

**INQ/10A**  
**2 December 2021**

**NETWORK RAIL INFRASTRUCTURE LIMITED**

**NETWORK RAIL (HUDDERSFIELD TO WESTTOWN (DEWSBURY)  
IMPROVEMENTS) ORDER**

**NETWORK RAIL INQUIRY DOCUMENT**

**Draft Order – As amended 2 December 2021 – Clean Version (To be read in  
conjunction with INQ/5A)**

**1. Purpose of Document**

- 1.1 Attached at the Appendix to this document is a copy of the clean amended Order (**NR02.4**) which is to be read in conjunction with the Network Rail Inquiry document **INQ/5A** entitled "*Paper of Order Amendments (To be read in conjunction with updated Network Rail Core Documents NR02.3 and NR02.4 submitted as INQ/9A and INQ/10A)*".
- 1.2 The amendments shown as tracked changes in the tracked amended Orders (**NR02.1** and **NR02.3**) (submitted as **INQ/9** and **INQ/9A**) are all included in this version of the clean amended Order.

**INQ/10A**  
**2 December 2021**

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STATUTORY INSTRUMENTS

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**20[XX] No. [XX]**

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ENGLAND**

**The Network Rail (Huddersfield to Westtown (Dewsbury)  
Improvements) Order 20[XX]**

<i>Made</i>	- - - -	20[XX]
<i>Coming into force</i>	- -	20[XX]

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An application has been made to the Secretary of State in accordance with the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006<sup>(a)</sup> for an Order under sections 1 and 5 of the Transport and Works Act 1992<sup>(b)</sup> (“the 1992 Act”).

[Objections to that application have been withdrawn].

[The Secretary of State has caused an inquiry to be held for the purposes of the application under section 11 of the 1992 Act.]

The Secretary of State, having considered [the objections made and not withdrawn] [and] [the report of the person who held the inquiry], has determined to make an Order giving effect to the [proposal comprised in the application [without modifications] [with modifications] [which in the opinion of the Secretary of State do not make any substantial change in the proposal] [proposals concerned with modifications which in the opinion of the Secretary of State make substantial changes in the proposals]].

[The Secretary of State having considered representations duly made under section 13 of the 1992 Act, has determined to make the Order applied for with modification].

Notice of the Secretary of State’s determination was published in the London Gazette on [XX 20[XX]].

The Secretary of State, in exercise of the powers conferred by sections 1 and 5 of, and paragraphs 1 to 5, 7, 8, 10, 11, 16 and 17 of Schedule 1 to, the 1992 Act, makes the following Order:

## PART 1

### PRELIMINARY

#### **Citation and commencement**

**1.** This Order may be cited as the Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order 20[XX] and comes into force on [XXXX].

#### **Interpretation**

**2.**—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961<sup>(c)</sup>;

“the 1965 Act” means the Compulsory Purchase Act 1965<sup>(d)</sup>;

“the 1980 Act” means the Highways Act 1980<sup>(e)</sup>;

“the 1981 Act” means the Acquisition of Land Act 1981<sup>(f)</sup>;

“the 1984 Act” means the Road Traffic Regulation Act 1984<sup>(g)</sup>;

“the 1990 Act” means the Town and Country Planning Act 1990<sup>(h)</sup>;

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(a) SI 2006/1466 was also amended by SI 2014/469, SI 2015/627 and SI 2017/979.

(b) 1992 c. 42. Section 1 was amended by the Planning Act 2008 (c. 29), Schedule 2, paragraphs 51 and 52; section 5 was amended by S.I. 2012/1659.

(c) 1961 c. 33.

(d) 1965 c. 56.

(e) 1980 c. 66.

(f) 1981 c. 67.

(g) 1984 c. 27.

(h) 1990 c. 8.

“the 1991 Act” means the New Roads and Street Works Act 1991(a);

“the 2003 Act” means the Communications Act 2003(b);

“the 2016 Regulations” means the Environmental Permitting (England and Wales) Regulations 2016(c);

“address” includes any number or address used for the purposes of electronic transmission;

“authorised works” means the scheduled works and any other works authorised by this Order or any part of them;

“the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

“building” includes any structure or erection or any part of a building, structure or erection;

“carriageway” has the same meaning as in the 1980 Act;

“the deposited plans” means the plans certified by the Secretary of State as the deposited plans for the purposes of this Order;

“the deposited sections” means the sections certified by the Secretary of State as the deposited sections for the purposes of this Order;

“electronic transmission” means a communication transmitted—  
by means of an electronic communications network; or  
by other means but while in electronic form;

“footpath” and “footway” have the same meaning as in the 1980 Act;

“highway” and “highway authority” have the same meaning as in the 1980 Act;

“the limits of deviation” means the limits of deviation for the scheduled works shown on the deposited plans;

“the limits of land to be acquired or used” means the limits of land to be acquired or used shown on the deposited plans;

“maintain” includes inspect, repair, adjust, alter, remove, reconstruct and replace, and  
“maintenance” is to be construed accordingly;

“Network Rail” means Network Rail Infrastructure Limited (Company registration number 02904587) whose registered office is at 1 Eversholt Street, London NW1 2DN;

“the Order limits” means the limits of deviation and the limits of land to be acquired or used;

“owner”, in relation to land, has the same meaning as in section 7 (interpretation) of the 1981 Act(d);

“the Protective Works limits” means the protective works limits shown on the deposited plans;

“the Trust” means the Canal and River Trust;

“the scheduled works” means the works specified in Schedule 1 (scheduled works) or any part of them;

“street” includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“the tribunal” means the Lands Chamber of the Upper Tribunal;

“the relevant parts of the waterway” means—  
(a) so much of the Huddersfield Broad Canal as is within the Order limits; and  
(b) so much of the Calder and Hebble Navigation as is within the Order limits; and

“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.

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(a) 1991 c. 22.

(b) 2003 c. 21.

(c) S.I. 2016/1154.

(d) 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 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 air-space above its surface and 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 Network Rail's railway undertaking.

(3) References in this Order to numbered plots are references to plot numbers on the deposited plans.

(4) All distances, directions and lengths referred to in this Order are approximate and distances between points on a scheduled work are taken to be measured along the scheduled work.

(5) References in this Order to points by letters, or letters and numbers are construed as references to points on the deposited plans.

### **Incorporation of the Railway Clauses Acts**

**3.—**(1) The following provisions of the Railways Clauses Consolidation Act 1845<sup>(a)</sup> are incorporated in this Order—

section 58<sup>(b)</sup> (company to repair roads used by them), except for the words from “and if any question” to the end;

section 61 (company to make sufficient approaches and fences to highways crossing on the level);

section 68 (accommodation works by company);

section 71 (additional accommodation works by owners), except for the words “or directed by such justices to be made by the company” and “or, in case of difference, as shall be authorised by two justices”;

section 72 and 73 (supplementary provisions relating to accommodation works);

section 75<sup>(c)</sup> (omission to fasten gates);

section 77 (presumption that minerals excepted from acquisition of land);

sections 78 to 85E<sup>(d)</sup> and Schedules 1 to 3 (minerals under railways), as respectively substituted and inserted by section 15 of the Mines (Working Facilities and Support) Act 1923<sup>(e)</sup>;

section 103<sup>(f)</sup> (refusal to quit carriage at destination);

section 105 (carriage of dangerous goods on railway), except for the words from “and if any person” to “for every such offence”; and

section 145<sup>(g)</sup> (recovery of penalties).

(2) Section 12 (signals, watchmen etc.) of the Railways Clauses Act 1863<sup>(h)</sup> is incorporated in this Order.

(3) In those provisions, as incorporated in this Order—

“the company” means Network Rail;

“goods” includes anything conveyed on the railway authorised to be constructed by this Order;

“lease” includes an agreement for a lease;

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(a) 1845 c.20.

(b) Section 58 was amended by section 46 of, and part 3 of Schedule 7 to, the Justices of the Peace Act 1949 (c. 101).

(c) Section 75 was amended by section 49 of the Transport and Works Act 1992 (c. 42).

(d) Section 84, as substituted, was amended by part 3 of Schedule 7 to the Justices of the Peace Act 1949 (c. 101) and section 46 of the Criminal Justice Act 1982 (c. 48). Section 85C, as substituted, was amended by virtue of section 17(2)(a) of the Interpretation Act 1978 (c. 30).

(e) 1923 c. 20.

(f) Section 103 was amended by the Statute Law Revisions Act 1892 (c. 19), part 3 of Schedule 7 to the Justices of the Peace Act 1949 (c. 101) and section 46 of the Criminal Justice Act 1982 (c. 48).

(g) Section 145 was amended by the Statute Law Revision Act 1892 (c. 19) and part 2 of Schedule 12 to the Transport Act 1962 (c. 46).

(h) 1863 c. 92

“prescribed”, in relation to any such provision means prescribed by this Order for the purposes of that provision;

“the railway” means any railway authorised to be constructed by this Order and any other authorised works;

“the special Act” means this Order; and

“toll” includes any rate or charge or other payment payable under this Order or any other enactment for any passenger or goods conveyed on any railway authorised to be constructed by this Order.

### **Application of the 1991 Act**

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

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

- section 56 (directions as to timing);
- section 56A (power to give directions as to placing of apparatus);
- section 58 (restrictions following substantial road works);
- section 73A (power to require undertaker to re-surface street);
- section 73B (power to specify timing, etc., of re-surfacing);
- section 73C (materials, workmanship and standard of re-surfacing);
- section 78A (contributions to costs of re-surfacing by undertaker); and
- Schedule 3A (restriction on works following substantial street works).

(3) The provisions of the 1991 Act mentioned in paragraph (4), together with other provisions of that Act, which 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 the temporary stopping up, temporary alteration or temporary diversion of a street by Network Rail under the powers conferred by article 15 (power to alter layout etc. of streets) and article 16 (temporary stopping up of streets) and to the carrying out of works under article 13 (power to execute street works), whether or not the stopping up, alteration or diversion, or the carrying out of such works, constitutes street works within the meaning of that Act.

(4) The provisions of the 1991 Act(b) referred to in paragraph (3) are—

- section 54(c) (advance notice of certain works), subject to paragraph (5);
- section 55(d) (notice of starting date of works), subject to paragraph (5);
- section 57(e) (notice of emergency works);
- section 59(f) (general duty of street authority to co-ordinate works);

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(a) As 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 (c. 22).

(b) Sections 54, 55, 57, 60, 68 and 69 were amended by section 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).

(c) As also amended by section 49(1) of the Traffic Management Act 2004.

(d) As also amended by section 49(2) and 51(9) of the Traffic Management Act 2004.

(e) As also amended by section 52(3) of the Traffic Management Act 2004.

(f) As amended by section 42 of the Traffic Management Act 2004.

section 60 (general duty of undertakers to co-operate);  
section 68 (facilities to be afforded to street authority);  
section 69 (works likely to affect other apparatus in the street);  
section 76 (liability for cost of temporary traffic regulation);  
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.

(5) Sections 54 and 55 of the 1991 Act as applied by paragraph (3) 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.

(6) Nothing in article 18 (construction and maintenance of new or altered streets)—

- (a) prejudices the operation of section 87 (prospectively maintainable highways) of the 1991 Act, and Network Rail is not by reason of any duty under that article to maintain a street to be taken to be a street authority in relation to that street for the purposes of Part 3 of that Act; or
- (b) has effect in relation to street works with regard to which the provisions of Part 3 of the 1991 Act apply.

### **Disapplication of legislative provisions**

**5.**—(1) The following provisions do not apply in relation to any works executed under the powers conferred by this Order—

- (a) regulation 12(1)(a) (requirement for environmental permit) of the 2016 Regulations in relation to the carrying on of a relevant flood risk activity for the purposes of the works;
- (b) section 23 (prohibition on obstacles etc. in watercourses) of the Land Drainage Act 1991(a);
- (c) paragraph 5 (consent required for alteration, removal or replacement of a designated feature) of Schedule 1 (risk management: designation of features) to the Flood and Water Management Act 2010(b);
- (d) paragraph 7 (approval required for a drainage system for construction waste) of Schedule 3 (sustainable drainage) to the Flood and Water Management Act 2010; and
- (e) the provision of any byelaws made under, or having effect as if made under, section 66 (powers to make byelaws) of the Land Drainage Act 1991, which require consent or approval for the carrying out of the works.

(2) In paragraph (1) “relevant flood risk activity” means an activity within paragraph 3(1)(a), (b) or (c) of Schedule 25 (flood risk activities and excluded flood risk activities) to the 2016 Regulations.

(3) Sections 80(2)(b), 81 and 82 of the Building Act 1984(c) (which concern a local authority’s power to serve notice about a demolition) do not apply to the demolition of the whole or part of a building carried out in exercise of the powers under this Order and to which section 80 of the Building Act 1984 otherwise applies.

### **Disapplication of legislative provisions relating to the surrender of an environmental permit**

**6.**—(1) The following provisions do not apply in relation to any application made by Network Rail pursuant to paragraph (2)—

- (a) regulation 25 (application for the surrender of an environmental permit) of the 2016 Regulations; and
- (b) part 1 of schedule 5 (Environmental Permits) of the 2016 Regulations.

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(a) 1991 c. 59.  
(b) 2010 c.29.  
(c) 1984 c.55.

(2) Subject to paragraph (3) Network Rail may by application to the Environment Agency request the surrender in whole or in part of any environmental permit—

- (a) issued by the Environment Agency to any person; or
- (b) transferred by the Environment Agency to Network Rail,

under the 2016 Regulations for the operation of a regulated facility on the relevant land.

(3) The Environment Agency must accept any application from Network Rail for the surrender in whole or in part of an environmental permit under paragraph (2) provided that Network Rail have submitted to the Environment Agency, and the Environment Agency have approved, plans detailing in relation to the site of the regulated facility subject of an application under paragraph (2) the measures—

- (a) to avoid a pollution risk resulting from the construction and operation of the authorised works on the site of the regulated facility or from the former use of the site as a regulated facility; and
- (b) to return the site of the regulated facility to a satisfactory state upon completion of the construction of the authorised works.

(4) Any approval of the Environment Agency required under paragraph (3)—

- (a) must not be unreasonably withheld or delayed;
- (b) is deemed to have been given if it is neither given nor refused within 2 months of the submission of the plans for approval and, in the case of a refusal, accompanied by a statement of the grounds of refusal; and
- (c) may be given subject to such reasonable requirements as the Environment Agency may make for the avoidance of a pollution risk resulting from the construction of the authorised works on the site of the regulated facility or from the former use of the site as a regulated facility.

(5) The construction of any authorised works on the site of a regulated facility which is subject of an approval under paragraph (3) must be constructed—

- (a) in accordance with the plans approved or deemed to have been approved under this article; and
- (b) to the reasonable satisfaction of the Environment Agency,  
and an officer of the Environment Agency is entitled, on giving such notice as may be reasonable in the circumstances, to inspect and watch the construction of such works.

(6) Network Rail must give the Environment Agency—

- (a) not less than 14 days' notice in writing of its intention to commence the construction of any authorised works on the site of a regulated facility which is subject of an approval under paragraph (3); and
- (b) notice in writing of the completion of such works not less than 7 days' after the date on which such works are first brought into public use.

(7) Any approval given or deemed to have been given by the Environment Agency to a request for approval under paragraph (3) is to be treated as overriding any requirement under the 2016 Regulations for any further environmental permit in consequence of the construction and operation of the authorised works on the site of the regulated facility subject of such an approval.

(8) Any dispute arising between Network Rail and the Environment Agency under this article, if the parties agree, is to be determined by arbitration under article 57 (arbitration), but otherwise is to be determined by the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State for Transport acting jointly on a reference to them by Network Rail or the Environment Agency, after notice in writing by one to the other.

(9) In this article—

- (a) “the relevant land” means the land numbered 21-086, 21-092, 21-094, 21-101, 21-114, 23-024, 23-035, 23-035a, 23-036, 23-046, 23-050, 23-054, 23-055, 23-056, 23-065, 24-003, 24-004 and 24-006 in the district of Kirklees as shown on the deposited plans

- (b) “regulated facility” has the same meaning as in the 2016 Regulations; and
- (c) “plans” has the same meaning given in paragraph 17(2) of Part 3 of Schedule 19 to this Order.

### **Application of local railway enactments**

**7.—**(1) The following provisions do not apply in relation to any works executed under the powers conferred by this Order—

- (a) section 38 (company not to obstruct the navigation of the river and canal in constructing or repairing their bridges) of the Manchester and Leeds Railway Act 1836(a);
- (b) section 100 (regulations as to width and height of bridges for carrying railway over public roads) of the Manchester and Leeds Railway Act 1836;
- (c) section 102 (regulating bridges for carrying public roads over railway) of the Manchester and Leeds Railway Act 1836;
- (d) section 12 (as to width and height of bridges for carrying railway over public roads) of the Manchester and Leeds Railway Act 1837(b);
- (e) section 13 (regulating width and ascent of bridges for carrying public roads over railway) of the Manchester and Leeds Railway Act 1837;
- (f) section 30 (bridge over Thornhill Lees Cut) of the Manchester and Leeds Railway Act 1837;
- (g) section 33 (no obstruction to be made to the Calder and Hebble Navigation, &c.) of the Manchester and Leeds Railway Act 1837;
- (h) section 25 (prescribing manner of constructing bridges over cuts in the township of Mirfield) of the Leeds, Dewsbury and Manchester Railway Act 1845(c);
- (i) section 26 (prescribing manner of constructing bridges over the river part of the Calder and Hebble Navigation) of the Leeds, Dewsbury and Manchester Railway Act 1845;
- (j) section 27 (no obstruction to be made to the Calder and Hebble Navigation, &c.) of the Leeds, Dewsbury and Manchester Railway Act 1845;
- (k) section 16 (clauses of recited Act as to the protection of the Calder and Hebble Navigation extended to this Act) Leeds, Dewsbury and Manchester (Deviations and Branches) Railway Act 1846(d); and
- (l) section 21 (for the protection of the Calder and Hebble Navigation) of the London and North Western Railway Act 1885(e).

(2) Section 4(2) (power to make railway, &c. according to deposited plans) of the London and North Western Railway (Wortley to Leeds, &c.) Act 1878(f) has effect subject to the repeal of—

“Provided always, that the Company shall not enter upon, take, or use any part of the lands numbered 84 on that part of the deposited plans which relates to the parish of Huddersfield, except with the previous consent in writing of William Henry Hirst, his executors, administrators or assigns:”.

(3) Section 22 (for the protection of the Lancashire and Yorkshire Railway Company as to new road at Ravensthorpe) of the London and North Western Railway Act 1885 is repealed and ceases to have effect.

(4) Section 38 (agreement with Ravensthorpe and Thornhill local boards confirmed) of the London and North Western Railway Act 1888(g) is repealed and ceases to have effect.

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(a) 1836 (6 & 7 Will.4) c. cxi  
 (b) 1837 (6 & 7 Will. 4) c. xxiv.  
 (c) 1845 (8 & 9 Vict.) c. xxxvi.  
 (d) 1846 (9 & 10 Vict.) c. cclxii.  
 (e) 1885 (48 & 49 Vict.) c. lxxxviii.  
 (f) 1878 (41 Vict.) c. ci.  
 (g) 1888 (51 & 52 Vict.) c. clxxvi.

## PART 2

### WORKS PROVISIONS

#### *Principal powers*

#### **Power to construct and maintain works**

8.—(1) Network Rail may construct and maintain the scheduled works.

(2) Subject to article 12 (power to deviate), the scheduled works may only be constructed in the lines or situations shown on the deposited plans and in accordance with the levels shown on the deposited sections.

(3) Network Rail may on the land specified in columns (1) and (2) of Schedule 2 (acquisition of certain lands for ancillary works) carry out and maintain any works specified in relation to that land in column (3) of that Schedule with all works as may be necessary or expedient in connection with those works.

(4) Network Rail may on land specified in columns (1) and (2) of Schedule 10 (acquisition of new rights and imposition of restrictive covenants only) carry out and maintain any works specified in relation to that land in column (3) of that Schedule with all works as may be necessary or expedient in connection with those works.

(5) Network Rail may, on the land specified in columns (1) and (2) of Schedule 13 (power to acquire ground anchor rights) carry out and maintain any works specified in relation to that land in articles 30(4)(a) and 30(4)(b) (power to acquire ground anchor rights) with all works as may be necessary or expedient in connection with those works.

(6) Network Rail may on land specified in columns (1) and (2) of Schedule 14 (acquisition of subsoil) carry out and maintain any works specified in relation to that land in column (3) of that Schedule with all works as may be necessary or expedient in connection with those works.

(7) Network Rail may on land specified in columns (1) and (2) of Schedule 15 (land of which only subsoil may be acquired) carry out and maintain any works specified in relation to that land in article 32(2) (power to acquire subsoil or airspace only) with all works as may be necessary or expedient in connection with those works.

(8) Subject to paragraph (10), Network Rail may carry out and maintain such of the following works as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the scheduled works, namely—

- (a) construction of electrification works, electrical equipment, signalling and permanent way works;
- (b) buildings, yards, machinery, plant, apparatus, track drainage works, fencing, platforms, platform shelters, and other works and conveniences;
- (c) make, provide and maintain all such approaches, ramps, footbridges, subways, lifts, stairs, passages, shafts and stagings, means of access, turning places, footpaths, bridleways, cycle tracks, gates, including temporary means of access from a highway to adjoining land;
- (d) embankments, cuttings, aprons, abutments, retaining walls, wing walls, ground anchors, rock anchors and culverts;
- (e) works for the strengthening or alteration of viaducts and viaduct pile strengthening works;
- (f) works for the strengthening, alteration or demolition of any building;
- (g) works to alter or remove any structure erected upon any highway or adjoining land;
- (h) works to alter the position of apparatus, including mains, sewers, drains, cables and street furniture;
- (i) works to alter the course of, or otherwise interfere with, a watercourse other than a navigable watercourse;
- (j) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the scheduled works; and

(k) works for the benefit or protection of premises affected by the scheduled works.

