



Avon Weir Act 1992

1992 CHAPTER v

PART II

WORKS

5 Power to construct works

- (1) Subject to the provisions of this Act, the Corporation may in the lines or situations shown on the deposited plans and within the limits of deviation and according to the levels shown on the deposited sections make and maintain in the city the works described in Schedule 1 to this Act, together with all necessary works and conveniences connected therewith or incidental thereto.
- (2) Subject to section 5 of the Telecommunications Act 1984, the Corporation may install and maintain telecommunication apparatus and run telecommunication systems (such apparatus and systems having the meanings given by that Act, including the extended definition of telecommunication apparatus in Schedule 2 thereto) on or over land, whether or not a street, for the purpose of telecommunication or of electrical communication between any place and any part of the works or between different parts of the works.
- (3) The Corporation may within the limits of deviation, including the vertical limits prescribed by section 8 (Power to deviate) of this Act, alter, replace or re-lay any of the works described in Schedule 1 to this Act and any works authorised by section 7 (Further works and powers) of this Act.
- (4) Section 109 of the Land Drainage Act 1991 shall not apply to the construction of the works.
- (5) Section 9 of the Salmon and Freshwater Fisheries Act 1975 shall apply to the making and maintenance of the fish pass comprised in Work No. 1 as it applies to the making and maintenance of a fish pass made pursuant to a notice under subsection (1) of that section.

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6 Street works

(1) In this section—

“the Act of 1950” means the Public Utilities Street Works Act 1950;

“relevant protective provision” means any provision of section 49 (For protection of electricity, gas and water undertakers), section 50 (For protection of sewers of Wessex Water Services Limited), section 53 (For protection of port authority), section 54 (For protection of highway authority) or section 55 (For protection of British Railways Board) of this Act.

(2) Subject to subsection (3) below the works authorised by section 5 (Power to construct works), section 7 (Further works and powers) and section 9 (Power to make subsidiary works) of this Act shall be deemed to be undertakers' works for the purposes of Part I of the Act of 1950.

(3) Neither Part I of the Act of 1950 nor Part III of the New Roads and Street Works Act 1991 shall apply so as to regulate the relations of the Corporation with any body to which any relevant protective provision applies.

7 Further works and powers

(1) The Corporation may on the land specified in Schedule 2 to this Act from time to time construct, maintain and remove such flood embankments and other works for the alleviation or prevention of flooding as it considers necessary or expedient.

(2) After the weir is in operation, the Corporation may from time to time take down and remove the whole or any part of Netham Dam in the city to provide a navigable channel of a width not less than 6 metres to such height as it thinks fit not exceeding 4.2 metres above Ordnance Datum (Newlyn).

(3) The Corporation may fill in and reclaim the banks of the river forming part of the lands numbered 98 and 102 on the deposited plans.

(4) For the avoidance of doubt the works authorised by subsection (1) above are for all purposes to be treated as drainage works in connection with a main river within section 165 (1) (a) or (b) of the Water Resources Act 1991 and shall be maintainable accordingly.

(5) Sub-paragraphs (1) and (2) of paragraph 5 of Schedule 21 to the Water Resources Act 1991 shall apply in relation to the exercise by the Corporation of its powers under this section as they apply in relation to the exercise by the rivers authority of any powers under subsections (1) to (3) of the said section 165.

8 Power to deviate

In constructing the works described in Schedule 1 to this Act the Corporation may—

- (a) deviate laterally from the lines or situations shown on the deposited plans to any extent within the limits of deviation for those works; and
- (b) deviate vertically from the levels shown on the deposited sections to any extent not exceeding 3 metres upwards or 3 metres downwards.

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9 Power to make subsidiary works

- (1) Subject to the provisions of this Act, the Corporation may from time to time within the limits of deviation and the limits of land to be acquired or used erect, construct and maintain, whether temporarily or permanently, all such necessary works and conveniences as may be requisite or expedient for the purposes of, or in connection with, the construction, maintenance and use of the works.
- (2) On the completion of each of the works the Corporation shall remove all temporary works placed by it under the powers of this section.
- (3) The Corporation may, for the purposes of, or in connection with, the works, on any lands abutting on lands within the limits of deviation execute or do, by agreement with the owners and occupiers of the first mentioned lands, any of the works or things referred to in subsection (1) above and any works necessary or convenient for the purpose of providing or facilitating access to or from all the said lands or for preserving the amenities thereof.
- (4) In the exercise of the powers conferred by this section, the Corporation shall cause as little detriment and inconvenience to any person as circumstances admit and shall pay compensation to all persons for any damage sustained by them by reason of the exercise by the Corporation of such powers; and any question as to the amount of the compensation to be so paid shall be determined by the tribunal.

