

SCHEDULE 8

Protective provisions

PART 8

Protection for Western Power Distribution (East Midlands) plc

6.—(1) Unless required as a result of an emergency, the undertaker must not interfere with, build over, under or near to any apparatus within the Order land unless otherwise approved in writing by WPD, following a request from the undertaker (including a description and plan of the works), such approval not to be unreasonably withheld or delayed.

(2) If—

- (a) for the purpose of executing any works, the undertaker requires to remove or divert any apparatus placed within the Order land; and
- (b) alternative apparatus or any part of alternative apparatus is to be constructed in land other than the Order land as a consequence of the removal or diversion of apparatus,

the undertaker must use its reasonable endeavours to obtain any alternative rights in other land in which the alternative apparatus is to be constructed.

(3) If the undertaker is not able to obtain the alternative rights required under sub-paragraph (2), the undertaker and WPD must use reasonable endeavours to agree a reasonably practicable and mutually agreeable alternative engineering solution which does not require to be constructed in land other than Order land and does not require alternative rights.

(4) If—

- (a) alternative apparatus or any part of alternative apparatus is to be constructed elsewhere than in other land of the undertaker; or
- (b) the undertaker is unable to afford the alternative rights referred to in sub-paragraph (2) and an alternative engineering solution cannot be agreed in accordance in sub-paragraph (3) in the land in which the alternative apparatus or part of alternative apparatus is to be constructed,

WPD must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed, except that this obligation does not extend to the requirement for WPD to use its compulsory purchase powers to this end unless WPD elects to do so.

(5) The works must be executed only in accordance with the plans or drawings submitted under sub-paragraph (1) (or sub-paragraph (3), where relevant) and with such reasonable requirements as may be made in accordance with sub-paragraph (6) by WPD for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and WPD is entitled to watch and inspect the execution of the works.

(6) Any requirements made by WPD under sub-paragraph (5) must be made within 21 days beginning with the date on which the plans or drawings under sub-paragraph (1) are submitted to WPD.

(7) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan and description instead of the plan and description previously submitted, and the undertaker having done so the provisions of this paragraph apply to and in respect of the new plan and description.

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

(8) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency, but in that case it must give to WPD notice as soon as is reasonably practicable and a plan and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (5) in so far as is reasonably practicable in the circumstances.