(9) Subject to paragraph (10), Network Rail may carry out such other works (of whatever nature) as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the authorised works.

(10) Paragraphs (8) and (9) only authorise the carrying out or maintenance of works outside the limits of deviation if such works are carried out on—

- (a) land specified in columns (1) and (2) of Schedule 2 (acquisition of certain lands for ancillary works) for the purpose specified in relation to that land in column (3) of that Schedule;
- (b) land specified in columns (1) and (2) of Schedule 10 (acquisition of new rights and imposition of restrictive covenants only) for the purposes specified in column (3) of that Schedule;
- (c) land specified in columns (1) and (2) of Schedule 13 (power to acquire ground anchor rights) for the purposes specified in articles 30(4)(a) and 30(4)(b) (power to acquire ground anchor rights);
- (d) land specified in columns (1) and (2) of Schedule 14 (acquisition of subsoil) for the purposes specified in column (3) of that Schedule;
- (e) land specified in columns (1) and (2) of Schedule 15 (land of which only subsoil may be acquired) for the purposes specified in article 32(2) (power to acquire subsoil or airspace only); or
- (f) land specified in columns (1) and (2) of Schedule 16 (land of which temporary possession may be taken) for the purposes specified in relation to that land in column (3) of that Schedule, relating to the scheduled works specified in column (4) of that Schedule.

(11) Network Rail may, within the Order limits—

- (a) carry out and maintain landscaping and other works to mitigate any adverse effects of the construction, maintenance and operation of the authorised works (other than works authorised by this paragraph); and
- (b) carry out and maintain works for the benefit or protection of land affected by the authorised works (other than works authorised by this paragraph).

### **Station works at Huddersfield**

**9.**—(1) Network Rail may, in the construction of Work No. 1C, and within the limits of deviation for that work—

- (a) alter and extend Huddersfield station with all necessary works and conveniences connected with that Work, including the construction of a new platform, new platform extensions and new canopy over Network Rail's platforms at the station;
- (b) construct a new passenger footbridge incorporating lifts and staircases at the station; and
- (c) extend the existing passenger subway (MVL3/91) at the station and infill the existing parcel subway (MVL3/91A) at the station.

### **Station works at Deighton**

**10.**—(1) Network Rail may, in the construction of Work No. 5, and within the limits of deviation for that work—

- (a) alter and extend Deighton station with all necessary works and conveniences connected with that Work, including the demolition of the two existing platforms and the construction of two new platforms; and
- (b) construct a new passenger footbridge incorporating lifts and staircases at the station.

### **Station works at Mirfield**

**11.**—(1) Network Rail may, in the construction of Work No. 14, and within the limits of deviation for that work—

- (a) alter and extend Mirfield station with all necessary works and conveniences connected with that Work, including the demolition of an existing platform and the construction of new platform extensions; and
- (b) construct a new passenger footbridge incorporating lifts and staircases at the station.

### **Power to deviate**

**12.** In constructing or maintaining any of the scheduled works, Network Rail may—

- (a) deviate laterally from the lines or situations shown on the deposited plans to the extent of the limits of deviation for that work; and
- (b) deviate vertically from the levels shown on the deposited sections—
  - (i) to any extent upwards not exceeding 0.5 metres in relation to Work Nos. 1A and 1B;
  - (ii) to any extent upwards not exceeding 3 metres; or
  - (iii) to any extent downwards as may be found to be necessary or convenient.

### *Streets*

### **Power to execute street works**

**13.**—(1) Network Rail may, for the purposes of the authorised works, enter upon so much of any of the streets specified in Schedule 3 (streets subject to street works) as are within the Order limits to the extent necessary and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it, or tunnel or bore under the street;
- (b) place apparatus in the street;
- (c) maintain apparatus in the street or change its position; and
- (d) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b) and (c).

(2) This article is subject to paragraph 3 of Schedule 18 (provisions relating to statutory undertakers etc.).

(3) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

### **Stopping up of streets**

**14.**—(1) Subject to the provisions of this article, Network Rail may, in connection with the carrying out of the authorised works, stop up each of the streets specified in columns (1) and (2) of Parts 1 and 2 of Schedule 4 (streets to be stopped up) to the extent specified in column (3) of Parts 1 and 2 of that Schedule.

(2) No street specified in columns (1) and (2) of Part 1 of Schedule 4 (streets for which a substitute is to be provided) is to be wholly or partly stopped up under this article unless—

- (a) the new street to be constructed and substituted for it, which is specified in column (4) of that Part of that Schedule, has been constructed and 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 street to be stopped up is first provided and then maintained by Network Rail, to the reasonable satisfaction of the street authority, between the commencement and termination points for the stopping up of the street until the completion and opening of the new street in accordance with sub-paragraph (a).

(3) No street specified in columns (1) and (2) of Part 2 of Schedule 4 (street for which no substitute is to be provided) is to be wholly or partly stopped up under this article unless the condition specified in paragraph (4) is satisfied in relation to all the land which abuts on either side of the street to be stopped up.

(4) The condition referred to in paragraph (3) is that—

- (a) Network Rail is in possession of the land;
- (b) there is no right of access to the land from the street concerned;
- (c) there is reasonably convenient access to the land otherwise than from the street concerned;  
or
- (d) the owners and occupiers of the land have agreed to the stopping up.

(5) Where a street has been stopped up under this article—

- (a) all rights of way over or along the street so stopped up are extinguished; and
- (b) Network Rail may appropriate and use for the purpose of its railway undertaking so much of the site of the street as is bounded on both sides by land owned by Network Rail.

(6) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(7) This article is subject to paragraph 2 of Schedule 18 (provisions relating to statutory undertakers etc.).

### **Power to alter layout etc. of streets**

**15.**—(1) Network Rail may alter the layout of, and carry out other ancillary works in, the streets specified in columns (1) and (2) of Schedule 5 (streets subject to alteration of layout) in the manner specified in relation to that street in column (3).

(2) Without limiting the scope of the specific powers conferred by article 8 (power to construct and maintain works) or paragraph (1), but subject to paragraph (3), Network Rail may, for the purposes of constructing, maintaining or using the authorised works, alter the layout of any street within the Order limits and the layout of any street having a junction with such a street; and, without limitation on the scope of that power, Network Rail may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of any such kerb, footpath, footway, cycle track or verge; and
- (c) reduce the width of the carriageway of the street.

(3) Network Rail must restore to the reasonable satisfaction of the street authority any street which has been temporarily altered under this article.

(4) The powers conferred by paragraph (2) must not be exercised without the consent of the street authority, but such consent must not be unreasonably withheld.

(5) If within 28 days of receiving an application for consent under paragraph (4) a street authority fails to notify Network Rail of its decision or refuses consent without giving any grounds for its refusal, that street authority is deemed to have granted consent.

### **Temporary stopping up of streets**

**16.**—(1) Network Rail, during and for the purposes of the execution of the authorised works, may temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the 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), Network Rail may use any street stopped up under the powers conferred by this article as a temporary working site.

(3) Network Rail must provide reasonable access for pedestrians going to or from premises abutting a street affected by the exercise of the powers conferred by this article if there would otherwise be no such access.

(4) Without limitation on the scope of paragraph (1), Network Rail may exercise the powers conferred by this article in relation to the streets specified in columns (1) and (2) of Schedule 6 (streets to be temporarily stopped up) to the extent specified in column (3) of that Schedule.

(5) Network Rail must not exercise the powers conferred by this article—

- (a) in relation to any street specified as mentioned in paragraph (4) without first consulting the street authority; and
- (b) in relation to any other street without the consent of the street authority which may attach reasonable conditions to any consent, but such consent must not be unreasonably withheld.

(6) 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, under Part 1 of the 1961 Act.

(7) If within 28 days of receiving an application for consent under paragraph (5)(b) a street authority fails to notify Network Rail of its decision or refuses consent without giving any grounds for its refusal that street authority is deemed to have granted consent.

### **Access to works**

**17.**—(1) Network Rail may, for the purposes of the authorised works—

- (a) form and lay out means of access, or improve existing means of access, in the locations specified in columns (1) and (2) of Schedule 7 (access to works) at or about the points marked “A” on the deposited plans ; and
- (b) with the approval of the highway authority, form and lay out such other means of access, or improve existing means of access, at such locations within the Order limits as Network Rail reasonably requires for the purposes of the authorised works.

(2) If a highway authority fails to notify Network Rail of its decision within 28 days of receiving an application for approval, under paragraph (1)(b), the highway authority is deemed to have granted approval.

### **Construction and maintenance of new or altered streets**

**18.**—(1) With the exception of the street specified in paragraph (6), any street to be constructed under this Order must be completed to the reasonable satisfaction of the highway authority and, unless otherwise agreed in writing between Network Rail and the highway authority, must be maintained by and at the expense of Network Rail for a period of 12 months from its completion and at the expiry of that period by and at the expense of the highway authority.

(2) Where a street is altered or diverted under this Order, the altered or diverted part of the street must, when completed to the reasonable satisfaction of the street authority, unless otherwise agreed in writing between Network Rail and the street authority, be maintained by and at the expense of Network Rail for a period of 12 months from its completion and from the expiry of that period by and at the expense of the street authority.

(3) Paragraphs (1) and (2) do not apply in relation to the structure of any bridge or tunnel carrying a street over or under any railway of Network Rail and except as provided in those paragraphs Network Rail is not liable to maintain the surface of any street under or over which the scheduled works are constructed, or the immediate approaches to any street.

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

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

- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street 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;
- (d) whether Network Rail knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and
- (e) where Network Rail could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

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

(6) The excepted street in paragraph (1) is the access road on the land numbered 25-049, 25-056 and 25-067 in the district of the Kirklees on the deposited plans.

(7) In the case of the street specified in paragraph (6), the street to be constructed under this Order must be completed to the reasonable satisfaction of the street authority and, unless otherwise agreed in writing between Network Rail and the street authority, must be maintained by and at the expense of Network Rail for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

### **Construction of bridges**

**19.**—(1) Any bridge to be constructed under this Order for carrying a highway over or under a railway must be constructed in accordance with the plans and specifications approved by the highway authority, but such approval not to be unreasonably withheld.

(2) If within 28 days of receiving an application for approval under paragraph (1) a highway authority fails to notify Network Rail of its decision or refuses approval without giving any grounds for its refusal that highway authority is deemed to have granted approval.

### **Agreements with street authorities**

**20.**—(1) A street authority and Network Rail may enter into agreements with respect to—

- (a) the construction of any new street (including any structure carrying the street over or under a railway) under the powers conferred by this Order;
- (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
- (c) the maintenance of the structure of any bridge constructed under the powers conferred by this Order;
- (d) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or
- (e) the execution in the street of any of the works referred to in article 13(1) (power to execute street works).

(2) Such an agreement may, without limitation on the scope of paragraph (1)—

- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question; and
- (b) contain such terms as to payment and otherwise as the parties consider appropriate.

### **Accommodation crossings**

**21.**—(1) Subject to paragraph (2) and regardless of anything in the Manchester and Leeds Railway Act 1836(a), the Manchester and Leeds Railway Act 1837(b) and section 68 (accommodation works by the Company) of the Railways Clauses Consolidation Act 1845 as incorporated in the Huddersfield and Manchester Railway and Canal Act 1845(c), the Leeds, Dewsbury and Manchester Railway Act 1845(d), the Huddersfield and Manchester Railway and Canal (Huddersfield Diversion and Cooper Bridge Branch) Act 1846(e) and the London and North Western Railway (Wortley to Leeds etc.) Act 1878(f) or any other enactment or instrument, all public or private rights of way (if any) across the railway by means of the accommodation facilities specified in columns (2) and (3) of Parts 1 and 2 Schedule 8 (accommodation crossings), are extinguished.

(2) Paragraph (1) does not take effect with respect to the extinguishment of the private rights of way by means of an accommodation facility specified in columns (2) and (3) of Part 1 of Schedule 8 (accommodation crossings for which a substitute is to be provided) until the accommodation facility specified in relation to it in column (4) of Part 1 of that Schedule has been provided.

(3) Any person who suffers loss by the extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

### *Supplemental powers*

### **Discharge of water**

**22.**—(1) Network Rail may use any watercourse or any public sewer or drain for the drainage of water in connection with the construction, operation or maintenance of the authorised works 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 exercise of the powers in paragraph (1) to connect to or use a public sewer or drain 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(g).

(3) Network Rail must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; 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) Network Rail must not make any opening into any public sewer or drain 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) Network Rail must not, in the exercise of the powers conferred by this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(6) Network Rail must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by 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 2016 Regulations(h).

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(a) 1836 (6 & 7 Will.4) c. cxi.

(b) 1837 (6 & 7 Will.4) c. xxiv.

(c) 1845 (8 & 9 Vict.) c.cv.

(d) 1845 (8 & 9 Vict.) c. xxxvi.

(e) 1846 (9 & 10 Vict.) c. cclix.

(f) 1878 (41 Vict.) c. ci.

(g) 1991 c. 56. Section 106 was amended by sections 35(1), 35(8) and 43(2) 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).

(h) S.I. 2016/1154.

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

(9) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, Environment Agency, an internal drainage board or a local authority; and
- (b) other expressions, excluding watercourses, used both in this article and in the Water Resources Act 1991(a) have the same meaning as in that Act.

### **Protective works to buildings, roads and apparatus of a statutory undertaker**

**23.**—(1) Subject to the following provisions of this article, Network Rail may at its own expense carry out such protective works to—

- (a) any building; or
- (b) any road; or
- (c) any apparatus of a statutory undertaker,

lying within the Order limits or the Protective Works limits as Network Rail considers to be necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the construction in the vicinity of the building, road or apparatus of any part of the authorised works; or
- (b) after the completion of the construction of that part of the authorised works in the vicinity of the building, road or apparatus at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised works is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised Network Rail may (subject to paragraph (5)) enter and survey any building, go onto and survey, any road or access and survey any apparatus falling within paragraph (1) and any land within the curtilage of the building or in which the apparatus is located.

(4) For the purpose of carrying out protective works under this article to a building, road or apparatus Network Rail may (subject to paragraphs (5) and (6))—

- (a) enter the building, go onto the road or access the apparatus and any land within the curtilage of the building or in which the apparatus is located; and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building (but outside its curtilage) or adjacent to the road or land in which the apparatus is located, 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, road or apparatus;
- (b) a right under paragraph (3) to enter a building, go onto a road or access apparatus and land within the curtilage of the building or in which the apparatus is located;
- (c) a right under paragraph (4)(a) to enter a building, go onto a road or access apparatus and land within the curtilage of the building or in which the apparatus is located; or
- (d) a right under paragraph (4)(b) to enter land,

Network Rail must, except in the case of emergency, serve on the owners and occupiers of the building or land or the owner of the road or apparatus 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.

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(a) 1991 c. 57.

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land or the owner of the road or apparatus 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 necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 57 (arbitration).

(7) Network Rail must compensate the owners and occupiers of any building or land or the owner of the road or apparatus in relation to which the powers conferred by this article have been exercised for any loss or damage arising to them by reason of the exercise of those powers.

(8) Where—

- (a) protective works are carried out under this article to a building, road or apparatus falling within paragraph (1); and
- (b) within the period of 5 years beginning with the day on which the part of the authorised works constructed in the vicinity of the building, road or apparatus is first opened for use it appears that the protective works are inadequate to protect the building, road or apparatus against damage caused by the construction or operation of that part of the authorised works,

Network Rail must compensate the owners and occupiers of the building, road or apparatus for any loss or damage sustained by them.

(9) Without affecting article 56 (no double recovery) nothing in this article relieves Network Rail from any liability to pay compensation under section 10(2)(a) of the 1965 Act.

(10) Any compensation payable under paragraph (7) or (8) is to be determined, in case of dispute, under Part 1 of the 1961 Act.

(11) In this article—

“protective works” in relation to a building, road or apparatus means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building, road or apparatus by the construction, maintenance or operation of the authorised works;
- (b) any works the purpose of which is to remedy any damage which has been caused to the building, road or apparatus by the construction, maintenance or operation of the authorised works; and
- (c) any works the purpose of which is to secure the safe operation of the authorised works or to prevent or minimise the risk of such operation being disrupted;

“road” includes any structure supporting the road.

## **Power to survey and investigate land**

**24.**—(1) Network Rail may for the purposes of this Order—

- (a) survey or investigate any land shown within the Order limits;
- (b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions on the land as Network Rail thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land;
- (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
- (e) enter on the land for the purpose of exercising the powers conferred by sub-paragraphs (a) to (d).

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(a) Section 10 was amended by section 4 of, and paragraph 13(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11) and S.I. 2009/1307.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1), unless at least 7 days' notice has been served on every owner and occupier of the land.

(3) Notice given in accordance with paragraph (2) must include—

- (a) a statement of the recipient's rights under paragraph (15); and
- (b) a copy of any warrant issued under paragraph (8).

(4) If Network Rail proposes to do any of the following, the notice must include details of what is proposed—

- (a) searching, boring or excavating;
- (b) leaving apparatus on the land;
- (c) taking samples;
- (d) an aerial survey;
- (e) carrying out any other activities that may be required to facilitate compliance with the instruments mentioned in paragraph (5).

(5) The instruments referred to in paragraph (4)(e) are—

- (a) Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment<sup>(a)</sup>; or
- (b) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora<sup>(b)</sup>.

(6) If Network Rail obtains a warrant after giving notice in accordance with paragraph (2) it must give a copy of the warrant to all those to whom it gave that notice.

(7) Any person entering land under this article on behalf of Network Rail—

- (a) must, if so required, before or after entering the land produce written evidence of authority to do so including any warrant issued under paragraph (8);
- (b) may not use force unless a justice of the peace has issued a warrant under paragraph (8) authorising the person to do so;
- (c) 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;
- (d) may only enter and survey at a reasonable time; and
- (e) must, if the land is unoccupied or the occupier is absent from the land when the person enters it, leave it as secure against trespassers as when the person entered it.

(8) A justice of the peace may issue a warrant authorising a person to use force in the exercise of the power conferred by this article if satisfied—

- (a) that another person has prevented or is likely to prevent the exercise of that power; and
- (b) that it is reasonable to use force in the exercise of that power.

(9) The force that may be authorised by a warrant is limited to that which is reasonably necessary.

(10) A warrant authorising the person to use force must specify the number of occasions on which Network Rail can rely on the warrant when entering and surveying or valuing land.

(11) The number specified must be the number which the justice of the peace considers appropriate to achieve the purpose for which the entry and survey or valuation are required.

(12) Any evidence in proceedings for a warrant under this article must be given on oath.

(13) No trial holes are to be made under this article—

- (a) in a carriageway or footway without the consent of the highway authority; or
- (b) in a private street without the consent of the street authority,

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<sup>(a)</sup> O.J. No. L 26, 28.1.2012, p. 1.

<sup>(b)</sup> O.J. No. L 206, 22.7.1992, p. 7.

but such consent must not be unreasonably withheld.

(14) If either a highway authority or a street authority which receives an application for consent fails to notify Network Rail of its decision within 14 days of receiving the application for consent—

- (a) under paragraph (13)(a) in the case of a highway authority; or
- (b) under paragraph (13)(b) in the case of a street authority,

that authority is deemed to have granted consent.

(15) Network Rail 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, in case of dispute, under Part 1 of the 1961 Act.

(16) Nothing in this article overrides the need to obtain scheduled monument consent under the Ancient Monuments and Archaeological Areas Act 1979(a).

### **Temporary closure of, and works in the Huddersfield Broad Canal and the Calder and Hebble Navigation**

**25.**—(1) Network Rail may, in connection with the construction of the authorised works—

- (a) temporarily interfere with the relevant parts of the waterways by constructing or maintaining caissons, cofferdams or other temporary works at any point within the relevant part of the waterway as Network Rail considers necessary or expedient;
- (b) temporarily moor or anchor barges or other vessels or craft in the relevant parts of the waterways;
- (c) load or unload into and from such barges, other vessels or craft as are referred to in subparagraph (b) equipment, machinery, soil and any other materials; and
- (d) temporarily close to navigation the relevant parts of the waterways.

(2) During the period of any closure referred to in paragraph (1)(d), all rights of navigation and other rights relating to, and any obligations of the Trust to manage, the relevant parts of the waterways so closed are to be suspended and unenforceable against the Trust.

(3) The power conferred by paragraph (1) must be exercised in a way which secures—

- (a) that no more of the relevant parts of the waterways are closed to navigation at any time than is necessary in the circumstances; and
- (b) that, if complete closure to navigation of the relevant parts of the waterways becomes necessary, reasonable steps are taken to secure that the period of closure is kept to a minimum and that the minimum obstruction, delay or interference is caused to vessels or craft which may be using or intending to use the part so closed.

(4) Any person who suffers loss or damage as a result of the suspension or interruption of any right under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

## **PART 3**

### **ACQUISITION AND POSSESSION OF LAND**

#### *Powers of acquisition*

#### **Power to acquire land**

**26.**—(1) Network Rail may acquire compulsorily—

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(a) 1979 c. 46.

- (a) so much of the land shown on the deposited plans within the limits of deviation as land to be acquired compulsorily and described in the book of reference as may be required for the purposes of the authorised works; and
- (b) so much of the land specified in columns (1) and (2) of Schedule 2 (acquisition of certain lands for ancillary works) (being land shown on the deposited plans and described in the book of reference) as may be required for the purpose specified in relation to that land in column (3) of that Schedule,

and may use any land so acquired for those purposes, or for any other purposes that are ancillary to its railway undertaking.

