

SCHEDULE 12

Protective provisions

PART 6

Protection of owners and operators at Wilton

Apparatus

11.—(1) Subject to the provisions of this paragraph, the undertaker must pay to an owner or operator the reasonable expenses incurred by the owner or operator in, or in connection with,—

- (a) the inspection, removal and relaying or replacing, alteration or protection of any apparatus or the construction of any new apparatus or alternative apparatus under any provision of this Part;
- (b) the cutting off of any apparatus from any other apparatus, or the making safe of any redundant apparatus in consequence of the exercise by the undertaker of any power under this Order;
- (c) the survey of any land, apparatus or works, the watching, inspection, superintendence and monitoring of works or the installation or removal of any temporary works in consequence of the exercise by the undertaker of any power under this Order;
- (d) the design, project management, supervision and implementation of works;
- (e) the negotiation and grant of necessary rights for the construction, adjustment, alteration, use, repair, maintenance, renewal, inspection, removal and replacement of alternative apparatus;
- (f) monitoring the effectiveness of any protective measures referred to in paragraph 10(2) and the installation of any additional protective measures reasonably required in order to deal with any deficiency in the expected level of protection afforded by those protective measures;
- (g) any other work or thing reasonably required in consequence of the exercise by the undertaker of any power under this Order or by the service by the undertaker of any notice, plan, section or description,

within a reasonable time of being notified by the owner or operator that it has incurred such expenses.

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under this Part, that value being calculated after removal.

(3) If in accordance with this Part—

- (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 of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by an expert under paragraph 24 to be necessary, then, if such placing involves cost in the construction of works under this Part 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 owner in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

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(4) In determining whether the placing of apparatus of a type or capacity or of particular dimensions or the placing of apparatus at a particular depth, as the case may be, are necessary under sub-paragraph (3), regard must be had to current health and safety requirements, current design standards, relevant good practice and process design specification.

(5) 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 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 must 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 an owner or operator in respect of works by virtue of sub-paragraph (1) must, if it confers a financial benefit on the owner or operator by deferment of the time for renewal of the apparatus in the ordinary course of the owner's or operator's business practice, be reduced by the amount that represents that benefit.