10 Pipes, etc., under or over tidal waters or tidal lands

Notwithstanding anything in this Part, any pipes to be laid or placed under the powers contained in this Part or telecommunication apparatus or telecommunication systems installed under subsection (2) of section 5 (Power to construct works) of this Act, under or over any tidal waters or tidal lands below the level of high water shall be laid or placed at such depth under, or such height over, tidal waters or tidal lands as the Secretary of State may require.

11 Dredging and other operations in river

- (1) The Corporation may—
 - (a) subject to the consent required by section 47 (Crown rights) of this Act, dredge, scour and cleanse the banks and bed of the impounded river;
 - (b) in connection with, or for the purposes of, the works, moor or anchor vessels temporarily in the river.
- (2) No materials so dredged by the Corporation under subsection (1) above shall be deposited in tidal waters below the level of high water except in such places and in accordance with such conditions and restrictions as may be approved or prescribed by the Secretary of State.

12 Work No. 1 deemed to be constructed under impounding licence

- (1) Work No. 1 shall be deemed to have been constructed under a licence under section 25 of the Water Resources Act 1991 granted by the rivers authority and, except as may be otherwise provided by this Act, the provisions of the said Act of 1991 relating to licences granted under section 25 of that Act shall apply to the licence deemed by this section to have been granted under that section as they apply to those so granted.

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- (2) Notwithstanding the provisions of section 1 of the Reservoirs Act 1975, it is hereby declared that so much of the impounded river as is upstream of the weir is not, by virtue of the retention of water by means of the weir, to be taken to be a reservoir for the purposes of that Act or for the purposes of the Reservoirs (Safety Provisions) Act 1930.

13 Agreements with owners of land and others for construction of works

- (1) The Corporation may enter into and carry into effect agreements or arrangements with the port authority, the rivers authority, the water company, the city council or the owners of, or other persons interested in, any land in or through which any of the works are or may be constructed, or the drainage of which may be affected by the construction of any of the works, for or with respect to the doing of anything which may be rendered necessary or convenient by reason or in consequence of the exercise of the powers of this Act.
- (2) Any such agreement may provide for—
- (a) the payment by the Corporation of, or the making of contributions by the Corporation towards, the cost incurred, or to be incurred, by the port authority, the rivers authority, the water company, the City Council or any such owners or other persons in or in connection with the doing of any such thing; or
 - (b) the payment by the Corporation of compensation for any injury suffered by the port authority, the rivers authority, the water company, the City Council or any such owners or other persons by reason or in consequence of the execution by the Corporation of the works.

14 Footpaths

In the construction of the works authorised by subsection (1) of section 7 (Further works and powers) of this Act the Corporation may raise the level of so much of the Avon Walkway as lies between the points marked “A”, “B”, “C”, “D” and “E” on the deposited plans.

15 Temporary stoppage of roads, bridleways and footpaths

- (1) The Corporation during and for the purpose of the execution of the works may temporarily stop up and divert and interfere with any road, bridleway or footpath (including any walkway created by agreement under section 35 of the Highways Act 1980) and may for any reasonable time divert the traffic therefrom and prevent all persons other than those bona fide going to or from any land, house or building abutting on the road, bridleway or footpath from passing along and using the same.
- (2) The Corporation shall provide reasonable access for persons on foot, with or without animals, bona fide going to or from any such land, house or building.
- (3) The Corporation shall not exercise the powers of this section without the consent of the highway authority whose consent shall not be unreasonably withheld and any question as to whether such consent has been unreasonably withheld shall be referred to and settled by arbitration.

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16 Temporary closing of river in connection with works

- (1) Notwithstanding anything in any other enactment or in any rule of law, the Corporation may temporarily close the river between New Brislington Bridge and Ashton Swing Bridge, or any part thereof, to navigation in the course of executing any works or doing any things authorised by or under this Act.
- (2) The Corporation shall not exercise the powers of subsection (1) above without the consent of the port authority and, in the exercise of those powers—
 - (a) the Corporation shall so execute or do such works or things as to ensure that at any time no more of the river is so closed than is reasonably necessary in all the circumstances; and
 - (b) if it becomes necessary to close the river completely to navigation, the Corporation shall use its best endeavours to secure that the minimum obstruction, delay or interference is caused to vessels which may be using or intending to use the river and that the minimum interference is caused to persons who may be using or intending to use the river for the purposes of trade or business.
- (3) The Corporation shall not be liable for any costs, damages or expenses whatsoever incurred by any person as a result, directly or indirectly, of any closure of the river under subsection (1) above.