(2) This article is subject to article 29 (power to acquire new rights), article 30 (power to acquire ground anchor rights), article 31 (power to acquire subsoil and imposition of restrictive covenants), article 32(2) (power to acquire subsoil or airspace only) and article 34 (temporary use of land for construction of works).

(3) This article does not apply to—

- (a) any land shown on the deposited plans within the Protective Works limits and described in the book of reference; and
- (b) and land specified in Schedule 17 (temporary use of land for access).

### **Application of Part 1 of the 1965 Act**

**27.**—(1) Part 1 of the 1965 Act, in so far as not modified by or inconsistent with the provisions of this Order, applies to the acquisition of land under this Order—

- (a) as it applies to a compulsory purchase to which the 1981 Act applies; and
- (b) as if this Order were a compulsory purchase order under that Act.

(2) Part 1 of the 1965 Act, as applied by paragraph (1), has effect with the following modifications.

(3) Omit section 4 (which provides a time limit for compulsory purchase of land).

(4) In section 4A(1)(a) (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 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article 40 (time limit for exercise of powers of acquisition) of the Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order 20[XX](b)”.

(5) In section 11(1B)(c) (powers of entry) in a case where the notice to treat relates only to the acquisition of an easement or other right over land, for “3 months” substitute “1 month”.

(6) In section 11A(d) (powers of entry: further notices of entry)—

- (a) in subsection (1)(a), after “land” insert “under that provision”;
- (b) in subsection (2), after “land” insert “under that provision”.

(7) 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 40 (time limit for exercise of powers of acquisition) of the Network Rail (Huddersfield to Westtown (Dewsbury) Improvements)(e) Order 20[XX]”.

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

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

“(2) But see articles 30(3) (power to acquire ground anchor rights), 31(4) (power to acquire subsoil and imposition of restrictive covenants) and 32(4) (power to acquire subsoil or

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(a) Section 4A was inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).

(b) [XXXX]

(c) Subsection (1B) of section 11 was inserted by section 186(1) and (2)(b) of the Housing and Planning Act 2016 (c. 22).

(d) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c. 22).

(e) [XXXX].

(f) Schedule 2A was inserted by paragraph 3 of Schedule 3 to the Housing and Planning Act 2016 (c. 22).

airspace only) of the Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order 20[XX], which exclude acquisition with respect to the acquisition of ground anchor rights and imposition of restrictive covenants only, the acquisition of subsoil and imposition of restrictive covenants only and 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 article 23 (protective works to buildings, roads and apparatus of a statutory undertaker), article 34 (temporary use of land for construction of works) or 35 (temporary use of land for maintenance of works) of the Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order 20[XX].”

### **Application of the Compulsory Purchase (Vesting Declarations) Act 1981**

**28.**—(1) The Compulsory Purchase (Vesting Declarations) Act 1981(a) applies as if this Order were a compulsory purchase order.

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

(3) In section 5 (earliest date for execution of declaration), in subsection (2), omit the words from “, and this subsection” to the end.

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

(5) In section 5B(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 22 of the Transport and Works Act 1992 (validity of orders under section 1 or 3), the five year period mentioned in article 40 (time limit for exercise of powers of acquisition) of the Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order 20[XX]”.

(6) In section 6(d) (notices after execution of declaration), in subsection (1)(b), for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 14A of the Transport and Works Act 1992”.

(7) In section 7(e) (constructive notice to treat) in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(8) In Schedule A1(f) (counter-notice requiring purchase of land not in general vesting declaration) for paragraph 1(2) substitute—

“(2) But see articles 30(3) (power to acquire ground anchor rights), 31(4) (power to acquire subsoil and imposition of restrictive covenants) and 32(4) (power to acquire subsoil or airspace only) of the Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order 20[XX], which exclude acquisition with respect to the acquisition of ground anchor rights and imposition of restrictive covenants only, the acquisition of subsoil and imposition of restrictive covenants only and the acquisition of subsoil or airspace only from this Schedule.”

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(a) 1981 c. 66.

(b) Section 5A was inserted by section 182(2) of the Housing and Planning Act 2016 (c. 22).

(c) Section 5B was inserted by section 202(2) of the Housing and Planning Act 2016 (c. 22).

(d) Section 6 was amended by 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 (c. 22).

(e) Section 7 was amended by paragraph 3 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).

(f) Schedule A1 was inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).

(9) References to the 1965 Act are construed as references to that Act as applied to the acquisition of land under article 26 (power to acquire land) by article 27 (application of Part 1 of the 1965 Act).

### **Power to acquire new rights**

**29.**—(1) Subject to paragraphs (4) and (5), Network Rail may acquire compulsorily such easements or other rights over any land which it is authorised to acquire under article 26 (power to acquire land) as may be required for any purpose for which that land may be acquired under that provision, by creating them as well as by acquiring easements or other rights already in existence.

(2) In the case of the land specified in columns (1) and (2) of Schedule 9 (land subject to imposition of restrictive covenants), Network Rail's powers under paragraphs 1(a) and 1(b) of article 26 (power to acquire land) also includes the power to impose restrictive or other covenants over the land as may be required for the purposes specified in relation to that land in column (3) of that Schedule.

(3) Network Rail may impose restrictive or other covenants affecting any land referred to in—

- (a) article 30 (power to acquire ground anchor rights) and columns (1) and (2) of Schedule 13 (power to acquire ground anchor rights) as may be required for the purposes referred to in article 30(5); and
- (b) article 31 (power to acquire subsoil and imposition of restrictive covenants) and columns (1) and (2) of Schedule 14 (power to acquire subsoil) as may be required for the purposes referred to in article 31(2).

(4) In the case of the land specified in columns (1) and (2) of Schedule 10 (acquisition of new rights and imposition of restrictive covenants only) Network Rail's powers of compulsory acquisition are limited to the compulsory acquisition of such new rights and the imposition of restrictive or other covenants over land as may be required for the purpose specified in relation to that land in column (3) of that Schedule.

(5) In the case of the land specified in columns (1) and (2) of Schedule 11 (imposition of restrictive covenants only) Network Rail's powers of compulsory acquisition are limited to the imposition of restrictive or other covenants over land as may be required for the purpose specified in relation to that land in column (3) of that Schedule.

(6) Without limitation on the scope of paragraph (1), the rights which may be acquired under that paragraph include the acquisition of rights over the land numbered 25-049, 25-056 and 25-067 in the district of Kirklees as shown on the deposited plans to provide a means of vehicular access for the benefit of the owners and occupiers of land affected by the closure of MDL1 Bridge 10 – Occupation Underbridge;

(7) Subject to Schedule 2A (counter-notice requiring purchase of land) to the 1965 Act (as substituted by paragraph 5(8) of Schedule 12 (modification of compensation and compulsory purchase enactments for creation of new rights or imposition of restrictive covenants) where Network Rail acquires a right over land or the benefit of a restrictive or other covenant under paragraph (1), paragraph (2), paragraph (4), paragraph (5), article 30 (power to acquire ground anchor rights) or article 31 (power to acquire subsoil and imposition of restrictive covenants) Network Rail is not required to acquire a greater interest in that land.

(8) Schedule 12 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, article 30 (power to acquire ground anchor rights) or article 31 (power to acquire subsoil and imposition of restrictive covenants) of a right over land by the creation of a new right or the imposition of restrictive or other covenant under these articles.

(9) In any case where the acquisition of new rights under paragraph (1) or (4) is required for the purpose of diverting, replacing or protecting apparatus of an undertaker Network Rail may, with the consent of the Secretary of State, transfer the power to acquire such rights to the undertaker in question.

(10) The exercise by an undertaker of any power in accordance with a transfer under paragraph (9) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by Network Rail.

(11) In paragraphs (9) and (10) “undertaker” means—

- (a) any person who is a statutory undertaker for the purposes of the 1990 Act; and
- (b) any public communications provider within the meaning of section 151(1) of the 2003 Act.

### **Power to acquire ground anchor rights**

**30.**—(1) In the case of the land specified in columns (1) and (2) of Schedule 13 (power to acquire ground anchor rights) Network Rail’s powers of compulsory acquisition are limited to the compulsory acquisition of ground anchor rights in the subsoil or under surface of the land and the imposition of restrictive or other covenants affecting land under paragraph (5).

(2) Where Network Rail acquires ground anchor rights in the subsoil or under surface of land to which this article applies or imposes a restrictive or other covenant under paragraph (5) affecting land it is not required to acquire a greater interest in the land or any other interest in any part of it.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to ground anchor rights or under paragraph (5) in relation to the imposition of restrictive or other covenants—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the Compulsory Purchase (Vesting Declarations) Act 1981; and
- (c) section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

(4) In this article “ground anchor rights” means—

- (a) rights to insert ground anchors or soil nails into the subsoil, or to carry out other subsoil works, for the purpose of strengthening and stabilising Work No. 5 and Work No. 14; and
- (b) rights to maintain the ground anchors, soil nails or other subsoil works referred to in sub-paragraph (a).

(5) In addition to acquiring ground anchor rights over the land referred to in columns (1) and (2) of Schedule 13, Network Rail may impose such restrictive or other covenants affecting the land as may be required for the purposes of maintaining or protecting the ground anchors, soil nails or other subsoil works referred to in paragraph (4)(a).

(6) Paragraphs (2) and (3) are to be disregarded where Network Rail acquires ground anchor rights affecting a cellar, vault, arch or other construction forming part of a house, building or manufactory.

### **Power to acquire subsoil and imposition of restrictive covenants**

**31.**—(1) In the case of the land specified in columns (1) and (2) of Schedule 14 (acquisition of subsoil), Network Rail’s powers of compulsory acquisition are limited to the compulsory acquisition of only so much of, or such rights in, the subsoil or under surface of that land as may be required for the purpose specified in relation to that land in column (3) of that Schedule and the imposition of restrictive or other covenants affecting land under paragraph (2).

(2) In addition to acquiring so much of, or such rights in, the subsoil or under surface of land referred in columns (1) and (2) of Schedule 14, Network Rail may impose such restrictive or other covenants affecting the land as may be required for the purposes of maintaining or protecting any subsoil works constructed in the subsoil or under surface of that land for the purposes of strengthening and stabilising Work No. 1A and Work No. 1B.

(3) Where Network Rail acquires any part of, or rights in, the subsoil or under surface of land under paragraph (1) or imposes a restrictive or other covenant under paragraph (2), Network Rail is not required to acquire a greater interest in the land or any other part of the land.

(4) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil only or under paragraph (2) in relation to the imposition of restrictive or other covenants—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the Compulsory Purchase (Vesting Declarations) Act 1981; and
- (c) section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

(5) Paragraphs (3) and (4) are to be disregarded where Network Rail acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

#### **Power to acquire subsoil or airspace only**

**32.**—(1) Network Rail may acquire compulsorily so much of, or such rights in, the subsoil of or the airspace over the land referred to in paragraphs (1)(a) or (b) of article 26 (power to acquire 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) In the case of the land specified in columns (1) and (2) of Schedule 15 (land of which only subsoil may be acquired), Network Rail's powers of compulsory acquisition are limited to the compulsory acquisition of only so much of, or such rights in, the subsoil or under surface of that land as may be required for the purposes of the—

- (a) construction, operation and maintenance of Work No. 1A and Work No. 1B; and
- (b) construction, operation and maintenance of works for the purposes of strengthening and stabilising Work No. 1A and Work No. 1B.

(3) Where Network Rail acquires any part of, or rights in, the subsoil of or the airspace over land under paragraphs (1) or (2), Network Rail is not required to acquire an interest in any other part of the land.

(4) The following do not apply in connection with the exercise of the power under paragraphs (1) or (2) 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;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the Compulsory Purchase (Vesting Declarations) Act 1981; and
- (c) section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

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

#### **Rights under or over streets**

**33.**—(1) Network Rail may enter upon 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 works and may use the subsoil or airspace for those purposes or any other purpose ancillary to its railway undertaking.

(2) Subject to paragraph (4), the power under paragraph (1) may be exercised in relation to a street without Network Rail being required to acquire any part of the street or any easement or right in the street.

(3) 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 Network Rail acquiring any part of that person's interest in the land, and who suffers loss by the exercise of that power, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(4) 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.

(5) Compensation is not payable under paragraph (3) to any person who is an undertaker to whom section 85 (sharing of 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 Possession of Land*

#### **Temporary use of land for construction of works**

**34.**—(1) Network Rail may, in connection with the carrying out of the authorised works—

- (a) enter upon and take temporary possession of—
  - (i) the land specified in columns (1) and (2) of Schedule 16 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the authorised works (or any of those works) specified in column (4) of that Schedule; and
  - (ii) subject to paragraph (12), any other land within the Order limits 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 Compulsory Purchase (Vesting Declarations) Act 1981;
- (b) remove any buildings and vegetation from that land;
- (c) construct temporary works (including the provision of means of access) and buildings on that land;
- (d) temporarily occupy and use airspace for the purposes of the operation of a crane in connection with the construction of the authorised works; and
- (e) construct any permanent works specified in relation to that land in column (3) of Schedule 16 or any other permanent mitigation works on that land.

(2) Without limitation on the scope of paragraph 1(a)(i) the power exercisable under paragraph 1(a)(i) in respect of the land numbered 22-009, 22-010, 22-011, 22-013, 22-015, 22-016, 22-017, 22-018, 22-019, 22-021, 22-022, 22-023, 22-024, 22-025, 22-026, 22-030 and 22-032 in the district of Kirklees as shown on the deposited plans is to be limited to the temporary occupation and use of the designated air-space for the purposes of temporary utility diversions through the designated air-space in connection with the construction of the authorised works.

(3) Not less than 14 days before entering upon and taking temporary possession of land under this article Network Rail must serve notice of the intended entry on the owners and occupiers of the land.

(4) Network Rail may 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 columns (1) and (2) of Schedule 16, after the end of the period of one year beginning with the date of completion of the work specified in relation to that land in column (4) of Schedule 16; or
- (b) in the case of 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 Network Rail has, before the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981.

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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 4 was amended by section 184 and 185 of, and paragraph 1 and 2 of Schedule 18 to, the Housing and Planning Act 2016 (c. 22).

(5) Before giving up possession of land of which temporary possession has been taken under this article, Network Rail must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land, but Network Rail is not required to—

- (a) replace a building removed under this article; or
- (b) restore the land on which any works have been constructed under paragraph 1(e).

(6) Network Rail 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.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(8) Without affecting article 56 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2)(a) (further provisions as to compensation for injurious affection) of the 1965 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 (6).

(9) The powers of compulsory acquisition of land conferred by this Order do not apply in relation to the land referred to in paragraph (1)(a)(i) except that Network Rail is not precluded over any part of that land, from acquiring new rights under article 29(1) (power to acquire new rights).

(10) Where Network Rail takes possession of land under this article, Network Rail 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 acquisition of land under this Order by virtue of article 27(1) (application of Part 1 of the 1965 Act).

(12) Paragraph (1)(a)(ii) does not authorise Network Rail to take temporary possession of any land which it is not authorised to acquire under article 26 (power to acquire land).

(13) In this article “designated air-space” means so much of the air-space as is comprised in the air-space directly above the highest point of any building currently located on the land specified in paragraph (2).

### **Temporary use of land for maintenance of works**

**35.**—(1) Subject to paragraph (2), at any time during the maintenance period relating to any of the scheduled works, Network Rail 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 work or any ancillary works connected with it; and
- (b) 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 Network Rail 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 Network Rail must serve notice of the intended entry on the owners and occupiers of the land.

(4) Network Rail may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of works for which possession of the land was taken.

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(a) Section 10 was amended by section 4 of, and paragraph 13(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2009/1307.

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

(5) Before giving up possession of land of which temporary possession has been taken under this article, Network Rail must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) Network Rail 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.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(8) Without affecting article 56 (no double recovery), nothing in this article affects any liability to pay compensation under section 10(2) (further provisions as to compensation for injurious affection) of the 1965 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 (6).

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

(10) Section 13 of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the acquisition of land under this Order by virtue of article 27(1) (application of Part 1 of the 1965 Act).

(11) In this article "the maintenance period", in relation to a scheduled work, means the period of 5 years beginning with the date on which the work is opened for use.

### **Temporary use of land for access**

**36.**—(1) Network Rail may use any land specified in Schedule 17 (temporary use of land for access) for the passage of persons or vehicles (with or without materials, plant and machinery) for the purpose of or in connection with the construction of the authorised works.

(2) The power under paragraph (1) is exercisable on giving at least 7 days' notice (or, where access is urgently required, such notice as is reasonably practicable) to the owners and occupiers of the land.

(3) But paragraph (2) does not require notice to be given in relation to land where notice under that paragraph has already been given in relation to that land.

(4) Network Rail must pay compensation to the owners and occupiers of the land to which paragraph (1) applies for any loss or damage arising from the exercise of the power conferred by that paragraph.

(5) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of such compensation, is to be determined under Part 1 of the 1961 Act.

(6) Section 13 (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 article 27(1) (application of Part 1 of the 1965 Act).

### *Compensation*

### **Disregard of certain interests and improvements**

**37.**—(1) In assessing the compensation payable to any person on the acquisition from that person of any land under this Order, the tribunal must not take into account—

- (a) any interest in land; or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land,

if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1) “relevant land” means the land acquired from the person concerned or any other land with which that person is, or was at the time when the building was erected, the works executed or the improvement or alteration made, directly or indirectly concerned.

### **Set-off for enhancement in value of retained land**

**38.**—(1) In assessing the compensation payable to any person in respect of the acquisition from that person under this Order of any land (including the subsoil) the tribunal must set off against the value of the land so acquired any increase in value of any contiguous or adjacent land belonging to that person in the same capacity which will accrue to that person by reason of the construction of the authorised works.

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land (including the subsoil), or the imposition of restrictive or other covenants, under this Order, the tribunal must set off against the value of the rights so acquired or restrictive or other covenants imposed—

- (a) any increase in the value of the land over which the new rights are required or restrictive or other covenants are imposed; and
- (b) any increase in value of any contiguous or adjacent land belonging to that person in the same capacity,

which will accrue to that person by reason of the construction of the authorised works.

(3) The 1961 Act has effect, subject to paragraphs (1) and (2), as if this Order were a local enactment for the purposes of that Act.

### *Supplementary*

### **Extinction or suspension of private rights of way**

**39.**—(1) Subject to the provisions of this article all private rights of way over land subject to compulsory acquisition under this Order are extinguished—

- (a) as from the date of acquisition of the land by Network Rail, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by Network Rail under section 11(1)(a) (powers of entry) of the 1965 Act,

whichever is the sooner.

(2) Subject to the provisions of this article in respect of land owned by Network Rail and required for the purposes of this Order all private rights of way are extinguished on the appropriation of the land for any of those purposes by Network Rail.

(3) Subject to the provisions of this article, all private rights of way over land subject to the compulsory acquisition of rights or the imposition of restrictive or other 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 or other covenant—

- (a) as from the date of the acquisition of the right or the imposition of the restrictive or other covenant by Network Rail, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by Network Rail under section 11(1) of the 1965 Act in pursuance of the right or enforcement of the restrictive or other covenant,

whichever is the sooner.

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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) Measures 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.

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

(5) Subject to paragraph (7), any person who suffers loss by the extinguishment or suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) This article does not apply in relation to any right of way to which section 271 or 272 (extinguishment of rights of statutory undertakers etc.) of the 1990 Act(a) or paragraph 2 of Schedule 18 (provisions relating to statutory undertakers etc.) applies.

(7) Paragraphs (1), (2), (3) and (4) have effect subject to—

- (a) any notice given by Network Rail before the completion of the acquisition of the land, Network Rail's appropriation of it, Network Rail's entry onto it or Network Rail taking temporary possession of it that any or all of those paragraphs do not apply to any right of way specified in the notice; and
- (b) any agreement made (whether before or after any of the events mentioned in sub-paragraph (a) and before or after the coming into force of this Order) which makes reference to this article between Network Rail and the person in or to whom the right of way in question is vested or belongs.

(8) If any such agreement as is mentioned in sub-paragraph (7)(b) which is expressed to have effect also for the benefit of those deriving title from or under the person in or to whom the right of way in question is vested or belongs, is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

#### **Time limit for exercise of powers of acquisition**

**40.**—(1) After the end of the period of 5 years beginning with the day on which this Order comes into force—

- (a) no notice to treat is to be served under Part 1 of the 1965 Act as applied to the acquisition of land by article 27 (application of Part 1 of the 1965 Act); and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the Compulsory Purchase (Vesting Declarations) Act 1981 as applied by article 28 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The powers conferred by article 34 (temporary use of land for construction of works) cease at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents Network Rail remaining in possession of land after the end of that period, if the land was entered and possession of it was taken before the end of that period.

## **PART 4**

### **MISCELLANEOUS AND GENERAL**

#### **Defence to proceedings in respect of statutory nuisance**

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

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(a) Section 272 was amended by paragraph 103(1) and (2) of Schedule 17 to the Communications Act 2003 (c. 21).  
(b) 1990 c. 43. Section 82 was amended by section 5(2) of the Noise and Statutory Nuisance Act 1993 (c. 40) and paragraph 6 of Schedule 17 to the Environment Act 1995 (c. 25).  
(c) Section 79(1) was amended by section 2(2) of the Noise and Statutory Nuisance Act 1993, section 120 of, and paragraph 2(a) of Schedule 17 and paragraph 89(2) of Schedule 22 to, the Environment Act 1995, sections 101(2) and 102(2) of the Clean Neighbourhoods and Environment Act 2005 (c. 16) and sections 109(2), 110(2), 111(2) and 112(2)(a) of the Public Health etc. (Scotland) Act 2008 (asp. 5).

