

SCHEDULES

SCHEDULE 19

MISCELLANEOUS CONTROLS

PART 1

PUBLIC GENERAL LEGISLATION

Introduction

1. This Part 1 of this Schedule applies, modifies and excludes statutory provisions which relate to matters for which provision may be made in this Order.

Highways Act 1980

2.—(1) Section 141 of the Highways Act 1980 (restriction on planting trees etc. in or near carriageway) shall not apply to any tree or shrub planted in the course of the authorised project before completion of construction.

(2) Section 167 of that Act (powers relating to retaining walls near streets) shall not apply in relation to—

- (a) the erection of a wall in the course of the authorised project before completion of construction, or
- (b) a wall on land on which works are being carried out, or are to be carried out, in pursuance of the authorised project before completion of construction.

(3) Sections 169(1), 172 and 173 of that Act (control of scaffolding on highways, hoardings to be set up during building etc, and hoardings to be securely erected) shall not apply to anything done in the course of the authorised project before completion of construction.

Building Act 1984

3. Nothing in Part 1 of the Building Act 1984 with respect to building regulations, and nothing in any building regulations, shall apply in relation to a building used, or intended for use, by the undertaker for the purposes of the authorised project before completion of construction.

New Roads and Street Works Act 1991

4.—(1) The powers conferred by section 56(1) and (1A) of the New Roads and Street Works Act 1991 (powers to give directions as to the timing of proposed and subsisting street works) shall not apply in relation to the authorised project.

(2) Section 56A of that Act (power to give directions as to placing of apparatus) shall not apply in relation to the placing of apparatus in the course of the authorised project.

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(3) No restriction under section 58(1) of that Act (power to impose restriction on execution of street works in the twelve months following completion of substantial road works) shall have effect in relation to the authorised project.

(4) Section 61(1) of that Act (under which the consent of the street authority is required for the placing of apparatus in a protected street) shall not apply to the placing of apparatus in the course of the authorised project.

(5) Section 62(2) of that Act (power following designation of protected street to require removal or repositioning of apparatus already placed in the street) shall not apply in relation to apparatus placed in the course of the authorised project.

(6) Section 62(4) of that Act (power when designation as protected street commences or ceases to give directions with respect to works in progress) shall not apply in relation to the authorised project.

(7) Section 63(1) of that Act (under which Schedule 4 to that Act has effect for requiring the settlement of a plan and section of street works to be executed in a street designated by the street authority as having special engineering difficulties) shall not apply in relation to the authorised project.

(8) The powers conferred by section 73A(1) and 78A(1) of that Act (requirements for undertaker to re-surface street) may not be exercised in relation to the authorised project.

(9) Sections 74 and 74A of that Act (charge for occupation of the highway and charge determined by reference to duration of works) shall not apply in relation to the authorised project.

(10) Schedule 3A to that Act (restriction on works following substantial street works) shall not apply where a notice under section 54 (advance notice of certain works) or 55 (notice of starting date of works) of that Act is in respect of the authorised project.

(11) No notice under paragraph 2(1)(d) of that Schedule (power by notice to require notification of works which an undertaker proposes to carry out in a part of a highway to which a proposed restriction applies) shall have effect to require the notification of works proposed to be carried out in the course of the authorised project.

(12) No directions under paragraph 3 of that Schedule (*directions as to the date on which undertakers may begin to execute proposed works*) may be issued to the undertaker.

(13) Paragraph 3(4) of that Schedule (under which it is an offence for an undertaker to execute street works before the completion of certain other street works) shall not apply in relation to the execution of works in the course of the authorised project.

(14) Paragraph 5(1) of that Schedule (*effect of direction under paragraph 4 restricting further works*) shall not apply in relation to the execution of works in the course of the authorised project.

Water Industry Act 1991

5. Section 106(8) of the Water Industry Act 1991 (which qualifies the general right to communicate with the public sewers of a sewerage undertaker) shall not apply in relation to the authorised project.

Party Wall etc. Act 1996

6.—(1) No notice under section 1(2) or (5) of the Party Wall etc. Act 1996 (notice before building on line of junction with adjoining land) shall be required before the building of any wall in the course of the authorised project before completion of construction.

(2) Sections 1(6) and 2 of the Party Wall etc. Act 1996 (rights of adjoining owners) shall not have effect to confer rights in relation to—

- (a) anything used, or intended to be used, by the undertaker for the purposes of the authorised project before completion of construction, or

(b) land on which there is any such thing.

(3) Section 6 of the Party Wall etc. Act 1996 (underpinning of adjoining buildings) shall not apply in relation to a proposal to excavate, or excavate for and erect anything, in the course of the authorised project before completion of construction.

Planning Act 2008 - Application of the 2010 Regulations (Community Infrastructure Levy)

7. Notwithstanding the provisions of section 208 of the 2008 Act, for the purposes of regulation 6 of the Community Infrastructure Levy Regulations 2010 any building comprised in the authorised development shall be deemed to be

- (a) a building into which people do not normally go; or
- (b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

Local Government (Miscellaneous Provisions) Act 1976

8. Section 42 of The Local Government (Miscellaneous Provisions) Act 1976 (certain future local Acts, etc., to be subject to the planning enactments, etc., except as otherwise provided) shall not apply to the extent that it would make provisions of this Order authorising the authorised project subject to other provisions.

Town and Country Planning Act 1990

9.—(1) No order, notice or regulation under the Town and Country Planning Act 1990 in relation to the preservation of trees, shall have effect in relation to the authorised project.

- (2) Sections 238 and 239 of that Act (consecrated land and burial grounds) shall apply—
 - (a) in relation to land, other than a right over land, acquired for the purposes of the authorised project (whether or not by agreement), so as to permit use by the undertaker in accordance with the provisions of this Order; and
 - (b) in relation to a right over land so acquired (whether or not by agreement), or the temporary use of land pursuant to articles 35 (*temporary use of land for carrying out the authorised project*) and 36 (*temporary use of land for maintaining authorised project*), so as to permit the exercise of that right or the temporary use by the undertaker in accordance with the provisions of this Order, without prejudice to the status of the land over which the right is exercised as consecrated land.

(3) For the purposes only of Section 106 (1) of that Act the undertaker shall be deemed to be a person interested in the Order Land or any part of it and for the avoidance of doubt Section 106(3) (a) shall include any transferee under Article 9 of this Order.

Coast Protection Act 1949

10.—(1) The following provisions of the Coast Protection Act 1949 shall not apply to the authorised project.

- (2) Those provisions are—
 - (a) section 16(1) (consent of coast protection authority required for carrying out coast protection work), and
 - (b) section 18(1) (prohibition of excavation or removal of materials from seashore).

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Flood and Water Management Act 2010

11. Section 30 and Schedule 1 of the Flood and Water Management Act 2010 shall not apply in relation to the authorised project.

National Parks and Access to Countryside Act 1949

12. Sections 51, 52 and 55 (general provisions as to long-distance routes, approval of proposals relating to long-distance routes, variation of approved proposals) of the National Parks and Access to Countryside Act 1949 shall not apply in relation to the authorised project.

Control of Pollution Act 1974

13.—(1) Where a local authority is acting further to Section 60(4) of the Control of Pollution Act 1974 in relation to the construction of the authorised project and works before completion of construction then that local authority shall also have regard to the noise levels referred to in the Environmental Statement for each construction site and the principles of the Code of Construction Practice.

(2) Sections 60(7) and 61(7) of the Control of Pollution Act 1974 shall not apply in relation to the authorised project.

(3) Underground tunnelling works shall be regulated by Sections 60 and 61 of the Control of Pollution Act 1974.