

## SCHEDULE 15

### PROTECTIVE PROVISIONS

#### PART 7

#### FOR THE PROTECTION OF RAILWAY INTERESTS

- 76.—(1) The undertaker must not exercise the powers conferred by—
- (a) article 3 (development consent etc. granted by the Order);
  - (b) article 5 (power to maintain authorised development);
  - (c) article 16 (discharge of water);
  - (d) article 18 (authority to survey and investigate the land);
  - (e) article 19 (compulsory acquisition of land);
  - (f) article 22 (compulsory acquisition of rights);
  - (g) article 23 (private rights);
  - (h) article 25 (acquisition of subsoil only);
  - (i) article 26 (power to override easements and other rights);
  - (j) article 29 (temporary use of land for constructing the authorised development);
  - (k) article 30 (temporary use of land for maintaining the authorised development);
  - (l) article 31 (statutory undertakers);
  - (m) article 38 (felling or lopping of trees and removal of hedgerows);
  - (n) the powers conferred by section 11(3) (power of entry) of the 1965 Act;
  - (o) the powers conferred by section 203 (power to override easements and rights) of the Housing and Planning Act 2016;
  - (p) the powers conferred by section 172 (right to enter and survey land) of the Housing and Planning Act 2016;
  - (q) any powers in respect of the temporary possession of land under the Neighbourhood Planning Act 2017,

in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 31 (statutory undertakers), article 26 (power to override easements and other rights) or article 23 (private rights), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail.

**Status:** This is the original version (as it was originally made).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

(5) The undertaker must not under the powers of this Order do anything which would result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway.

(6) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions but it will never be unreasonable to withhold consent for reasons of operational or railway safety (such matters to be in Network Rail's absolute discretion).

(7) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work.