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

- (a) that the nuisance relates to premises used by Network Rail for the purposes of or in connection with the exercise of the powers conferred by this Order with respect to authorised works and that the nuisance is attributable to the carrying out of authorised works which are being carried out in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61(a) (prior consent for work on construction sites) or section 65(b) (noise exceeding registered level), of the Control of Pollution Act 1974(c); or
- (b) that the nuisance is a consequence of the operation of the authorised works and that it cannot reasonably be avoided.

(2) The following provisions of the Control of Pollution Act 1974—

- (a) section 61(9); and
- (b) section 65(8),

do not apply where the consent relates to the use of premises by Network Rail for the purposes of or in connection with the exercise of the powers conferred by this Order with respect to works.

(3) In proceedings for an offence under section 80(4) of the Environmental Protection Act 1990 (offence of contravening abatement notice) in respect of a statutory nuisance falling within section 79(1)(g) or (ga)(d) of that Act where the offence consists in contravening requirements imposed by virtue of section 80(1)(a) or (b)(e) of that Act, it is a defence to show that the nuisance—

- (a) is a consequence of the construction, operation or maintenance of the works authorised by this Order; and
- (b) cannot reasonably be avoided.

(4) The provisions of this article do not affect the application to the authorised works of section 122 (statutory authority as a defence to actions in nuisance, etc.) of the Railways Act 1993(f) or any rule of common law having similar effect.

### **Planning permission**

**42.** Planning permission which is deemed by a direction under section 90(2A)(g) (development with government authorisation) of the 1990 Act to be granted in relation to the authorised works is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as operational land of the purposes of that Act) of that Act.

### **Power to lop trees overhanging the authorised works**

**43.** Network Rail may fell or lop any tree or shrub near any part of the authorised works, 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 works or any apparatus used on the authorised works; or
- (b) from constituting a danger to passengers or other persons using the authorised works.

(2) In exercising the powers conferred by paragraph (1), Network Rail must not cause unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from the exercise of those powers.

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- (a) Section 61 was amended by Schedule 7 to the Building Act 1984 (c. 55), paragraph 15(3) of Schedule 15 to the Environmental Protection Act 1990 (c. 43), Schedule 24 to the Environment Act 1995 and paragraph 10 of Schedule 6 to the Building (Scotland) Act 2003 (asp. 8).
  - (b) Section 65 was amended by paragraph 15(4) of Schedule 15 to the Environmental Protection Act 1990 and Schedule 24 to the Environment Act 1995.
  - (c) 1974 c. 40.
  - (d) Section 79(1)(ga) was inserted by section 2(1) and (2)(b) of the Noise and Statutory Nuisance Act 1993.
  - (e) Section 80(1) was amended by section 86 of the Clean Neighbourhoods and Environment Act 2005.
  - (f) 1993 c. 43. As amended by the Transport Act 2000 (c. 38) and the Railways Act 2005 (c. 14).
  - (g) Section 90(2A) was inserted by section 16(1) of the Transport and Works Act (c. 42).

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act.

### **Open space and exchange land**

**44.**—(1) Network Rail will not under the powers of this Order take possession of any part of the special category land until Network Rail has taken possession of the exchange land.

(2) Upon Network Rail taking possession of so much of the special category land as is required for the authorised works that land will be discharged from all rights, trusts and incidents to which it was previously subject.

(3) Network Rail must lay out as replacement open space, before the end of the period of one year beginning with the date the authorised works are first brought into public use, the exchange land of which possession has been taken under paragraph (1).

(4) As soon as Kirklees District Council has certified that the exchange land referred to in paragraph (3) has been laid out to its reasonable satisfaction as replacement open space that land will vest in Kirklees District Council subject to—

- (a) the like rights, trusts and incidents as attached to so much of the special category land of which possession has been taken under paragraph (1); and
- (b) such rights as may be required by Network Rail to carry out monitoring, remedial or maintenance works upon the exchange land.

(5) In this article—

“the special category land” means the land described as open space on the plan entitled “Open Space Plans” attached to the deposited plans, which may be acquired compulsorily under this Order and for which exchange land is to be provided; and

“the exchange land” means the land described as exchange land on the plan entitled “Open Space Plans” attached to the deposited plans.

### **Open space land**

**45.**—(1) As from the date on which Network Rail enters onto the Open Space Land under section 11(1) of the 1965 Act (powers of entry) or section 8 of the Compulsory Purchase (Vesting Declarations) Act 1981 (vesting, and right to enter and take possession) the Open Space Land will be discharged from all rights, trusts and incidents to which it was previously subject.

(2) In this article “the Open Space Land” means the land numbered 2-044, 7-042 and 8-005 in the district of Kirklees on the deposited plans and forming part of an open space within the meaning of section 19(1) of the 1981 Act which the Secretary of State has certified as not exceeding 209 square metres and that the giving in exchange of other land for the Open Space Land is unnecessary for the purposes of section 19(1) of the 1981 Act.

### **Power to operate and use railway**

**46.**—(1) Network Rail may operate and use the railway and other authorised works as a system, or part of a system, of transport for the carriage of passengers and goods.

(2) Nothing in this Order, or in any enactment incorporated with or applied by this Order, affects the operation of Part 1 (the provision of railway services) of the Railways Act 1993(a).

### **Disapplication of the 1887 Agreement**

**47.**—(1) The provisions of the 1887 Agreement will on the day on which this Order comes into force cease to have effect—

(2) In this article “the 1887 Agreement” means the agreement dated 14<sup>th</sup> November 1887 between (1) the London and North Western Railway Company (2) the Local Board of the District of

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(a) 1993 c. 43 as amended by the Transport Act 2000 (c.38) and the Railways Act 2005 (c. 14).

Ravensthorpe in the County of York and (3) the Local Board of the District Thornhill in the County of York.

### **Obstruction of construction of authorised works**

**48.** Any person who, without reasonable excuse—

- (a) obstructs any person acting under the authority of Network Rail in setting out the lines of the scheduled works or in constructing any authorised work; or
- (b) interferes with, moves or removes any apparatus belonging to any person acting under the authority of Network Rail,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Traffic regulation**

**49.**—(1) Subject to the provisions of this article, and the consent of the traffic authority in whose area the street concerned is situated, which consent must not be unreasonably withheld, Network Rail, may, insofar as maybe necessary or expedient for the purposes of, in connection with, or in consequence of the construction, maintenance or operation of the authorised works—

- (a) revoke, amend or suspend in whole or in part any traffic regulation order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the parking, stopping, waiting, loading or unloading of vehicles on any road;
- (c) suspend or authorise the use as a parking place of any road;
- (d) restrict the speed of vehicles along any road;
- (e) make provision as to the direction or priority of vehicular traffic on any road; and
- (f) 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 Network Rail.

(2) The powers conferred by paragraph (1) may be exercised at any time prior to the expiry of 12 months from the opening of the authorised works for public use but subject to paragraph (7) any prohibition, restriction or other provision made under paragraph (1) may have effect both before and after the expiry of that period.

(3) If within 28 days of receiving an application for consent under paragraph (1) a traffic authority fails to notify Network Rail of its decision or refuses consent without giving any grounds for its refusal that traffic authority is deemed to have granted consent.

(4) The powers conferred by paragraph (1) may only be exercised after Network Rail has consulted the chief officer of police and the traffic authority in whose area the road concerned before complying with provisions of paragraph (5).

(5) Network Rail must not exercise the powers conferred by paragraph (1) 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 street is situated; and

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

(6) Any prohibition, restriction or other provision made by Network Rail under paragraph (1)—

- (a) has effect as if duly made by, as the case may be—
  - (i) the traffic authority in whose area the street is situated, as a traffic regulation order under the 1984 Act; or
  - (ii) the local authority in whose area the street is situated, as an order under section 32 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) be deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004<sup>(a)</sup> (road traffic contraventions subject to civil enforcement).

(7) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by Network Rail from time to time by subsequent exercise of the powers conferred by paragraph (1) within a period of 24 months from the opening of the authorised works for public use.

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

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

### **Traffic signs**

**50.**—(1) Network Rail may, for the purposes of, or in connection with, the construction or operation of, the authorised works, place or maintain traffic signs on any street within the Order limits or which gives access to such a street, or on any street in connection with any instrument made under article 49 (traffic regulation) or any other street as reasonably required for conveying information to traffic.

(2) Network Rail—

- (a) must consult with the traffic authority as to the placing of traffic signs; and
- (b) may subject to any directions given under section 65 (powers and duties of highway authorities as to placing of traffic signs) of the 1984 Act, enter into arrangements with the consent of the traffic authority for the traffic signs to be placed and maintained by the traffic authority, such consent not to be unreasonably withheld.

(3) Any power conferred by section 65 of the 1984 Act to give directions to a traffic authority or local traffic authority as to traffic signs includes a power to give directions to Network Rail as to traffic signs under this article; and the powers conferred by paragraph (1) are exercisable subject to and in conformity with any directions given under that section.

(4) A traffic authority or other authority having power under or by virtue of the 1984 Act to place and maintain, or cause to be placed and maintained, traffic signs on any street referred to in paragraph (1) must consult with Network Rail as to the placing of any traffic signs which may affect the authorised works.

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

### **Disclosure of confidential information**

**51.** A person who—

- (a) enters a factory, workshop or workplace under the provisions of article 23 (protective works to buildings, roads and apparatus of a statutory undertaker) or article 24 (power to survey and investigate land); and
- (b) discloses to any person any information obtained as a result of that entry and relating to any manufacturing process or trade secret,

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(a) 2004 c.18.

is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale unless the disclosure is made in the course of that person's performance of a duty in connection with the purposes for which the person was authorised to enter the land.

#### **Statutory undertakers etc.**

**52.** The provisions of Schedule 18 (provisions relating to statutory undertakers etc.) have effect.

#### **Protection of interests**

**53.** Schedule 19 (protective provisions) has effect.

#### **Certification of plans etc.**

**54.** Network Rail must, as soon as practicable after the making of this Order, submit copies of the book of reference, the deposited plans and the deposited sections to the Secretary of State for certification that they are, respectively, true copies of the book of reference, the deposited plans and the deposited sections referred to in this Order; and a document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

#### **Service of notices**

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

- (a) by post; or
- (b) with the consent of the recipient and subject to paragraphs (6) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document 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.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978<sup>(a)</sup> 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 is taken to be fulfilled where the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission either in writing or by electronic transmission.

(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 any part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

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(a) 1978 c. 30.

(7) Any consent to the use of electronic transmission 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 is final and takes 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 does not be taken to exclude the employment of any method of service not expressly provided for by it.

### **No double recovery**

**56.** 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.

### **Arbitration**

**57.** Any difference under any provision of this Order, unless otherwise provided for, 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.

Signed by authority of the Secretary of State

*Natasha Kopala*  
Head of the Transport and Works Act Orders Unit  
Department for Transport

Date

## **SCHEDULES**

### **SCHEDULE 1**

Articles 2 and 8

### **SCHEDULED WORKS**

In the County of West Yorkshire, District of Kirklees—

Work No. 1A - A railway (990 metres in length) partly in tunnel, on the course of the existing railway (Manchester to Dewsbury line) commencing at a point 300 metres south of the junction of Gledholt Bank with Greenhead Road and terminating at a point 85 metres north of the junction of Upperhead Row with George Street. Work No. 1A includes the lowering of track through Gledholt Tunnel and Huddersfield Tunnel.

Work No. 1B - A railway (1,001 metres in length) partly in tunnel, on the course of the existing railway (Manchester to Dewsbury line) commencing at a point 110 metres north of the junction of Gledholt Bank with Longroyd Place and terminating at a point 60 metres north-east of the junction of Upperhead Row with Half Moon Street. Work No. 1B includes the lowering of track through Gledholt Tunnel and Huddersfield Tunnel.

Work No. 1C - A railway (1,051 metres in length) partly in tunnel and partly on viaduct, on the course of the existing railway (Manchester to Dewsbury and Huddersfield to Dewsbury lines) commencing at a point 65 metres north-west of the junction of Half Moon Street with Sergeantson Street and terminating at a point 32 metres south of the junction of Willow Lane East with Alder

Street. Work No. 1C includes the reconfiguration of Huddersfield Station and remedial and reconfiguration works to Huddersfield Viaduct MVL3 Underbridge 92.

Work No. 2 - A railway (2,196 metres in length) on the course of the existing railway (Huddersfield to Dewsbury line) commencing at a point 35 metres south-east of the junction of Willow Lane East with Alder Street and terminating at a point 205 metres east of Peel's Pit, MVL3 Underbridge 100. Work No.2 includes the infill of Peel's Pit MVL3 Underbridge 100.

Work No. 2A - A railway (494 metres in length) forming a siding commencing at a point 25 metres east of the junction of Willow Lane East with Alder Street and terminating at a point 110 metres south-east of the junction of Alder Street with Abbey Road.

Work No. 2B - A railway (286 metres in length) forming a spur off the existing railway (Huddersfield to Dewsbury line) commencing at a point 180 metres east of the junction of Hammond Street with Abbey Road and terminating by a junction with the existing railway (Huddersfield to Dewsbury line) at a point 105 metres south of the junction of Aquamarine Drive with Topaz Close.

Work No. 2C - Reconstruction of Red Doles Road MVL3 Underbridge 96 carrying Red Doles Road under Work No.2 and the existing railway (Huddersfield to Dewsbury line) commencing at a point 80 metres south of the junction of Aquamarine Drive with Jacinth Court and terminating at a point 15 metres south-east of its commencement.

Work No. 3 - Reconstruction of Field House MVL3 Overbridge 98 carrying Footpath HUD/42/10 over Work No.2 and the existing railway (Huddersfield to Dewsbury line) commencing at a point 160 metres south-east of the junction of Footpath HUD/42/10 with Footpath HUD/39/10 and terminating at a point 25 metres south-east of its commencement.

Work No. 4 - Reconstruction of Ridings MVL3 Underbridge 99 carrying Footpath HUD/44/30 under Work No.2 and the existing railway (Huddersfield to Dewsbury line) commencing at a point 23 metres south of the junction of Footpath HUD/44/20 with Footpath HUD/44/40 and terminating at a point 20 metres south of its commencement.

Work No. 5 - A railway (1,411 metres in length) on the course of the existing railway (Huddersfield to Dewsbury line) commencing at a point 310 metres north-west of the junction of A62 Leeds Road with Ashgrove Road and terminating at a point 230 metres east of the junction of A62 Leeds Road with Station Road. Work No. 5 includes the reconstruction of Deighton Station.

Work No. 6 - Realignment of Whitacre Street (including a bridge over Work No.5 and the existing railway (Huddersfield to Dewsbury line)) commencing at a point on that road 195 metres south-west of the junction of that road with Deighton Road and terminating at a point 145 metres south-east of its commencement. Work No. 6 includes the demolition of the existing Whiteacre Street MVL3 Overbridge 101 carrying Whitacre Street over the existing railway (Huddersfield to Dewsbury line) and the infill of the existing stone arch of that bridge.

Work No. 7 - Realignment of A62 Leeds Road (including a bridge over Work No.5 and the existing railway (Huddersfield to Dewsbury line)) commencing at a point on that road 210 metres north-east of the junction of A62 Leeds Road with Whitacre Street and terminating at a point 75 metres east of the junction of Deighton Road with Glenfield Avenue. Work No. 7 includes the demolition of the existing A62 Leeds Road MVL3 Overbridge 102 carrying A62 Leeds Road over the existing railway (Huddersfield to Dewsbury line).

Work No. 8 - Reconstruction of Wheatley's MVL3 Overbridge 103 carrying National Cycle Network Route 66 (Calder Valley Greenway) over Work No.5 and the existing railway (Huddersfield to Dewsbury line) commencing at a point 135 metres south-east of the junction of A62 Leeds Road with Brooklands and terminating at a point 35 metres south-east of its commencement.

Work No. 9A - A railway (692 metres in length) on the course of the existing railway (Huddersfield to Dewsbury line), partly on viaduct, commencing at a point 230 metres south-east of the junction of A62 Leeds Road with Station Road and terminating at a point 692 metres north-east of its

commencement. Work No.9A includes reconfiguration works to Huddersfield Broad Canal MVL3 Underbridge 108 and Huddersfield Broad Canal MVL3 Underbridge 108S.

Work No. 9B - A railway (1,025 metres in length), partly on viaduct, commencing at a point 200 metres west of Heaton Lodge Sewage Works and terminating at a point 110 metres north-west of the junction of Helm Lane with Wood Lane.

Work No. 9C - A railway (1,107 metres in length) on the course of the existing railway (Huddersfield to Dewsbury line), partly on viaduct, commencing at a point 195 metres west of Heaton Lodge Sewage Works and terminating at a point 55 metres south-west of the junction of Waterside Walk with Wood Lane.

Work No. 9D - A railway (655 metres in length) on the course of the existing railway (Huddersfield to Dewsbury line) commencing at a point 110 metres north of the junction of Helm Lane with Wood Lane passing and terminating at a point 310 metres south of the junction of A644 Huddersfield Road with Stocks Bank Road.

Work No. 10 - Realignment of B6118 Colne Bridge Road (including a bridge over Work No.9A and the existing railway (Huddersfield to Dewsbury line)) commencing at a point on that road 160 metres south of the junction of A62 Leeds Road with Bradley Road and terminating at a point 165 metres south-east of its commencement. Work No. 10 includes the demolition of the existing B6118 Bridge Road MVL3 Overbridge 107 carrying B6118 Colne Bridge Road over the existing railway (Huddersfield to Dewsbury line) and the infill of existing spans 1 and 4 of that bridge.

Work No. 11 - Reconstruction of Parks MVL3 Overbridge 110 and MVL4 Overbridge 1 carrying an access road over Work No. 9B, Work No. 9C and the existing railway (Huddersfield to Dewsbury line) commencing at a point 145 metres east of the viaduct carrying the existing railway (Huddersfield to Dewsbury line) over the River Colne and terminating at a point 45 metres south-east of its commencement.

Work No. 11A - Diversion of a high-pressure gas main, commencing beneath a point 170 metres north-west of the junction of Helm Lane with Footpath KIR/240/10 and terminating beneath a point 115 metres south-east of its commencement.

Work No. 11B - Diversion of a high-pressure gas main, commencing beneath a point 210 metres west of the junction of Waterside Walk with Wood Lane and terminating beneath a point 45 metres south of its commencement.

Work No. 12 - Reconstruction of Heaton Lodge Footbridge MVL4 Footbridge 4 carrying Footpath KIR/240/10 over Work No.9C and the existing railway (Huddersfield to Dewsbury line) commencing at a point 215 metres west of the junction of Waterside Walk with Wood Lane and terminating at a point 30 metres south-east of its commencement.

Work No. 13 - Reconstruction of Helm Lane MVN2 Underbridge 188 carrying Footpath KIR/240/10 under Work No.9B and the existing railway (Huddersfield to Dewsbury line) commencing at a point 140 metres west of the junction of Waterside Walk with Wood Lane and terminating at a point 45 metres south of its commencement.

Work No. 14 - A railway (2,588 metres in length) on the course of the existing railway (Huddersfield to Dewsbury line), partly on viaduct, commencing at a point 310 metres south of the junction of A644 Huddersfield Road with Stocks Bank Road and terminating at a point 295 metres south-east of the junction of Steanard Lane with Sands Lane. Work No. 14 includes the reconstruction of Mirfield Station.

Work No. 15 - A railway (3,048 metres in length) partly on the course of the existing railway (Huddersfield to Dewsbury line), partly on viaduct, commencing at a point 295 metres south-east of the junction of Steanard Lane with Sands Lane and terminating at a point 65 metres south-east of the junction of A644 Huddersfield Road with Pinfold Hill. Work No. 15 includes a viaduct over the Calder and Hebble Navigation and the River Calder, the demolition of Ravensthorpe station, the construction of a station at Ravensthorpe, the reconfiguration of B6117 Fall Lane, Thornhill Road

MDL1 Underbridge 9 and the infill of underbridges Occupation MDL1 Underbridge 10, Toad Holes MDL1 Underbridge 12 and Ming Hill MDL1 Underbridge 14.

Work No. 16 - A railway (550 metres in length) commencing at a point 190 metres south-west of Thornhill Power Station and terminating at a point 50 metres west of the bridge carrying the existing railway over the Calder and Hebble Navigation. Work No.16 includes the infill of Lees Hall Farm MVN2 Underbridge 204.

Work No. 17 - Realignment of Calder Road (including a bridge over Work No.15 and the existing railway (Huddersfield to Dewsbury line)) commencing at a point on that road 235 metres east of Thornhill Power Station and terminating at a point 270 metres south of its commencement. Work No. 17 includes the demolition of the existing Calder Road MVN2 Overbridge 202 carrying Calder Road over the existing railway (Huddersfield to Dewsbury line) and the demolition of Gas Pipe MVN2 Pipe Bridge 202A.

Work No. 17A - Realignment of Ravensthorpe Road commencing by a junction with Work No.17 at a point 260 metres south of the bridge carrying Calder Road over the River Calder and terminating at a point 185 metres east of its commencement.

Work No. 17B - An access road, commencing by a junction with Work No.17 at a point 110 metres south of the bridge carrying Calder Road over the River Calder and terminating at a point 55 metres south-east of that junction.

Work No. 18 - A diversion of a high pressure gas main commencing beneath a point 80 metres south-east of Thornhill Power Station and terminating beneath a point 85 metres south of its commencement.

