National Grid makes requirements for the protection or alteration of apparatus under paragraph 42, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of National Grid's undertaking and National Grid must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever the undertaker's or National Grid's consent, agreement or approval is required in relation to plans, documents or other information submitted under this schedule, or agreement is required to be reached between the parties under this schedule, it must not be unreasonably withheld or delayed.

Access

47. If in consequence of the agreement reached in accordance with paragraph 39(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Grid to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

48. Save for differences or disputes arising under paragraph 40(2), 40(4) and 41(1), any difference or dispute arising between the undertaker and National Grid under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Grid, be determined by arbitration in accordance with article 48 (arbitration).

Notices

49. Notwithstanding article 42 (service of notices), any plans submitted to National Grid by the undertaker must be sent to National Grid Plant Protection at plantprotection@nationalgrid.com or such other address as National Grid may from time to time appoint instead for that purpose and notify to the undertaker in writing.

SCHEDULE 10

Articles 2 and 41

CERTIFICATION OF PLANS AND DOCUMENTS, ETC

The reference to a document in the table with a numbered regulation is a reference to the regulation as numbered in the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.

(1) *Document*	*(2)* *Document Reference*	*(3)* *Version*
Book of Reference – Regulation 5(2)(d)	TR010064/APP/4.3	P06
Environmental Statement Chapters 1, 2, 3, 4, 5, 9, 10, 11, 12 and 14 – Regulation 5(2)(a)	TR010064/APP/6.1	P01
Environmental Statement Chapters 6, 7, 13 and 15 – Regulation 5(2)(a)	TR010064/APP/6.1	P02
Environmental Statement Chapters 8 and 16 – Regulation 5(2)(a)	TR010064/APP/6.1	P03
Environmental Statement Figures – Regulation 5(2)(a)	TR010064/APP/6.2	P03
Environmental Statement Appendices – Regulation 5(2)(a)	TR010064/APP/6.3	P02
Environmental Statement Non-Technical Summary – Regulation 5(2)(a)	TR010064/APP/6.4	P03
First iteration Environmental Management Plan (including the Register of Environmental Commitments) – Regulation 5(2)(q)	TR010064/APP/6.5	P06
Location Plan – Regulation 5(2)(o)	TR010064/APP/2.1	P01
General Arrangement Plans – Regulation 5(2)(o)	TR010064/APP/2.2	P01
Land Plans – Regulation 5(2)(i) and 5(4)	TR010064/APP/2.3	P04
Works Plans – Regulation 5(2)(j) and 5(4)	TR010064/APP/2.4	P03
Streets, Rights of Way and Access Plans – Regulation 5(2)(k) and 5(4)	TR010064/APP/2.5	P01
Traffic Regulation Measures Plans – Regulation 5(2)(o)	TR010064/APP/2.6	P01
Classification of Road Plans – Regulation 5(2)(o)	TR010064/APP/2.7	P02
Engineering Section Drawings – Regulations 5(2)(o), 5(4) and 6(2)	TR010064/APP/2.8	P01

Important Hedgerow Plans – Regulation 5(2)(i)	TR010064/APP/2.9	P01
Statement of Statutory Nuisances – Regulation 5(2)(f)	TR010064/APP/6.8	P01
Outline Traffic Management Plan – Regulations 5(2)(q)	TR010064/APP/7.5	P02
Design Principles Report	TR010064/APP/7.29	P01

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises National Highways Limited to undertake works to construct the M60/M62/M66 Simister Island scheme and to carry out all associated works.

The Order permits National Highways Limited to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

The Order also includes provisions in connection with the maintenance of the authorised development.

A copy of the plans, engineering section drawings, the book of reference, the environmental statement and the first iteration EMP mentioned in this Order and certified in accordance with article 41 (certification of plans and documents, etc.) of this Order may be inspected free of charge during normal working hours at National Highways, Piccadilly Gate, Store Street, Manchester, M1 2WD.

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