Work No. 19 - Realignment of Fall Lane commencing at a point on that road 105 metres east of the junction of A644 Huddersfield Road with Temple Road and terminating by a junction with Work No.20 at a point 170 metres north of the junction of Thornhill Road with Tenter Fields.

Work No. 20 - Realignment of Thornhill Road commencing at a point on that road 165 metres south of the junction of Cemetery Road with Quarry Road and terminating at a point 70 metres south-east of its commencement.

Work No. 21 - A temporary bridge, carrying an temporary access road over the Calder and Hebble Navigation, commencing at a point 270 metres south-east of the bridge carrying the existing railway over the Calder & Hebble Navigation and terminating at a point 75 metres north-east of its commencement.

## SCHEDULE 2

Articles 8 and 26

### ACQUISITION OF CERTAIN LANDS FOR ANCILLARY WORKS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>	<i>(3)</i> <i>Purpose for which land may be acquired</i>
County West Yorkshire, District of Kirklees	1-001 and 1-006	Provision of railway infrastructure
	2-002, 2-005, 2-006, 2-007 and 2-008	Provision of railway infrastructure
	2-011, 2-013, 2-019, 2-023, 2- 034, 2-044 and 2-046	Provision of railway lighting and track drainage

2-039, 2-042 and 2-048	Provision of railway infrastructure
2-043	Railway electrification and ancillary railway works
3-121 and 3-128	Provision of railway infrastructure
3-145, 3-148, 3-149 and 3-158	Worksite and access for construction and maintenance compound
6-004, 6-011, 6-013, 6-021, 6-022, 6-026, 6-029, 6-030, 6-032, 6-038, 6-041, 6-045, 6-047, 6-049, 6-051 and 6-055	Worksite and access for construction and ancillary railway works
6-027	Worksite and access for construction, ancillary railway works and provision of highway access
6-028, 6-044, 6-046 and 6-059	Worksite and access for construction, ancillary railway works and access to temporary platform
6-058 and 7-001	Ancillary railway works and provision of temporary platform
7-017	Embankment reprofiling works
9-010 and 9-012	Worksite and access for construction and utility diversions
9-017, 9-029, 9-033, 9-043, 9-047, 9-050 and 9-053	Railway strengthening and stabilisation works and utility diversions
9-022, 9-023 and 9-025	Provision of Deighton Station forecourt and access works
9-024, 9-027, 9-032, 9-034, 9-036, 9-038, 9-040, 9-045 and 9-049	Utility diversions
9-057	Railway strengthening and stabilisation works, utility diversions and provision of vehicular turning areas
10-025, 10-026 and 10-028	Track drainage and culvert works

10-054, 10-058, 11-001, 11-005 and 11-006	Provision of railway infrastructure
10-056	Provision of railway infrastructure and access for maintenance
11-037	Utility diversions
11-050, 11-053 and 11-054	Provision of railway infrastructure, access, for maintenance and utility diversions
11-051	Provision of railway infrastructure and access for maintenance
12-021, 12-029, 12-033, 12-035, 12-038, 12-040 and 12-042	Worksite and access for construction and provision of accommodation access
12-030, 12-050 and 12-060	Diversion of overhead electric cables
12-044 and 12-047	Worksite and access for construction, provision of accommodation access and diversion of overhead electric cables
12-063 and 12-064	Provision of railway infrastructure
13-075	Footpath diversion works
13-092 and 14-003	Track drainage works
14-006 and 15-016	Track drainage and culvert works
16-034	Highway diversion works
16-040, 16-049, 16-058, 16-060 and 17-004	Worksite and access for construction and maintenance compound
16-043, 16-046, 16-047, 16-048 and 16-052	Provision of Mirfield Station forecourt and access works
18-027	Provision of railway infrastructure and track drainage and culvert works
19-025	Replacement open space and diversion of overhead electric cables

19-026	Replacement open space and worksite and access for construction
19-027	Highway diversion works and utility diversions
19-030	Replacement open space, worksite and access for construction and diversion of overhead electric cables
19-034 and 21-016a	Highway diversion works
19-036, 20-013, 20-016, 21-031, 21-038, 21-039 and 21-043	Utility diversions
19-037, 19-039 and 21-009	Provision of Ravensthorpe Station forecourt and access works
21-083, 21-084, 21-089 and 21-091	Provision of railway infrastructure
21-095 and 21-102	Diversion of overhead electric cables and access for maintenance
21-096	Diversion of overhead electric cables
21-101, 21-112 and 23-035	Provision of railway infrastructure and railway electrification works
21-103 and 21-109	Provision of railway infrastructure
21-113, 21-118, 21-120, 21-121, 22-002, 22-020 and 22-035	Utility diversions
23-018, 23-019, 23-020, 23-025, 23-026, 23-038, 23-039, 23-041, 23-042 and 23-048	Provision of railway infrastructure
23-035a, 24-004 and 24-005	Replacement open space and worksite and access for construction
24-007	Provision of railway infrastructure
25-003	Worksite and access for construction and maintenance compound

25-017 and 25-023	Highway diversion works
25-049, 25-056 and 25-067	Provision of accommodation access and construction access
25-052, 25-054 and 25-055	Provision of railway infrastructure

### SCHEDULE 3

#### STREETS SUBJECT TO STREET WORKS

Article 13

(1) <i>Area</i>	(2) <i>Street subject to street works</i>
County of West Yorkshire, District of Kirklees	Cross Church Street Westgate New North Parade Henry Street John William Street A641 Northgate A641 Bradford Road Alder Street Red Doles Road Whitacre Street Glenfield Avenue Lilac Court A62 Leeds Road B6118 Colne Bridge Road Station Road Bridleway DEW/3/10 Calder Road Ravensthorpe Road Fall Lane B6117 Thornhill Road

### SCHEDULE 4

#### STREETS TO BE STOPPED UP

Article 14

#### PART 1

##### STREETS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

(1) <i>Area</i>	(2) <i>Street to be stopped up</i>	(3) <i>Extent of stopping up</i>	(4) <i>New street to be substituted</i>
County of West Yorkshire, District of Kirklees	Footpath HUD/42/10	Between points P1 and P2 (on sheet 7)	Footpath between points P1, Work No. 3,

<i>(1) Area</i>	<i>(2) Street to be stopped up</i>	<i>(3) Extent of stopping up</i>	<i>(4) New street to be substituted</i>
			P3, P2 and P3, P4, P5 and P2 (on sheet 7)
	National Cycle Network Route 69	Between points P1 (on sheet 8) and P8 (on sheet 9)	Cycleway between points P1 (on sheet 8) and P8 (on sheet 9)
	Whitacre Street	Between points P1 and P2 (on sheet 9)	P1, Work No. 6 and P2 (on sheet 9)
	A62 Leeds Road	Between points P6 and P7 (on sheet 9)	P6, Work No. 7 and P7 (on sheet 9)
	Footpath HUD/51/10	Between points P3 and P4 (on sheet 9)	Footpath between points P3 and P5 (on sheet 9)
	National Cycle Network Route 66 (Calder Valley Greenway)	Between points P1, P2 and P5 (on sheet 10)	Cycleway between points P1, P3 Work No. 8, P4 and P5 (on sheet 10)
	B6118 Colne Bridge Road	Between points P1 and P2 (on sheet 11)	P1, Work No. 10 and P2 (on sheet 11)
	Footpath KIR/240/10	Between points P1 and P2 (on sheet 13)	Footpath between points P1, Work No. 12, P3, P4, Work No. 13, P5 and P2 (on sheet 13)
	Bridleway DEW/3/10	Between points P1 (on sheet 19) and P2 (on sheet 21)	Bridleway between points P1, P3 (on sheet 19) and P6 (on sheet 21)
	Calder Road	Between points P1 and P3 (on sheet 21)	P1, Work No. 17 and P5 (on sheet 21)
	Ravensthorpe Road	Between P3 and P4 (on sheet 21)	P4, Work No. 17A and P5 (on sheet 21)
	Fall Lane	Between points P1 and P2 (on sheet 25)	P1, Work No. 19 and P3 (on sheet 25)
	Brooks Yard	Between points P6 and P7 (on sheet 25)	P6, Work No. 19, P8, P9 and P7 (on sheet 25)
	B6117 Thornhill Road	Between points P4 and P5 (on sheet 25)	P4, Work No. 20 and P5 (on sheet 25)

## PART 2

### STREETS FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
County of West Yorkshire, District of Kirklees	Ravensthorpe Station Access Road	Within Order limits (on sheet 21)

## SCHEDULE 5

Article 15

### STREETS SUBJECT TO ALTERATION OF LAYOUT

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
County of West Yorkshire, District of Kirklees	John William Street	Kerbline realignment and widening of road within Order limits (on sheet 3)
	The Junction of John William Street with Viaduct Street	Alterations to traffic island and junction layout within Order limits (on Sheet 3) to accommodate widening of John William Street
	Viaduct Street	Temporary alterations to access road and corresponding footways at point T11 (on sheet 4)
	Alder Street	Kerbline alterations to accommodate new access to Alder Street between points T1 and T2 (on sheet 6)
	Alder Street	Temporary kerbline realignment and widening of road between points T3 and T4 (on sheet 6)
	Lilac Court	Provision of turning head and corresponding kerbline realignment and widening of road within Order limits (on sheet 9)
	B6118 Bog Green Lane	Temporary kerbline alterations to accommodate temporary access to B6118 Bog Green Lane between points T1 and T2 (on sheet 12)
	Back Station Road	Temporary kerbline alterations to accommodate temporary

	access to Back Station Road between points T1 and T2 (on sheet 16)
The Junction of Back Station Road with Station Road	Kerbline realignment and widening of road between points T3 and T4 (on sheet 16)
Hopton New Road	Temporary kerbline alterations to accommodate temporary access to Hopton New Road between points T5 and T6 (on sheet 16)
Calder Road	Alterations to the level of the carriageway of the street between points T1 and T2 (on sheet 21)

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## SCHEDULE 6

### STREETS TO BE TEMPORARILY STOPPED UP

Article 16

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
County of West Yorkshire, District of Kirklees	Mark Street	Within Order limits (on sheet 2)
	Cross Church Street	Within Order limits (on sheet 2)
	School Lane	Within Order limits (on sheet 2)
	Longroyd Lane	Within Order limits (on sheet 2)
	Footpath HUD/327/10	Between points T1 and T2 (on sheet 2)
	Footpath HUD/328/10	Between points T2 and T3 (on sheet 2)
	Footpath HUD/328/20	Between points T3 and T4 (on sheet 2)
	Footpath HUD/329/10	Between points T4 and T5 (on sheet 2)
	Footpath HUD/327/20	Between points T3 and T6 (on sheet 2)
	Footpath HUD/328/30	Between points T2 and T7 (on sheet 2)

Springwood Street	Within Order limits (on sheet 2)
Springwood Avenue	Within Order limits (on sheet 2)
Upper Head Row	Within Order limits (on sheet 3)
Henry Street	Within Order limits (on sheet 3)
New North Parade	Within Order limits (on sheet 3)
Westgate	Within Order limits (on sheet 3)
St George's Street	Within Order limits and between points T1 and T2 (on sheet 3)
St George's Square	Within Order limits (on sheet 3)
John William Street	Within Order limits (on sheets 3 and 4)
Fitzwilliam Street	Between points T3 (on sheet 3) and T1 (on sheet 4)
Viaduct Street	Between points T4 (on sheet 3) and T6 (on sheet 4) and within Order limits (on sheets 3 and 4)
St. Johns Road	Within Order limits (on sheet 4)
National Cycle Network Route 69	Within Order limits (on sheet 4)
A62 Unna Way	Between points T2 and T3 (on sheet 4)
A62 Castlegate	Between points T4 and T5 (on sheet 4)
Green Street	Within Order limits (on sheet 4)
Green Street	Between points T7 and T8 (on sheet 4)
A641 Oxford Street	Between points T9 and T10 (on sheet 4)

A641 Bradford Road	Within Order limits and between points T1 and T2 (on sheet 5)
A641 Northgate	Within Order limits (on sheet 5)
Lower Viaduct Street	Within Order limits (on sheet 5)
Footpath HUD/338/10	Between points T3 and T4 (on sheet 5)
Hillhouse Lane	Within Order limits (on sheet 6)
Alder Street	Within Order limits (on sheet 6)
Emerald Street	Within Order limits (on sheet 6)
Flint Street	Within Order limits (on sheet 6)
Red Doles Road	Within Order limits (on sheet 7)
Byway HUD/58/10	Between points T1 and T2 (on sheet 7)
Footpath HUD/57/10	Between points T2 and T3 (on sheet 7)
Footpath HUD/42/10	Between points T4 and T5 (on sheet 7)
Byway HUD/41/10	Within Order limits (on sheets 7 and 8)
National Cycle Network Route 69	Within Order limits (on sheets 7, 8 and 9)
Byway HUD/41/20	Within Order limits (on sheet 8)
Footpath HUD/44/20	Between points T1 and T2 (sheet 8)
Footpath HUD/44/30	Within Order limits (on sheet 8)
Footpath HUD/44/40	Between points T2 and T3 (on sheet 8)
Byway HUD/43/40	Within Order limits (on sheet 8)

Byway HUD/43/50	Within Order limits (on sheet 8)
Whitacre Street	Within Order limits (on sheet 9)
Lilac Court	Within Order limits (on sheet 9)
Glenfield Avenue	Within Order limits (on sheet 9)
A62 Leeds Road	Within Order limits (on sheet 9)
Footpath HUD/51/10	Between points T1 and P4 (on sheet 9)
Neptune Way	Within Order limits (on sheet 9)
Deighton Road	Within Order limits (on sheet 9)
National Cycle Network Route 66 (Calder Valley Greenway)	Within Order limits (on sheet 10)
Station Road	Within Order limits (on sheet 10)
B6118 Colne Bridge Road	Within Order limits (on sheet 11)
A62 Leeds Road	Within Order limits (on sheet 11)
B6118 Bog Green Lane	Within Order limits (on sheets 11 and 12)
National Cycle Network Route 66 (Calder Valley Greenway)	Within Order limits (on sheet 12)
Footpath KIR/240/10	Within Order limits (on sheet 13)
National Cycle Network Route 66 (Calder Valley Greenway)	Within Order limits (on sheets 14, 15 and 16)
Bridleway KIR/251/10	Within Order limits (on sheets 14 and 15)
Bridleway MIR/106/10	Within Order limits (on sheet 15)
Calder View	Within Order limits (on sheet 15)

Woodend Road	Within Order limits (on sheet 15)
Chadwick Fold Lane	Within Order limits (on sheet 15)
Back Station Road	Within Order limits (on sheet 16)
Station Road	Within Order limits (on sheet 16)
Hopton New Road	Within Order limits (on sheet 16)
Lowlands Road	Within Order limits (on sheet 16)
Hurst Lane	Within Order limits (on sheet 16)
Footpath MIR/50/10	Between point T7 and T9 (on sheet 16)
Footpath MIR/50/20	Between points T8 and T9 (on sheet 16)
Steanard Lane	Within Order limits (on sheet 18)
Sands Lane	Within Order limits (on sheet 18)
Footpath MIR/75/10	Between points T1 (sheet 18) and T2 (sheet 19)
Bridleway MIR/76/10	Within Order limits (sheets 18 and 19)
Bridleway MIR/76/20	Within Order limits (on sheet 19)
Bridleway DEW/1a/10	Within Order limits (on sheet 19)
Bridleway DEW/1/10	Between points P1 and T3 (on sheet 19)
Bridleway DEW/3/10	Between points P1 (on sheet 19) and P2 (on sheet 21)
Bridleway DEW/8/30	Between points T1 and T2 (on sheet 20)
Bridleway DEW/8/50	Between points T2 and T3 (on sheet 20)

Bridleway DEW/12/20	Within Order limits (on sheet 20)
Ouzelwell Lane	Within Order limits (on sheets 20 and 22)
Bridleway DEW/12/10	Within Order limits (on sheet 20)
Footpath DEW/5/20	Between points T4 and T5 (on sheet 20)
Bridleway DEW/6/10	Within Order limits (on sheet 20)
Bridleway DEW/6/20	Within Order limits (on sheet 20)
Bridleway DEW/6/30	Within Order limits (on sheet 20)
Footpath DEW/15/10	Between points T6 and T7 (on sheet 20)
Bridleway DEW/6/50	Within Order limits (on sheets 20 and 22)
Footpath DEW/16/10	Between points T8 (on sheet 20) and T2 (on sheet 22)
Bridleway DEW/12/30	Within Order limits (on sheets 20 and 22)
Ravensthorpe Station Access Road	Within Order limits (on sheet 21)
Calder Road	Within Order limits (on sheet 21)
Calder Road Industrial Estate Access Road	Within Order limits (on sheet 21)
Ravensthorpe Road	Within Order limits (on sheets 21 and 22)
Footpath DEW/155/10	Between points T3 (on sheet 21), T5 (on sheet 23) and T6 (on sheet 24)
Footpath DEW/117/10	Between points T1 (on sheet 22) and T2 (on sheet 23)
Bridleway DEW/12/40	Within Order limits (on sheet 22)
Bridleway DEW/94/10	Between points T3 and T4 (on sheet 22)

Bridleway DEW/16/60	Within Order limits (on sheet 22)
Footpath DEW/116/20	Between points T8 and T9 (on sheet 23)
Footpath DEW/116/30	Between points T7 and T8 (on sheet 23)
National Cycle Network Route 69 (Calder Valley Greenway)	Within Order limits (on sheet 23)
National Cycle Network Link Route 69 (Spen Valley Greenway)	Within Order limits (on sheet 23)
Ravenswharfe Road	Within Order limits (on sheet 23)
Footpath DEW/117/20	Between points T3 (on sheet 23) and T4 (on sheet 24)
Footpath DEW/117/30	Between points T4 and T5 (on sheet 24)
Footpath DEW/117/40	Between points T6 and T7 (on Sheet 24)
Fall Lane	Between points T1 and T2 (on sheet 25) and within Order limits (on sheet 25)
B6117 Thornhill Road	Within Order limits (on sheet 25)
Fearnley Street	Within Order limits (on sheet 25)
Brooks Yard	Within Order limits (on sheet 25)
Calder Bank Road	Within Order limits (on sheet 25)
Watergate Road	Within Order limits (on sheet 25)
A638 Webster Hill	Within Order limits (on sheet 25)

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## SCHEDULE 7

### ACCESS TO WORKS

Article 17

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*(1)*  
*Area*

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*(2)*  
*Description of access*

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County of West Yorkshire, District of Kirklees	Cross Church Street
	Alder Street
	Whitacre Street
	B6118 Colne Bridge Road
	Wood Lane
	Wood Lane
	Station Road
	Hurst Lane
	Sands Lane
	Fall Lane
	Calder Bank Road

## SCHEDULE 8

### ACCOMMODATION CROSSINGS

Article 21

#### PART 1

#### ACCOMMODATION CROSSINGS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Accommodation facility to be discontinued</i>	<i>(3)</i> <i>Private right of way to be extinguished</i>	<i>(4)</i> <i>Accommodation facility to be substituted</i>
County of West Yorkshire, District of Kirklees	Parks (MVL4) Overbridge 1	Within the limits of deviation	Accommodation access and Work No. 11
	Parks (MVL3) Overbridge 110	Within the limits of deviation	Accommodation access and Work No. 11
	Occupation (MDL1) Underbridge 10	Within the limits of deviation	Accommodation access from Calder Bank Road

#### PART 2

#### ACCOMMODATION CROSSINGS FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Accommodation facility to be discontinued</i>	<i>(3)</i> <i>Private right of way to be extinguished</i>
County of West Yorkshire, District of Kirklees	Span 4 of B6118 Bridge Road (MVL3) Overbridge 107	Within the limits of deviation
	Helm Lane (MVN2) Underbridge 188	Within the limits of deviation
	Lees Hall Farm (MVN2) Underbridge 204	Within the limits of deviation
	Toad Holes, Dewsbury (MDL1) Underbridge 12	Within the limits of deviation

## SCHEDULE 9

Article 30

### LAND SUBJECT TO IMPOSITION OF RESTRICTIVE COVENANTS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the deposited plan</i>	<i>(3)</i> <i>Purpose for which restrictive covenants may be imposed</i>
County of West Yorkshire, District of Kirklees	9-017, 9-029, 9-033, 9-043, 9-047, 9-050 and 9-053	Protection and maintenance of railway strengthening and stabilisation works
	9-131	Protection and maintenance of railway and railway electrical equipment

## SCHEDULE 10

Articles 8 and 29

### ACQUISITION OF NEW RIGHTS AND IMPOSITION OF RESTRICTIVE COVENANTS ONLY

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the deposited plan</i>	<i>(3)</i> <i>Purpose for which rights may be acquired and restrictive covenants may be imposed</i>
County of West Yorkshire, District of Kirklees	2-014, 2-015, 2-016 and 2-017	Provision of maintenance access for the authorised works
	3-091 and 3-091b	Provision of maintenance access for the authorised works and imposition of restrictive covenants for the protection of the operation of the maintenance access
	3-091a	Provision of maintenance access for the authorised works and imposition of restrictive covenants for the protection and maintenance of railway electrical equipment
	3-091c and 3-111	Provision of maintenance access for the authorised works
	3-147, 3-160, 4-012, 4-015, 4-020, 4-027, 4-041, 4-046, 4-049, 4-050, 4-055, 4-056, 4-061, 4-070, 4-072, 4-074, 4-084, 4-089, 4-094, 4-097, 4-	Provision of maintenance access for the authorised works and attachment and maintenance of electrical

101, 4-109, 4-112, 5-003a, 5-006a, 5-007, 5-014, 5-015, 5-021, 5-026, 5-030, 5-041, 5-042, 5-046, 5-053, 5-060, 5-066, 5-072, 5-078, 5-081, 5-084 and 5-090	equipment to the railway viaduct
9-056 and 9-079	Provision of maintenance access for vehicle restraint barrier and fencing works
9-135	Provision of maintenance access for the authorised works and imposition of restrictive covenants for the protection and maintenance of railway and railway electrical equipment
10-001, 10-002, 10-003, 10-034, 10-044, 10-046, 10-047 and 10-049	Provision of maintenance access for vehicle restraint barrier and fencing works
10-010	Provision of maintenance access for the authorised works, vehicle restraint barrier works and fencing works and imposition of restrictive covenants for the protection and maintenance of railway and railway electrical equipment
10-051, 10-052 and 10-055	Provision of construction access for the authorised works and provision of maintenance access for vehicle restraint barrier and fencing works
10-063, 10-064 and 11-004	Provision of construction access for the authorised works and utility diversions and provision of maintenance access for vehicle restraint barrier and utility works
11-007	Provision of maintenance access for vehicle restraint barrier and utility works
11-014	Provision of construction and maintenance access for the authorised works
11-065, 11-074, 12-007 and 12-010	Provision of maintenance access for the authorised works

13-013	Provision for maintenance of track drainage works
13-049	Provision for maintenance of the authorised works
14-007	Provision of construction access for the authorised works
15-003	Provision of construction and maintenance access for the authorised works
15-006 and 15-007	Provision for maintenance of the authorised works
15-011 and 15-013	Provision for construction and maintenance of the authorised works
15-017	Provision of construction and maintenance access for the authorised works
15-023, 15-024, 15-025, 15-027, 15-029, 15-030, 15-033, 15-036, 15-038, 15-041, 15-043, 16-002, 16-005, 16-006, 16-011, 16-014, 16-016, 18-011, 18-015, 18-018, 18-020 and 18-025	Provision of maintenance access for the authorised works and attachment and maintenance of electrical equipment to the railway viaduct
15-031 and 16-031	Provision of maintenance access for the authorised works
15-034	Provision of construction and maintenance access for the authorised works
16-022	Provision of maintenance access for vehicle restraint barrier and fencing works
16-059, 16-061, 16-063 and 16-064	Provision of construction and maintenance access for the authorised works
18-030, 18-031, 18-033 and 18-037	Provision of maintenance access for the authorised works
21-097, 21-098, 21-099, 21-100, 23-001, 23-002, 23-003, 23-005, 23-007, 23-008, 23-010, 23-013, 23-015, 23-016 and 23-017	Oversailing of electric cables
23-051, 23-054, 23-058, 23-072, 24-006 and 24-008	Provision of maintenance access for the authorised works

## SCHEDULE 11

Article 29

## IMPOSITION OF RESTRICTIVE COVENANTS ONLY

(1) <i>Area</i>	(2) <i>Number of land shown on the deposited plan</i>	(3) <i>Purpose for which restrictive covenants may be imposed</i>
Country of West Yorkshire, District Kirklees	3-084	Protection and maintenance of railway electrical equipment

## SCHEDULE 12

Article 29

MODIFICATION OF COMPENSATION AND COMPULSORY  
PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS OR  
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 imposition of a restrictive covenant as they apply as respects compensation on 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 following 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 enter on land for the purposes of exercising a right or enforcing a restrictive covenant in pursuance of a notice of entry under section 11(1) of the 165 Act (as modified by paragraph 5(5) of Schedule 12 to the Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order 20[XX] (“the 20[XX] 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 12 to the 20[XX] Order) to acquire an interest in the land; and
- (c) the acquiring authority enter 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 or enforcing that covenant.”

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)—

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(a) 1973 c. 26.

- (a) for the words “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for the words “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 article 27 (application of Part 1 of the 1965 Act) to the acquisition of land under article 26 (power to acquire 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 29(1), (2), (4) or (5) (power to acquire new rights), article 30 (power to acquire ground anchor rights) and article 31 (power to acquire subsoil and imposition of restrictive covenants)—

- (a) with the modification 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.

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

- (a) the right acquired or to be acquired, or the restriction imposed or to be imposed; or
- (b) the land over which the right is or is to be exercisable, or the restriction is or is to be enforceable.

(3) For section 7 (measure of compensation in the 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 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 restriction, as well as the notice of entry required by subsection (1) of that section (as it applies to a compulsory acquisition under article 27, it has power, exercisable in the equivalent circumstances and subject to the 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

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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. 22).

(c) Section 11B was inserted by section 187(2) of the Housing and Planning Act 2016 (c. 22)

requiring possession to be taken on specified date), 12(a) (penalty for unauthorised entry) and 13(b) (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

(6) Section 20(c) (protection for interests of 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 27(7)) is modified so as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or to enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

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

## “SCHEDULE 2A COUNTER-NOTICE REQUIRING PURCHASE OF LAND

### *Introduction*

1.—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or a restrictive covenant affecting the whole or part of a house, building or factory.

(2) But see articles 30(3) (power to acquire ground anchor rights) 31(4) (power to acquire subsoil and imposition of restrictive covenants) and 32(4) (power to acquire subsoil or airspace only) of the Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order 20[XX], which exclude acquisition with respect to the acquisition of ground anchor rights and imposition of restrictive covenants only, the acquisition of subsoil and imposition of restrictive covenants only and 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 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 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.

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(a) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23) and paragraph 4 of Schedule 16 to the Housing and Planning Act 2016 (c. 22).

(b) Section 13 was amended by section 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).

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

6. The authority must serve notice of its 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 authority decides to refer the counter-notice to the Upper Tribunal it must do so within the decision period.

8. If the 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 authority serve 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 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 use to be made of the right or covenant proposed to be acquired or imposed, 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 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 they 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 13

Articles 8 and 30

### POWER TO ACQUIRE GROUND ANCHOR RIGHTS

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(1)	(2)
Area	Number of land shown on the deposited plans

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County West Yorkshire District of Kirklees	9-015, 9-016, 9-018, 9-020, 9-021, 9-031, 9-035, 9-039, 9-054, 9-059, 9-061, 9-062, 9-065, 9-067, 9-068, 9-069, 9-070, 9-071, 9-072, 9-073, 9-074, 9-075, 9-076, 9-078, 18-028 and 18-038
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## SCHEDULE 14

### ACQUISITION OF SUBSOIL

Articles 8 and 31

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>	<i>(3)</i> <i>Purpose of acquisition</i>
County of West Yorkshire, District of Kirklees	3-028, 3-029, 3-030, 3-031, 3-034, 3-036, 3-040, 3-041, 3-043, 3-045, 3-047, 3-049, 3-052, 3-056, 3-058, 3-060, 3-064, 3-067, 3-068, 3-071, 3-072, 3-073, 3-076, 3-081, 3-082, 3-085, 3-086, 3-089, 3-095, 3-099, 3-100, 3-105, 3-106 and 3-107	Railway strengthening and stabilisation works

## SCHEDULE 15

### LAND OF WHICH ONLY SUBSOIL MAY BE ACQUIRED

Articles 8 and 32

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>
County West Yorkshire, District of Kirklees	2-009a, 2-010a, 2-021, 2-022, 2-024, 2-030, 2-036, 2-037, 2-038, 2-038b, 2-040, 2-040b, 2-041, 2-045, 2-049, 2-050, 2-051, 2-052, 2-053, 2-054, 2-055, 2-056, 2-057, 2-058, 2-059, 2-060, 2-061, 2-062, 2-063, 2-064, 2-065, 2-066, 2-067, 2-068, 2-069, 2-070, 2-071, 2-072, 2-073, 2-074, 2-075, 2-076, 2-077, 2-078, 2-079, 2-080, 2-081, 2-082, 2-083, 2-084, 2-085, 2-086, 2-087, 2-088, 2-089, 2-090, 2-091, 2-092, 2-093, 2-094, 2-095, 2-096, 2-097, 2-098, 2-099, 2-100, 2-101, 2-102, 2-103, 2-104, 2-105, 2-106, 2-107, 2-108, 2-109, 2-111, 2-112, 2-113, 2-114, 2-116, 2-117, 2-118, 2-119, 2-120, 2-121, 2-122, 2-123, 2-124, 2-125, 2-126, 2-127, 2-128, 2-129, 2-131, 2-132, 2-133, 2-134, 2-135, 2-136, 2-137, 2-138, 2-139, 2-140, 2-141, 2-142, 2-143, 3-001, 3-002, 3-003, 3-004, 3-005, 3-006, 3-007, 3-008, 3-009, 3-010, 3-011, 3-012, 3-013, 3-014, 3-015, 3-016, 3-017, 3-018, 3-019, 3-020, 3-021, 3-022, 3-023, 3-024, 3-025, 3-026, 3-027, 3-032, 3-033, 3-035, 3-044, 3-046, 3-050, 3-077, 3-080, 3-083, 3-087, 3-088, 3-092, 3-096, 3-098, 3-101, 3-102, 3-103 and 3-104

# SCHEDULE 16

Articles 8 and 34

## LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Authorised works</i>
County of West Yorkshire, District of Kirklees	1-002, 1-005, 1-009 and 1-010	Access for construction	Work Nos. 1A and 1B
	1-003, 1-004, 1-007 and 1-008	Working site and access for construction	Work Nos. 1A and 1B
	2-001, 2-012, 2-020, 2-025, 2-026, 2-027, 2-028, 2-029, 2-031, 2-032, 2-033 and 2- 035	Working site and access for construction	Work Nos. 1A and 1B
	2-014, 2-015, 2-016, 2-017 and 2-018	Access for construction	Work Nos. 1A and 1B
	2-110, 2-112, 2-115, 2-122, 2-124, 2-125, 2-126, 2-127, 2-128, 2-130, 2-131, 2-132, 2-133, 2-134, 2-136, 2-137, 2-138 and 2- 139	Working site for construction	Work Nos. 1A and 1B
	3-041, 3-043, 3-044, 3-045, 3-046, 3-047, 3-049, 3-061, 3-062, 3-066, 3-071, 3-072, 3-073, 3-075, 3-076, 3-077, 3-080, 3-081, 3-085, 3-088, 3-089 and 3-109	Utility diversion works	Work Nos. 1A, 1B and 1C
	3-055, 3-074, 3-112, 3-123, 3-124, 3-127, 3-129, 3-130, 3-131, 3-132, 3-133, 3-135, 3-137, 3-138, 3-139, 3-140, 3-141, 3-142, 3-143 and 3-153	Working site and access for construction	Work No. 1C
	3-069, 3-070, 3-078, 3-079, 3-108, 3-146 and 3-154	Access for construction	Work No. 1C

3-082 and 3-115	Working site for construction and utility diversion works	Work No. 1C
3-083	Utility diversion works	Work No. 1C
3-086, 3-092, 3-106 and 3-107	Working site for construction and utility diversion works	Work Nos. 1A, 1B and 1C
3-091, 3-091a, 3-091b, 3-091c, 3-111, 3-147, 3-160, 3-161 and 3-162	Working site for construction	Work No. 1C
4-001, 4-002, 4-003, 4-005, 4-010, 4-011, 4-012, 4-015, 4-020, 4-027, 4-028, 4-034, 4-035, 4-054, 4-064, 4-069, 4-073, 4-081, 4-090, 4-093 and 4-099	Working site and access for construction	Work No. 1C
4-004, 4-006, 4-007, 4-008, 4-009, 4-017, 4-019, 4-025, 4-026 and 4-033	Working site and access for construction and temporary protective works to buildings	Work No. 1C
4-039, 4-041, 4-043, 4-046, 4-049, 4-050, 4-055, 4-056, 4-060, 4-061, 4-063, 4-070, 4-072, 4-074, 4-076, 4-077, 4-078, 4-084, 4-086, 4-088, 4-089, 4-094, 4-097, 4-101, 4-109, 4-111 and 4-112	Working site for construction	Work No. 1C
4-053	Access for construction	Work No. 1C
5-001, 5-002, 5-002a, 5-003a, 5-003b, 5-008, 5-008a, 5-008b, 5-014, 5-017 and 5-042	Working site for construction	Work No. 1C
5-005, 5-006a, 5-007, 5-010, 5-015, 5-016, 5-018, 5-021, 5-024, 5-025, 5-026, 5-027, 5-030, 5-031, 5-032, 5-033, 5-034, 5-036, 5-038, 5-039, 5-040,	Working site and access for construction	Work No. 1C

5-041, 5-044, 5-046,  
5-047, 5-048. 5-051,  
5-052, 5-053, 5-054,  
5-055, 5-056, 5-059,  
5-060, 5-061, 5-063,  
5-065, 5-066, 5-067,  
5-068, 5-071, 5-072,  
5-073, 5-076, 5-077,  
5-078, 5-081, 5-084,  
5-090, 5-091, 5-092,  
5-093 and 5-094

6-003	Working site and access for construction	Work No. 2
6-008	Working site and access for construction	Work No. 2B
6-014, 6-019, 6-020 and 6-024	Working site and access for construction	Work Nos. 2, 2A and 2B
6-015 and 6-016	Working site and access for construction	Work Nos. 2 and 5
6-017	Working site and access for construction	Work Nos. 2A and 2B
6-018, 6-033, 6-050 and 6-054	Access for construction	Work No. 2
7-005, 7-012, 7-014, 7-016, 7-019, 7-020, and 7-023	Working site and access for construction	Work Nos. 2 and 2C
7-006, 7-007, 7-008, 7-009, 7-010 and 7- 011,	Access for construction	Work Nos. 2 and 2C
7-013, 7-024, 7-025 and 7-027	Working site and access for construction	Work No. 2
7-021	Access for construction	Work No. 2
7-028, 7-029, 7-030, 7-031, 7-032, 7-047, 7-049 and 7-050	Working site for construction	Work Nos. 2 and 3
7-043, 7-044, 7-045, 7-046 and 7-048	Working site and access for construction	Work Nos. 2 and 3

7-051, 7-052 and 7-053	Access for construction	Work Nos. 2 and 3
8-001, 8-002, 8-008, 8-009	Working site and access for construction	Work Nos. 2 and 3
8-006	Working site and access for construction	Work Nos. 2, 3 and 4
8-007, 8-010	Access for construction	Work Nos. 2 and 3
8-015, 8-016, 8-018, 8-022, 8-024	Working site and access for construction	Work Nos. 2 and 4
8-017, 8-019, 8-020, 8-021, 8-027	Access for construction	Work Nos. 2 and 4
8-025	Working site and access for construction	Work Nos. 2, 4 and 5
8-031	Working site and access for construction	Work Nos. 5 and 6
9-001, 9-005, 9-006 and 9-077,	Working site and access for construction	Work Nos. 5 and 6
9-007, 9-007a and 9-011	Working site and access for construction and utility diversion works	Work No. 6
9-020, 9-021 and 9-031	Working site for construction	Work Nos. 5 and 6
9-056 and 9-079	Working site and access for construction and vehicle restraint barrier works	Work Nos. 5 and 6
9-061, 9-063 and 9-066	Working site for construction	Work No. 5
9-080, 9-128, 9-130, 9-131a, 9-132, 9-133 and 9-135	Working site and access for construction	Work No. 5
9-081, 9-082, 9-093 and 9-094	Working site and access for construction	Work Nos. 5 and 7

9-083, 9-084, 9-085, 9-086, 9-087, 9-088, 9-090 and 9-127	Working site for construction	Work Nos. 5 and 7
9-097	Working site for construction	Work No. 7
10-001 and 10-002	Working site and access for construction and vehicle restraint barrier works	Work No. 5
10-003, 10-004, 10- 006, 10-007, 10-010, 10-015, 10-016, 10- 044 and 10-046	Working site and access for construction	Work No. 5
10-009 and 10-012	Access for construction	Work No. 5
10-024, 10-027, 10- 030, 10-032, 10-033, 10-034, 10-043 and 10-045	Working site and access for construction	Work Nos. 5 and 8
10-042	Working site and access for construction and creation of a new public right of way (cycleway)	Work Nos. 5 and 8
10-047 and 10-049	Working site and access for construction and vehicle restraint barrier works	Work No. 5
10-053	Working site and access for construction	Work Nos. 5, 8 and 9A
10-061	Working site and access for construction	Work Nos. 5 and 9A
10-062	Access for construction	Work Nos. 5, 8 and 9A
11-002, 11-007 , 11- 008, 11-010, 11-011, 11-014, 11-057, 11- 058, 11-060, 11-067, 11-074, 11-075 and 11-078	Working site and access for construction	Work No. 9A

11-015, 11-017, 11-018, 11-020 and 11-023	Working site and access for construction and utility diversion works	Work No. 10
11-019, 11-022, 11-033 and 11-040	Working site and access for construction	Work Nos. 9A and 10
11-025	Working site and access for construction and utility diversion works	Work Nos. 9A and 10
11-032, 11-055, 11-070 and 11-071	Access for construction	Work No. 9A
11-034, 11-035 and 11-039	Access for construction and environmental mitigation works	Work No. 9A
11-048, 11-056, 11-063, 11-065, 11-068, 11-072, 11-076, 11-077, 11-079, 11-080, 11-081, 11-082, 11-083, 11-084, 11-085, 11-086, 11-087, 11-088, 11-089 and 11-091	Working site and access for construction and utility diversion works	Work No. 9A
11-090 and 11-092	Access for construction	Work Nos. 9A, 9B, 9C and 11
12-001, 12-007, 12-008, 12-009 and 12-010	Working site and access for construction	Work Nos. 9A, 9B and 9C
12-013, 12-014 and 12-061	Working site and access for construction	Work Nos. 9A and 9B
12-017 and 12-019	Working site and access for construction	Work Nos. 9A, 9B, 9C and 11
12-028, 12-037, 12-052, 12-058 and 12-059	Working site and access for construction	Work Nos. 9B, 9C and 11
12-031	Working site and access for construction and temporary highway works	Work Nos. 9B, 9C and 11

12-032, 12-034, 12-055 and 12-057	Access for construction	Work Nos. 9B, 9C and 11
12-045, 12-053 and 12-056	Access for construction	Work No. 9C
12-049	Access for construction and highway alteration works	Work Nos. 9B, 9C and 11
12-054	Working site and access for construction	Work No. 9C
12-065 and 13-001	Environmental mitigation works	Work Nos. 9B and 9C
13-002, 13-011	Working site and access for construction	Work Nos. 9B, 9C, 11A and 11B
13-013	Working site and access for construction	Work No. 9C
13-015, 13-049 and 13-071	Working site and access for construction	Work No. 12
13-049	Working site and access for construction	Work Nos. 9A, 9B, 9C and 11
13-057	Working site and access for construction	Work Nos. 9B, 9C, 11A, 11B and 13
13-085, 13-086, 13-087, 13-088 and 13-091	Working site and access for construction	Work No. 9D
14-001 and 14-004	Working site and access for construction	Work Nos. 9D and 14
15-001, 15-004, 15-005, 15-006, 15-011, 15-014, 15-015, 15-022, 15-023, 15-024, 15-025, 15-027, 15-029, 15-030, 15-031, 15-032, 15-033, 15-035, 15-036, 15-037, 15-038, 15-039, 15-041, 15-043 and 15-044	Working site and access for construction	Work No. 14

15-007, 15-018, 15-019 and 15-020	Working site and access for construction and temporary highway works	Work No. 14
15-021	Access for construction	Work No. 14
16-001, 16-002, 16-005, 16-006, 16-007, 16-008, 16-009, 16-010, 16-011, 16-012, 16-014, 16-016, 16-020, 16-021, 16-022, 16-025, 16-026, 16-027, 16-028, 16-029, 16-030, 16-031, 16-032, 16-033, 16-036, 16-037, 16-038, 16-039, 16-041, 16-053, 16-065, 16-066 and 16-068	Working site and access for construction	Work No. 14
16-013	Access for construction	Work No. 14
16-017	Working site and access for construction and temporary highway works	Work No. 14
17-001, 17-006, 17-009 and 17-010	Working site and access for construction	Work No. 14
17-005	Working site and access for construction and environmental mitigation works	Work No. 14
18-003, 18-004, 18-005, 18-006, 18-008, 18-009, 18-010, 18-011, 18-012, 18-015, 18-016, 18-017, 18-018, 18-020, 18-022, 18-025, 18-026, 18-028, 18-031, 18-032 and 18-038	Working site and access for construction	Work No. 14
18-030, 18-033 and 18-037	Access for construction	Work No. 14

19-004, 19-005, 19-006, 19-007, 19-010, 19-011, 19-014, 19-021 and 19-023	Working site and access for construction	Work No. 15
19-028, 19-029, 19-032, 19-035, 19-038, 19-040 and 19-041	Working site and access for construction and utility diversion works	Work No. 15
19-042	Working site and access for construction	Work Nos. 17, 17A and 17B
20-001, 20-005, 20-010, 20-012, 20-015, 20-017 and 20-018	Access for construction	Work Nos. 15 and 16
20-002, 20-003 and 20-004	Working site and access for construction	Work Nos. 15 and 16
20-006, 20-007, 20-008, 20-009, 20-011 and 20-014	Working site and access for construction and utility diversion works	Work Nos. 15 and 16
21-001, 21-002, 21-003 and 21-004	Working site and access for construction and utility diversion works	Work No. 15
21-008, 21-014, 21-015 and 21-029	Working site and access for construction	Work No. 17
21-010, 21-011, 21-032 and 21-042	Working site and access for construction and highway alteration works	Work No. 17
21-033	Working site and access for construction	Work Nos. 17 and 17A
21-040	Working site and access for construction and highway alteration works	Work Nos. 15, 16, 17, 17B and 18
21-045, 21-046, 21-052, 21-057 and 21-059	Working site and access for construction and highway alteration works	Work Nos. 15 and 17

21-051 and 21-055	Working site and access for construction and highway alteration works	Work Nos. 15, 17 and 17B
21-058	Working site and access for construction	Work Nos. 15, 16 and 18
21-062	Working site and access for construction	Work Nos. 15 and 16
21-065	Working site for construction	Work No. 17A
21-069 and 21-072	Working site and access for construction and utility diversion works	Work Nos. 15, 16 and 18
21-074, 21-075, 21-076 and 21-081	Working site and access for construction	Work No. 18
21-078	Access for construction	Work Nos. 15, 16, 17, 17A and 18
21-087	Access for construction	Work Nos. 15 and 16
21-088, 21-090, 21-104 and 21-106	Working site and access for construction	Work No. 15
21-097, 21-098, 21-099 and 21-100	Working site and access for construction and utility diversion works	Work No. 15
21-105 and 21-111	Working site and access for construction and temporary utility diversion works	Work Nos. 15 and 16
21-116 and 21-119	Working site and access for construction	Work No. 16
22-001, 22-003, 22-006, 22-007, 22-036, 22-039, 22-040, 22-042 and 22-043	Access for construction	Work Nos. 15 and 16
22-004	Access for construction	Work Nos. 15, 16, 17, 17A and 18

22-005, 22-008, 22-012, 22-014, 22-027, 22-028, 22-029, 22-031, 22-033 and 22-034	Working site and access for construction and temporary utility diversion works	Work Nos. 15 and 16
22-009, 22-010, 22-011, 22-013, 22-015, 22-016, 22-017, 22-018, 22-019, 22-021, 22-022, 22-023, 22-024, 22-025, 22-026, 22-030 and 22-032	Oversailing for temporary diversion of electric cables	Work Nos. 15 and 16
22-037 and 22-038	Working site and access for construction	Work Nos. 15 and 16
23-001, 23-002, 23-006, 23-009, 23-011, 23-014, 23-017, 23-023, 23-027, 23-028, 23-030, 23-032, 23-033, 23-040, 23-043, 23-044, 23-047, 23-050, 23-051, 23-054, 23-064, 23-066, 23-067, 23-072, 23-074, 23-076, 23-077, 23-078, 23-079, 23-080, 23-081 and 23-084	Working site and access for construction	Work No. 15
23-003	Working site and access for construction	Work Nos. 15 and 16
23-004	Working site and access for construction and utility diversion works	Work No. 15
23-012, 23-021 and 23-037	Access for construction	Work No. 15
23-049, 23-052, 23-058 and 23-068a	Working site and access for construction	Work Nos. 15 and 21
23-055	Working site and access for construction	Work Nos. 15, 16 and 21
24-006, 24-008, 24-009, 24-010 and 24-010a	Working site and access for construction	Work Nos. 15, 16 and 21

24-011	Working site and access for construction and temporary highway works	Work Nos. 15, 16 and 21
25-001, 25-005, 25-006, 25-010, 25-015, 25-027, 25-029, 25-031, 25-035	Working site and access for construction	Work Nos. 19 and 20
25-002	Working site and access for construction and highway alteration works	Work No. 19
25-004, 25-051, 25-053, 25-064, 25-065, 25-068, 25-070, 25-073, 25-074, 25-075, 25-077, 25-079, 25-081, 25-083, 25-084, 25-085, 25-086, 25-091, 25-091a, 25-091b, and 25-091c	Working site and access for construction	Work No. 15
25-008, 25-044, 25-045 and 25-046	Working site and access for construction and highway alteration works	Work No. 20
25-013	Working site and access for construction	Work No. 20
25-017, 25-023 and 25-033	Working site and access for construction and highway alteration works	Work Nos. 19 and 20
25-049	Working site and access for construction and highway improvement works	Work No. 20
25-056	Working site and access for construction and highway improvement works	Work No. 15
25-059	Access for construction	Work No. 15

## SCHEDULE 17

Article 36

### TEMPORARY USE OF LAND FOR ACCESS

(1) <i>Area</i>	(2) <i>Number of land shown on the deposited plans</i>
County of West Yorkshire, District of Kirklees	9-124, 9-125, 9-126, 9-136, 11-009, 11-012, 21-063, 21-070 and 22-041

## SCHEDULE 18

Article 52

### PROVISIONS RELATING TO STATUTORY UNDERTAKERS ETC.

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

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

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

(3) Where any apparatus of public utility undertakers or of a public communications provider is removed in pursuance of a notice or order given or made under section 271, 272 or 273 of the 1990 Act, as applied by sub-paragraph (1), any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from Network Rail 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.

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

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

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

(5) The provisions of the 1990 Act mentioned in sub-paragraph (1), as applied by that paragraph, do not have effect in relation to apparatus as respects which sub-paragraph (2) or Part 3 of the 1991 Act applies.

(6) Nothing in this paragraph affects the provisions of any enactment or agreement regulating the relations between Network Rail and an undertaker in respect of any apparatus laid or erected in land belonging to Network Rail on the date on which the Order is made.

(7) In this paragraph—

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- (a) Sections 272 to 274 were amended by paragraph 103(1) and (2) of Schedule 17 to the Communications Act 2003 (c.21).
  - (b) Section 279(3) was amended by paragraphs 103(1) and (2), and section 280 was amended by paragraph 104, of Schedule 17 to the Communications Act 2003. Sections 280 and 282 were amended by S.I. 2009/1307.

“public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003<sup>(a)</sup>; and

“public utility undertaker” has the same meaning as in the 1980 Act<sup>(b)</sup>.

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

2.—(1) Where a street is stopped up under article 14 (stopping up of streets) any statutory utility whose apparatus is under, in, upon, along or across the street has the same powers and rights in respect of that apparatus, subject to the provisions of this paragraph, as if this Order had not been made.

(2) Where a street is stopped up under article 14 any statutory utility whose apparatus is under, in, upon, over, along or across the street may, and if reasonably requested to do so by Network Rail must—

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

(3) Subject to the following provisions of this paragraph, Network Rail must pay to any statutory utility an amount equal to the cost reasonably incurred by the 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 sub-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 Network Rail, 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 sub-paragraph (3) is to be reduced by the amount of that excess.

(5) For the purposes of sub-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 sub-paragraph would be payable to a statutory utility in respect of works by virtue of sub-paragraph (3) (and having regard, where relevant, to sub-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 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) Sub-paragraphs (3) to (6) do not apply where the authorised works constitute major transport works for the purposes of Part 3 (street works in England and Wales) of the 1991 Act, but instead—

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<sup>(a)</sup> 2003 c.21.

<sup>(b)</sup> The definition of “public utility undertakers” was amended by section 190(3) of, and part 1 of Schedule 27 to, the Water Act 1989 (c.15) and section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c.29).

- (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 Network Rail and the statutory utility in such proportions as may be prescribed by any such regulations.

(8) Nothing in this paragraph affects the provisions of any enactment or agreement regulating the relations between Network Rail and a statutory utility in respect of any apparatus laid or erected in land belonging to Network Rail on the date on which the Order is made.

(9) In this paragraph—

- (a) “apparatus” has the same meaning as in Part 3 of the 1991 Act;
- (b) “relocation works” means work executed, or apparatus provided, under sub-paragraph (2); and
- (c) “statutory utility” means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in paragraph 1(7).

#### *Railway and navigation undertakings*

3.—(1) Subject to the following provisions of this paragraph, the powers under article 13 (power to execute street works) to break up or open a street are not exercisable where the street, not being a highway maintainable at public expense (within the meaning of the 1980 Act) is under the control or management of, or is maintainable by, railway undertakers or a navigation authority except with the consent of the undertakers or authority.

(2) Sub-paragraph (1) does not apply to the carrying out under this Order of emergency works, within the meaning of Part 3 of the 1991 Act.

(3) A consent given for the purpose of sub-paragraph (1) may be made subject to such reasonable conditions as may be specified by the person giving it but must not be unreasonably withheld.

(4) In this paragraph “navigation authority” means any person who has a duty or power under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock.

(5) Nothing in this paragraph affects the provision of any enactment or agreement regulating the relations between Network Rail and a railway undertaker or a navigation authority in respect of any street to which sub-paragraph (1) applies which have effect on the date on which this Order is made.

## SCHEDULE 19

Article 53

### PROTECTIVE PROVISIONS

#### PART 1

#### FOR THE PROTECTION OF SPECIFIED UNDERTAKERS

1. For the protection of the undertakers referred to in this Part of this Schedule the following provisions have effect unless otherwise agreed in writing between Network Rail and the undertakers concerned.

2. The provisions of paragraph 1 of Schedule 18 (provisions relating to statutory undertakers etc.), in so far as they relate to the removal of apparatus, do not apply in relation to apparatus to which this Part of this Schedule applies.

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between Network Rail and the undertaker are regulated by the provisions of Part 3 of the 1991 Act.

4. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable the undertaker in question to fulfil its statutory functions in a manner not 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 undertaker;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply;
- (c) in the case of a water undertaker any mains, pipes or other apparatus belonging to, or maintained by, the undertaker for the purposes of water supply; and
- (d) in the case of a sewerage undertaker—
  - (i) any drain or works vested in the undertaker under the Water Industry Act 1991; and
  - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 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 any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus,

and includes any 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; and

“undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;
- (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986(b);
- (c) a water undertaker within the meaning of the Water Industry Act 1991; and
- (d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,

for the area of the authorised works, and in relation to any apparatus, means the undertaker to whom it belongs or by whom it is maintained.

**5.** Without affecting any provision in this Order or anything shown on the deposited plans Network Rail must not acquire any apparatus other than by agreement.

**6.—(1)** If, in the exercise of the powers conferred by this Order, Network Rail acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of an 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 undertaker in question.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, Network Rail requires the removal of any apparatus placed in that land, it must give to the undertaker in question 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.

(3) Any alternative apparatus to be constructed in land of Network Rail under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the undertaker in question and Network Rail within 21 days of the service of a notice under subparagraph (2) or in default of agreement settled by arbitration in accordance with article 57 (arbitration)

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(a) 1989 c. 29.  
(b) 1986 c. 44.

(4) In any case where alternative apparatus is to be provided or constructed under sub-paragraph (2), or if in consequence of the exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus, Network Rail must, subject to sub-paragraph (5), afford to the undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of Network Rail and for the subsequent maintenance of that apparatus.

(5) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of Network Rail, or Network Rail is unable to afford such facilities and rights as are mentioned in sub-paragraph (4) in the land in which the alternative apparatus or part of such apparatus is to be constructed, the undertaker in question must, on receipt of a written notice to that effect from Network Rail, 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.

(6) The undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 57 (arbitration), and after the grant to the undertaker of any such facilities and rights as are referred to in sub-paragraph (4) or (5), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by Network Rail to be removed under the provisions of this Part of this Schedule.

(7) Without affecting anything in sub-paragraph (6), if Network Rail gives notice in writing to the undertaker in question that it desires itself to execute any work to which this sub-paragraph applies, that work, instead of being executed by the undertaker, must be executed by Network Rail without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the undertaker.

(8) Sub-paragraph (7) applies to any part of any work necessary in connection with construction of alternative apparatus, or the removal of apparatus required to be removed, as will take place in any land of Network Rail.

(9) Nothing in sub-paragraph (7) authorises Network Rail to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

**7.—**(1) Where, in accordance with the provisions of this Part of this Schedule, Network Rail affords to an undertaker facilities and rights for the construction and maintenance in land of Network Rail 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 Network Rail and the undertaker in question or in default of agreement settled by arbitration in accordance with article 57 (arbitration).

(2) In settling those terms and conditions in respect of the alternative apparatus to be constructed in or along any railway of Network Rail, the arbitrator must—

- (a) give effect to all reasonable requirements of Network Rail for ensuring the safety and efficient operation of the railway and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of Network Rail or the traffic on the railway; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus constructed in or along the railway for which the alternative apparatus is to be substituted.

(3) If the facilities and rights to be afforded by Network Rail 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 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 Network Rail to that undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

**8.—**(1) Not less than 28 days before starting the execution of any of the authorised works that are near to, or will or may affect, any apparatus the removal of which has not been required by Network

Rail under paragraph 6(2), Network Rail must submit to the undertaker in question a plan, section and description of the works to be executed.

(2) Those works are to be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and an officer of the undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by the undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan, section and description are submitted to it under sub-paragraph (1).

(4) If an undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by Network Rail, reasonably requires the removal of any apparatus and gives written notice to Network Rail of that requirement, paragraphs 1 to 7 apply as if the removal of the apparatus had been required by Network Rail under paragraph 6(2).

(5) Nothing in this paragraph precludes Network Rail 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, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) Network Rail is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the undertaker in question notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

**9.** If in consequence of the exercise of the powers conferred by this Order the access to any apparatus is materially obstructed Network Rail must provide such alternative means of access to such apparatus as will enable the undertaker to maintain or use the apparatus no less effectively than was possible before such obstruction.

**10.**—(1) Subject to the following provisions of this paragraph, Network Rail must repay to an undertaker the reasonable expenses incurred by that 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 6(2).

(2) The value of any apparatus removed under the provisions of this Part of this Schedule is to be deducted from any sum payable under sub-paragraph (1), 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,

and the placing of apparatus of that type or capacity or those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by Network Rail or, in default of agreement, is not determined by arbitration in accordance with article 57 (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 undertaker in question by virtue of sub-paragraph (1), is to 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 must not be treated as 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 must 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 an undertaker in respect of works by virtue of sub-paragraph (1) 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 undertaker 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.

(6) Any dispute as to whether a financial benefit is conferred in accordance with sub-paragraph (5) or as to the amount of such financial benefit which cannot be agreed is to be determined in accordance with article 57 (arbitration).

**11.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any of the works referred to in paragraph 6(2), any damage is caused to any 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 an undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any undertaker, Network Rail must—

- (a) bear and pay the cost reasonably incurred by that undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that 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) Nothing in sub-paragraph (1) imposes any liability on Network Rail with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an undertaker, its officers, servants, contractors or agents.

(3) An undertaker must give Network Rail reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of Network Rail, which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

**12.** Nothing in this Part of this Schedule affects the provision of any enactment or agreement regulating the relations between Network Rail and an undertaker in respect of any apparatus laid or erected in land belonging to Network Rail on the date on which this Order is made.

## PART 2

### FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

**13.**—(1) For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between Network Rail and the operator, have effect.

(2) In this Part of this Schedule—

“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<sup>(a)</sup>;

“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 of the 2003 Act; and

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<sup>(a)</sup> See section 106.

(b) an electronic communications network which the Secretary of State 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) of that code; and

“operator” means the operator of an electronic communications code network.

**14.**—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised works or their 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,

Network Rail must bear and pay the cost reasonably incurred by an operator in making good such damage or restoring the supply and must—

(a) make reasonable compensation to that operator for loss sustained by it; and

(b) indemnify that operator against claims, demands, proceedings, costs, damages and expenses which may be made or taken against, or recovered from, or incurred by, that operator by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on Network Rail 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 Network Rail 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 Network Rail which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between Network Rail and the operator under this Schedule must be referred to and settled by arbitration under article 57 (arbitration).

**15.** This Part of this Schedule does not apply to—

(a) any apparatus in respect of which the relations between Network Rail and an operator are regulated by the provisions of Part 3 of the 1991 Act; or

(b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised works.

**16.** Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between Network Rail and an operator in respect of any apparatus laid or erected in land belonging to Network Rail on the date on which this Order is made.

## PART 3

### FOR THE PROTECTION OF THE ENVIRONMENT AGENCY

**17.**—(1) The following provisions of this Part of this Schedule apply for the protection of the Agency unless otherwise agreed in writing between Network Rail and the Agency.

(2) In this Part of this Schedule—

“the Agency” means the Environment Agency;

“construction” includes execution, placing, altering, replacing, relaying and removal and

“construct” and “constructed” are to be construed accordingly;

“drainage work” means any main river and includes any land which provides or is expected to provide flood storage capacity for any main river and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence or tidal monitoring;

“the fishery” means any waters containing fish and fish in, or migrating to or from such waters and the spawn, spawning grounds, habitat or food of such fish;

“main river” has the same meaning as in section 221 (general interpretation) of the Water Resources Act 1991(a);

“plans” includes sections, drawings, specifications and method statements; and

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within 16 metres of a drainage work or is otherwise likely to—

- (a) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;
- (b) affect the flow, purity or quality of water in any watercourse or other surface waters or ground water;
- (c) cause obstruction to the free passage of fish or damage to any fishery;
- (d) affect the conservation, distribution or use of water resources; or
- (e) affect the conservation value of any main river and habitats in its immediate vicinity.

**18.**—(1) Before beginning to construct any specified work, Network Rail must submit to the Agency plans of the specified work and such further particulars available to it as the Agency may within 28 days of the receipt of the plans reasonably request.

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the Agency, or determined under paragraph 29.

(3) Any approval of the Agency required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) is deemed to have been given if it is neither given nor refused within 2 months of the submission of the plans for approval or where further particulars are submitted under sub-paragraph (1) within 2 months of the submission of those particulars, and, in the case of a refusal, accompanied by a statement of the grounds of refusal; and
- (c) may be given subject to such reasonable requirements as the Agency may make for the protection of any drainage work or the fishery or for the protection of water resources, or for the prevention of flooding or pollution or in the discharge of its environmental duties.

(4) The Agency must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b).

**19.** Without limitation on the scope of paragraph 18, the requirements which the Agency may make under that paragraph include conditions requiring Network Rail at its own expense to construct such protective works, whether temporary or permanent, before or during the construction of the specified works (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

- (a) to safeguard any drainage work against damage; or
- (b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased,

by reason of any specified work.

**20.**—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Agency under paragraph 19, must be constructed—

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(a) 1991 c. 57.

- (a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part of this Schedule; and
- (b) to the reasonable satisfaction of the Agency,

and an officer of the Agency is entitled to watch and inspect the construction of such works.

(2) Network Rail must give to the Agency not less than 14 days' notice in writing of its intention to commence construction of any specified work and notice in writing of its completion not later than 7 days after the date on which it is completed.

(3) If any part of a specified work or any protective work required by the Agency is constructed otherwise than in accordance with the requirements of this Part of this Schedule, the Agency may by notice in writing require Network Rail at Network Rail's own expense to comply with the requirements of this Part of this Schedule or (if Network Rail so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the Agency reasonably requires.

(4) Subject to sub-paragraph (5) and paragraph 24, if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (3) is served upon Network Rail, it has failed to begin taking steps to comply with the requirements of the notice and subsequently to make reasonably expeditious progress towards their implementation, the Agency may execute the works specified in the notice and any expenditure incurred by it in so doing is recoverable from Network Rail.

(5) In the event of any dispute as to whether sub-paragraph (3) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the Agency must not except in emergency exercise the powers conferred by sub-paragraph (4) until the dispute has been finally determined in accordance with paragraph 29.

**21.—**(1) Subject to sub-paragraph (5) Network Rail must from the commencement of the construction of the specified works maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation and on land held by Network Rail for the purposes of or in connection with the specified works, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any such drainage work which Network Rail is liable to maintain is not maintained to the reasonable satisfaction of the Agency, the Agency may by notice in writing require Network Rail to repair and restore the work, or any part of such work, or (if Network Rail so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed), to remove the work and restore the site to its former condition, to such extent and within such limits as the Agency reasonably requires.

(3) Subject to paragraph 24, if, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on Network Rail, Network Rail has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may do what is necessary for such compliance and may recover any expenditure incurred by it in so doing from Network Rail.

(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the Agency must not except in a case of an emergency exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 29.

(5) This paragraph does not apply to—

- (a) drainage works which are vested in the Agency, or which the Agency or another person is liable to maintain and is not precluded by the powers of the Order from doing so; or
- (b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provision of this Part of this Schedule.

**22.** Subject to paragraph 24, if by reason of the construction of any specified work or of the failure of any such work the efficiency of any drainage work for flood defence purposes is impaired, or that drainage work is otherwise damaged, such impairment or damage must be made good by Network Rail to the reasonable satisfaction of the Agency and if Network Rail fails to do so, the Agency may make good the same and recover from Network Rail the expense reasonably incurred by it in so doing.

**23.—**(1) Network Rail must take all such measures as may be reasonably practicable to prevent any interruption of the free passage of fish in the fishery during the construction of any specified work.

(2) If by reason of—

- (a) the construction of any specified work; or
- (b) the failure of any such work,

damage to the fishery is caused, or the Agency has reason to expect that such damage may be caused, the Agency may serve notice on Network Rail requiring it to take such steps as may be reasonably practicable to make good the damage, or, as the case may be, to protect the fishery against such damage.

(3) Subject to paragraph 24, if within such time as may be reasonably practicable for that purpose after the receipt of written notice from the Agency of any damage or expected damage to a fishery, Network Rail fails to take such steps as are described in sub-paragraph (2), the Agency may take those steps and may recover from Network Rail the expense reasonably incurred by it in doing so.

(4) Subject to paragraph 24, in any case where immediate action by the Agency is reasonably required in order to secure that the risk of damage to the fishery is avoided or reduced, the Agency may take such steps as are reasonable for the purpose, and may recover from Network Rail the reasonable cost of so doing provided that notice specifying those steps is served on Network Rail as soon as reasonably practicable after the Agency has taken, or commenced to take, the steps specified in the notice.

**24.** Nothing in paragraphs 20(4), 21(3), 22, 23(3) and 23(4) authorises the Agency to execute works on or affecting an operational railway forming part of Network Rail's network without the prior consent in writing of Network Rail, such consent not to be unreasonably withheld or delayed.

**25.** If by reason of the construction of any specified work the Agency's access to flood defences or equipment maintained by the Agency for flood defence purposes is materially obstructed, Network Rail must as soon as reasonably practicable provide such alternative means of access as will (so far as reasonably practicable) allow the Agency to maintain the flood defence or use the equipment no less effectively than was possible before the obstruction.

**26.** Network Rail must indemnify the Agency in respect of all costs, charges and expenses which the Agency may reasonably incur or have to pay or which it may sustain—

- (a) in the examination or approval of plans under this Part of this Schedule; and
- (b) in the inspection of the construction of the specified works or any protective works required by the Agency under this Part of this Schedule.

**27.—**(1) Without affecting the other provisions of this Part of this Schedule, Network Rail must indemnify the Agency from all claims, demands, proceedings, costs, damages, expenses or loss, which may be made or taken against, recovered from, or incurred by, the Agency by reason of—

- (a) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence;
- (b) any damage to the fishery;
- (c) any raising or lowering of the water table in land adjoining the authorised works or any sewers, drains and watercourses;
- (d) any flooding or increased flooding of any such lands; or
- (e) inadequate water quality in any watercourse or other surface waters or in any groundwater,

which is caused by the construction of any of the specified works or any act or omission of Network Rail, its contractors, agents or employees whilst engaged upon the work.

(2) The Agency must give to Network Rail reasonable notice of any such claim or demand and no settlement or compromise may be made without the agreement of Network Rail which agreement must not be unreasonably withheld or delayed.

**28.** The fact that any work or thing has been executed or done by Network Rail in accordance with a plan approved or deemed to be approved by the Agency, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve Network Rail from any liability under the provisions of this Part of this Schedule.

**29.** Any dispute arising between Network Rail and the Agency under this Part of this Schedule, if the parties agree, is to be determined by arbitration under article 57 (arbitration), but otherwise is to be determined by the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State for Transport acting jointly on a reference to them by Network Rail or the Agency, after notice in writing by one to the other.

## PART 4

### FOR THE PROTECTION OF LEAD LOCAL FLOOD AUTHORITIES

**30.**—(1) The following provisions of this Part of this Schedule apply for the protection of the lead local flood authority unless otherwise agreed in writing between Network Rail and the lead local flood authority.

(2) In this Part of this Schedule—

“construction” includes execution, placing, altering, replacing, relaying and removal and “construct” and “constructed” are to be construed accordingly;

“drainage work” means any watercourse and includes any land which provides or is expected to provide flood storage capacity for any ordinary watercourse and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage or flood defence;

“lead local flood authority” means in relation to an ordinary watercourse the lead local flood authority concerned within the meaning of section 23 of the Land Drainage Act 1991(a);

“ordinary watercourse” has the meaning given by the Land Drainage Act 1991;

“plans” includes sections, drawings, specifications and method statements; and

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within 16 metres of a drainage work or is otherwise likely to affect any drainage work.

**31.**—(1) Before beginning to construct any specified work, Network Rail must submit to the lead local flood authority plans of the specified work and such further particulars available to it as the lead local flood authority may within 28 days of the submission of the plans reasonably require.

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the lead local flood authority, or determined under paragraph 38.

(3) Any approval of the lead local flood authority required under this paragraph—

(a) must not be unreasonably withheld or delayed;

(b) is deemed to have been given if it is neither given nor refused within 2 months of the submission of the plans for approval and, in the case of a refusal, accompanied by a statement of the grounds of refusal; and

(c) may be given subject to such reasonable requirements as the lead local flood authority may make for the protection of any drainage work.

(4) The lead local flood authority must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b).

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(a) 1991 c. 59. Section 23 was amended by section 120 of, and paragraph 192 of Schedule 22 to, the Environment Act 1995 (c. 25), paragraphs 25 and 32 of Schedule 2 to the Flood and Water Management Act 2010 (c. 29) and S.I. 2013/755.

**32.** Without limitation on the scope of paragraph 31, the requirements which the lead local flood authority may make under that paragraph include conditions requiring Network Rail at its own expense to construct such protective works, whether temporary or permanent, during the construction of the specified works (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

- (a) to safeguard any drainage work against damage; or
- (b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased,

by reason of any specified work.

**33.**—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the lead local flood authority under paragraph 32, must be constructed—

- (a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part of this Schedule; and
- (b) to the reasonable satisfaction of the lead local flood authority,

and an officer of the lead local flood authority is entitled to watch and inspect the construction of such works.

(2) Network Rail must give to the lead local flood authority not less than 14 days' notice in writing of its intention to commence construction of any specified work and notice in writing of its completion not later than 7 days after the date on which it is brought into use.

(3) If any part of a specified work or any protective work required by the lead local flood authority is constructed otherwise than in accordance with the requirements of this Part of this Schedule, the lead local flood authority may by notice in writing require Network Rail at Network Rail's own expense to comply with the requirements of this Part of this Schedule.

(4) Subject to sub-paragraph (5), if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (3) is served upon Network Rail, it has failed to begin taking steps to comply with the requirements of the notice and subsequently to make reasonably expeditious progress towards their implementation, the lead local flood authority may execute the works specified in the notice and any expenditure incurred by it in so doing is recoverable from Network Rail.

(5) In the event of any dispute as to whether sub-paragraph (3) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the lead local flood authority must not except in emergency exercise the powers conferred by sub-paragraph (4) until the dispute has been finally determined.

**34.**—(1) Subject to sub-paragraph (3) Network Rail must from the commencement of the construction of the specified works maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation or on land held by Network Rail for the purposes of or in connection with the specified works, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any such drainage work which Network Rail is liable to maintain is not maintained to the reasonable satisfaction of the lead local flood authority, the lead local flood authority may by notice in writing require Network Rail to repair and restore the work, or any part of such work, or (if Network Rail so elects and the lead local flood authority in writing consents, such consent not to be unreasonably withheld or delayed), to remove the work and restore the site to its former condition, to such extent and within such limits as the lead local flood authority reasonably requires.

(3) This paragraph does not apply to—

- (a) drainage works which are vested in the lead local flood authority, or which the lead local flood authority or another person is liable to maintain and is not precluded by the powers of the Order from doing so; or
- (b) any obstruction of a drainage work for the purposes of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part of this Schedule.

**35.** If by reason of the construction of any specified work or of the failure of any such work the efficiency of any drainage work for flood defence purposes is impaired, or that drainage work is otherwise damaged, such impairment or damage must be made good by Network Rail to the reasonable satisfaction of the lead local flood authority and if Network Rail fails to do so, the lead local flood authority may make good the impairment or damage and recover from Network Rail the expense reasonably incurred by it in so doing.

**36.—**(1) Network Rail must pay all costs, charges and expenses which the lead local flood authority may reasonably incur or have to pay—

- (a) in the examination or approval of plans under this Part of this Schedule; and
- (b) in the inspection of the construction of the specified works or any protective works required by the lead local flood authority under this Part of this Schedule.

**37.** The fact that any work or thing has been executed or done by Network Rail in accordance with a plan approved or deemed to be approved by the lead local flood authority, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve Network Rail from any liability under the provisions of this Part of this Schedule.

**38.** Any dispute arising between Network Rail and the lead local flood authority under this Part of this Schedule, if the parties agree, is to be determined by arbitration under article 57 (arbitration).

## PART 5

### FOR THE PROTECTION OF THE TRUST

**39.—**(1) The following provisions of this Schedule, unless otherwise agreed in writing between Network Rail and the Trust, have effect.

(2) In this Schedule—

“construction”, in relation to any specified work or protective work, includes—

- (a) the execution and placing of that work; and
- (b) any replacing, relaying, removal, alteration, renewal, maintenance, repair or reconstruction of that work as may be carried out during the period of 12 months from the completion of the work;

and “construct” and “constructed” have corresponding meanings;

“detriment” means any damage to the waterways or any other property of the Trust and, without limitation on the scope of that meaning, includes—

- (a) the erosion of the bed or banks of the waterways, or the impairment of the stability of any works, lands or premises forming part of the waterways;
- (b) the silting of the waterways or the deposit of materials in the waterways so as to permanently damage the waterways;
- (c) the pollution of the waterways;
- (d) any permanent alteration in the water level of the waterways, or permanent interference with the supply of water to the waterways, or drainage of water from it; and
- (e) any permanent harm to the ecology of the waterways (including any permanent adverse impact on any site of special scientific interest comprised in the waterways).

“the engineer” means an engineer appointed by the Trust for the purpose in question;

“plans” includes sections, designs, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction) and programmes;

“protective work” means a work which is reasonably necessary to be carried out before the commencement of construction of any specified work to prevent detriment;

“specified work” means so much of any of the authorised works as is situated upon, a cross under, over or within 15 metres of, or may directly and physically affect, the waterways; and

“the waterways” means the Huddersfield Broad Canal and the Calder and Hebble Navigation, and includes any works, lands or premises belonging to the Trust, or under its management or control, that are held and used by the Trust in connection with the waterways.

**40.** Network Rail must not under the powers conferred by this Order acquire compulsorily any land of the Trust or any easement or other right over such land, other than such land or easements or other rights over such land, as is reasonably necessary for, or in connection with, the construction, maintenance or operation of the authorised works.

**41.**—(1) Network Rail must not in the exercise of the powers conferred by this Order permanently obstruct or interfere with pedestrian or vehicular access to the waterways unless such permanent obstruction or interference with such access is with the consent of the Trust.

(2) Nothing in article 22 (discharge of water) authorises Network Rail—

- (a) to discharge any water directly or indirectly into the relevant part of the waterway; or
- (b) to carry out any works to, or make any opening in, or otherwise interfere with, the relevant part of the waterway (including the banks and bed thereof),

except with the consent of the Trust and in accordance with plans approved by, and under the supervision (if given) of, the engineer.

(3) Network Rail must not exercise the powers conferred by article 23 (protective works to buildings, roads and apparatus of a statutory undertaker) in relation to any building forming part of the waterways, or situated on land or property of the Trust forming part of the waterways, except with the consent of the Trust.

(4) Network Rail must not exercise the powers conferred by article 24 (power to survey and investigate land) or the powers conferred by section 11(3) of the 1965 Act in relation to the waterways except with the consent of the Trust.

(5) Network Rail must not exercise the powers conferred by section 271 or 272 of the 1990 Act, as applied by Schedule 18 to this Order, so as to permanently divert any right of access to the waterways, but any such right of access may be permanently diverted with the consent of the Trust.

(6) The consent of the Trust under any of sub-paragraphs (1), (3), (4) and (5) and the approval of plans under sub-paragraph (2) must not be unreasonably withheld or delayed but may be given subject to reasonable conditions which in the case of article 22 (discharge of water) may include conditions—

- (a) specifying the maximum volume of water which may be discharged in any period; and
- (b) authorising the Trust on giving reasonable notice (except in an emergency, when the Trust may require immediate suspension) to Network Rail to require Network Rail to suspend the discharge of water or reduce the flow of water where this is necessary by reason of any operational requirement of the Trust and where a reasonable alternative is available to enable Network Rail to discharge the water in question during the period of the suspension.

**42.** Network Rail must not use any land or property of the Trust forming part of the waterways for the passage or siting of vehicles, plant or machinery employed in the construction of the specified work other than—

- (a) with the consent in writing of the engineer whose consent must not be unreasonably withheld; and
- (b) subject to compliance with such reasonable requirements as the engineer may from time to time specify—
  - (i) for the prevention of detriment; or
  - (ii) in order to avoid or reduce any inconvenience to the Trust, its officers and agents and all other persons lawfully on such land or property.

**43.** If in consequence of or in connection with the exercise of the powers conferred by this Order any part of a way over land forming part of the waterways or any public right of way giving access to the waterways (“the closed section”) is temporarily closed to persons on foot or on cycles and there is no way which provides a reasonable alternative, Network Rail must to the reasonable satisfaction of

the Trust, provide in substitution as sufficient and convenient a way as is reasonably practicable between the points of commencement and termination of the closed section for such time as the closure continues.

**44.** Where so required by the engineer Network Rail must, to the reasonable satisfaction of the engineer, fence off any specified work or protective work or take such other steps as the engineer may require to be taken for the purpose of separating a specified work or a protective work from the waterways, whether on a temporary or permanent basis or both.

**45.**—(1) Before the commencement of the initial construction of any part of the specified works and again following completion of the specified works Network Rail must bear the reasonable costs of the carrying out, by a qualified surveyor or engineer (“the surveyor”) to be approved by the Trust and Network Rail, of surveys (“the surveys”) of so much of the waterways and of any land and existing works of Network Rail which may provide support for the waterways as will or may be affected by the specified works.

(2) For the purposes of the surveys Network Rail must—

- (a) on being given reasonable notice (save in case of emergency, when immediate access must be afforded) afford reasonable facilities to the surveyor for access to the site of the specified works and to any land and existing works of Network Rail which may provide support for the waterways as will or may be affected by the specified works; and
- (b) supply the surveyor as soon as reasonably practicable with all such information as the surveyor may reasonably require with regard to such land and existing works of Network Rail and to the specified works or the method of their construction.

(3) The reasonable costs of the surveys must include the costs of any dewatering or reduction of the water level of any part of the waterways (where reasonably required) which may be effected to facilitate the carrying out of the surveys and the provisions of this Part of the Schedule apply with all necessary modifications to any such dewatering or reduction in the water level as though the same were specified works.

(4) Copies of the reports of the surveys must be provided to both the Trust and Network Rail.

**46.**—(1) Network Rail must, before commencing construction of any specified work, including any temporary works, supply to the Trust proper and sufficient plans of that work and such further particulars available to it as the Trust may within 14 days of the submission of the plans reasonably require for the approval of the engineer and must not commence such construction of any specified work until plans of that work have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld or delayed, if and within 56 days after such plans (including any other particulars reasonably required under sub-paragraph (1)) have been supplied to the Trust the engineer has not intimated disapproval of those plans and the grounds of disapproval the engineer is deemed to have approved the plans as submitted.

(3) When signifying his approval of the plans the engineer may specify—

- (a) any protective work (whether temporary or permanent); and
- (b) such other requirements as may be reasonably necessary to prevent detriment,

and such protective work must be constructed by the Trust or (if the Trust so desires) by Network Rail with all reasonable dispatch and Network Rail must not commence the construction of any specified work until the engineer has notified Network Rail that the protective work has been completed to the engineer’s reasonable satisfaction.

**47.** Without affecting its obligations under the provisions of this Part of this Schedule Network Rail must consult the Trust on—

- (a) the design and appearance of the specified works, including the materials to be used for their construction; and
- (b) the environmental effects of the specified works;

and must have regard to such views as may be expressed by the Trust, to the extent that these accord with the requirements of the local planning authority in response to such consultation pursuant, in particular, to the requirements imposed on the Trust by section 22 (general environmental and recreational duties) of the British Waterways Act 1995(a) and to the interest of the Trust in preserving and enhancing the environment of the relevant part of the waterway.

**48.** Network Rail must give to the engineer 56 days' notice of its intention to commence the construction of any of the specified works or protective works, or, in the case of repair carried out in an emergency, such notice as may be reasonably practicable so that, in particular, the Trust may where appropriate arrange for the publication of notices bringing those works to the attention of users of the waterways.

**49.** Network Rail must provide and maintain at its own expense in the vicinity of any specified works or protective work such temporary lighting and such signal lights for the control of navigation as the engineer may reasonably require during the construction or failure of the specified work or protective work.

**50.—(1)** Any specified works must, when commenced, be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled in accordance with this Schedule and with any requirements made under paragraph 46(3)(b);
- (b) under the supervision (if given) and, in the case of any specified work which directly and physically affects the relevant part of the waterway, to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little detriment as is reasonably practicable; and
- (d) in such manner as to cause as little inconvenience as is reasonably practicable to the Trust, its officers and agents and all other persons lawfully using the waterways.

**51.—(1)** Any pile, stump or other obstruction which becomes exposed in consequence of the construction of a specified work must be removed by Network Rail or, if it is not reasonably practicable to remove it, must be cut off at such level below the bed of the waterways as the Trust may direct.

(2) If Network Rail fails to remove any such pile, stump or other obstruction within 28 days after receipt of written notice from the Trust requiring the removal, the Trust may carry out the removal and recover its costs from Network Rail.

**52.** Network Rail must not in the course of constructing any specified work or protective work or otherwise in connection with the works do or permit anything which may result in the pollution of the waterways or the deposit of materials in the waterways and must take such steps as the engineer may reasonably require to avoid or make good any breach of its obligations under this paragraph; but this provision does not prevent Network Rail from carrying out works within the waterways.

**53.—(1)** Network Rail must at all times on being given reasonable notice allow reasonable facilities to the engineer for access to any specified work during its construction; but such facilities for access are subject to Network Rail's reasonable requirements for ensuring the safety of the railway and of the engineer and other persons working on the railway.

(2) Network Rail must supply the engineer with all such information as the engineer may reasonably require with regard to any specified work or the method of constructing it.

**54.—(1)** If during the construction of a specified work or during a period of 24 months after the completion of a specified work any alterations or additions, either permanent or temporary, to the waterways are reasonably necessary in consequence of the construction of the specified work in order to avoid detriment, and the Trust gives to Network Rail reasonable notice of its intention to carry out such alterations or additions (which must be specified in the notice), Network Rail must pay to the Trust the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which

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(a) 1995 c.i.

may be expected to be reasonably incurred by the Trust in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If the cost of maintaining, working or renewing the waterways is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by Network Rail to the Trust under this paragraph.

**55.**—(1) Network Rail must, upon completion of any part of any permanent specified work, remove as soon as practicable any temporary works constructed and materials for temporary works placed in, on, over or under the waterways in connection with that part of the specified work.

(2) All temporary works must be removed to the reasonable satisfaction of the engineer, and in the construction, maintenance and removal of such works Network Rail must not cause unavoidable detriment.

**56.** If at any time after the completion of a specified work, not being a work vested in the Trust, the Trust gives notice to Network Rail informing it that the state of maintenance of the work appears to be such that the work is causing, or is likely to cause, detriment, Network Rail must, on receipt of such notice, take such steps as may be reasonably necessary to put the work in such state of maintenance as not to cause such detriment.

**57.** Any additional expenses which the Trust may reasonably incur in maintaining the waterways under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such maintenance has been given to Network Rail, be repaid by Network Rail to the Trust.

**58.** Network Rail must repay to the Trust all fees, costs, charges and expenses reasonably incurred by the Trust—

- (a) in constructing any protective works under the provisions of paragraph 46(3)(a) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by Network Rail and the supervision by the engineer of the construction or repair of any specified work and any protective work;
- (c) in respect of the employment during the period of the initial construction of any specified work or protective work of any inspectors, watchkeepers and other persons whom it is reasonably necessary to appoint for inspecting, watching and lighting any part of the waterways and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of the specified work or any protective work; and
- (d) in bringing the specified work or any protective work to the notice of users of the waterways.

**59.**—(1) If any detriment is caused by the construction or failure of any specified work or protective work, Network Rail (if so required by the Trust) must make good such detriment and must pay to the Trust all reasonable expenses to which the Trust may be put, and compensation for any loss which the Trust may sustain, in making good or otherwise by reason of the detriment.

(2) Network Rail is responsible for and must make good to the Trust all costs, charges, damages, expenses and losses not otherwise provided for in this Part of this Schedule which may be occasioned to or reasonably incurred by the Trust—

- (a) by reason of the construction of any specified work or a protective work or the failure of such a work; or
- (b) by reason of any act or omission of Network Rail or of any person in its employ or of its contractors or others whilst engaged upon the construction of any specified work or of a protective work,

and subject to sub-paragraph (4) Network Rail must effectively indemnify and hold harmless the Trust from and against all claims and demands arising out of any of the matters referred to in paragraphs(a) and (b).

(3) The fact that any act or thing may have been done by the Trust on behalf of Network Rail or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision or in accordance with any directions or awards of an arbitrator does not (if it was done without negligence on the part of the Trust or of any person in its employ or of its contractors or agents) excuse Network Rail from any liability under the provisions of this paragraph.

(4) The Trust must give Network Rail reasonable notice of any such claim or demand and no settlement or compromise of such a claim or demand is to be made without the prior consent of Network Rail.

**60.** Where under any provision of this Part of this Schedule the Trust or Network Rail (as the case may be) is entitled to a capitalised sum, it must provide such details of the formula by which the sum is calculated as may reasonably be requested by the party required to pay the sum.

**61.** Except as provided by this Order, nothing in this Order is to prejudice or derogate from the estates, rights, interests, privileges, liberties or franchises of the Trust or alter or diminish any power, authority or jurisdiction vested in the Trust at the making of this Order.

**62.** Any difference arising between Network Rail and the Trust under this Schedule (other than a difference as to the meaning or construction of this Schedule) is to be referred to and settled by arbitration in accordance with article 57 (arbitration).

**63.** Nothing in this Part of the Schedule affects the provision of any enactment or agreement regulating the relations between Network Rail and the Trust in respect of the waterways or any land and existing works of Network Rail adjacent to, under or over the waterways which have effect on the date on which this Order is made.

#### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order authorises Network Rail Infrastructure Limited to construct a new railway, including the upgrade and reconstruction of the existing railway, railway electrification works and associated works between Huddersfield and Westtown (Dewsbury) together with station improvement works at Huddersfield and the construction or reconstruction of stations at Deighton, Mirfield and Ravensthorpe. The Order authorises the acquisition of land and rights in land, and the use of land, for the purposes of the works and confers powers in connection with the construction and operation of the railway.

A copy of the deposited plans, the deposited sections and the book of reference referred to in the Order may be inspected, on request, at the offices of Network Rail Infrastructure Limited at Network Rail National Records Centre, Unit 5, Audax Road, Clifton Moor, York, YO30 4US.