17 Power to use bed and banks of watercourses

- (1) Subject to the provisions of this Act, the Corporation may for the purposes of the works enter upon and use so much of the bed or banks of any watercourse as is within the limits of deviation and as may be required for those purposes, and it may also for the purposes of executing and placing temporary works and conveniences in connection with the works occupy and use temporarily so much of such bed and banks within the said limits as may be required for those purposes or any of them.
- (2) The Corporation shall, not less than 14 days before entering upon and using the bed or banks of any watercourse, give notice of its intention to the port authority, the rivers authority and to the occupier of the land comprising such beds or banks, and shall pay compensation to all persons interested in that land for any damage sustained by them or liability to which they may become subject in respect of that land by reason of the exercise of the powers of this section; and any question as to the amount of the compensation to be so paid shall be determined by the tribunal.

18 Power to take, pump and discharge water

- (1) Except as provided in subsections (2) to (6) below, notwithstanding anything contained in any other enactment, the Corporation may, for the purposes of or in connection with the exercise of its functions under Part II or subsection (10) of section 35 (Operation of weir, etc.) of this Act—
 - (a) take, impound and use water from, and discharge water into, the river or any sewer, drain or watercourse;
 - (b) take or discharge from or into the river any water which it requires to take or discharge; or
 - (c) discharge any water which it finds into the river or into any sewer, drain or watercourse;

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and for any of those purposes may, within the limits of deviation, lay down, take up and alter conduits, pipes and other works and conveniences and make any convenient connections with the river or (as the case may be) with the sewer, drain or watercourse.

- (2) The Corporation shall not, under the powers of this section discharge any water directly or indirectly or make any opening into any sewer or drain without—
 - (a) in respect of any sewer or drain in which the water company has an interest, obtaining the consent of the water company; and
 - (b) consulting any other person or body appearing to have an interest in the sewer or drain.
- (3) Nothing in this section shall exempt the Corporation from the provisions of the Prevention of Oil Pollution Act 1971.
- (4) Nothing in this section shall empower the Corporation to pump or discharge any water into the Floating Harbour without the consent of the City Council.
- (5) Nothing in this section shall relieve the Corporation from the requirements of the Water Resources Act 1991 with respect to abstraction of water.
- (6) Sections 85, 86 and 87 of the Water Resources Act 1991 shall apply to, or to the consequences of, a discharge under the powers of this section into any controlled waters within the meaning given by section 104 of that Act as if this section were excluded from the reference to any local statutory provision mentioned in section 88 (1) (f) of that Act.
- (7) In this section references to the taking or discharge of water include taking or discharging water by means of pumping.

19 Tidal works not to be executed without approval of Secretary of State

- (1) A tidal work shall not be constructed, altered, replaced or relaid except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by him before the work is begun.
- (2) If a tidal work is constructed, altered, replaced or relaid in contravention of this section or of any condition or restriction imposed under this section—
 - (a) the Secretary of State may by notice in writing require the Corporation at its own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition; and if, on the expiration of 30 days from the date when the notice is served upon the Corporation, it has failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; or
 - (b) if it appears to the Secretary of State urgently necessary so to do, he may remove the tidal work, or part of it, and restore the site to its former condition; and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the Corporation.

20 Provision against danger to navigation

- (1) In case of injury to, or destruction or decay of, a tidal work, or any part thereof, the Corporation shall as soon as reasonably practicable notify Trinity House and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House may from time to time direct.

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- (2) If the Corporation fails to notify Trinity House as required by this section or to comply in any respect with a direction given under this section, it shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

21 Abatement of works abandoned or decayed

- (1) Where a tidal work is abandoned or suffered to fall into decay, the Secretary of State may by notice in writing require the Corporation at its own expense either to repair and restore the work or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.
- (2) Where a work, authorised by this Act and consisting partly of a tidal work and partly of works on or over land above the level of high water, is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Secretary of State may include that part of the work, or any portion thereof, in any notice under this section.
- (3) If, on the expiration of 30 days from the date when a notice under this section is served upon the Corporation, it has failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice and any expenditure incurred by him in so doing shall be recoverable from the Corporation.

22 Survey of tidal works

The Secretary of State may at any time, if he deems it expedient, order a survey and examination of a tidal work constructed by the Corporation, or of the site upon which it is proposed to construct the work, and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable from the Corporation.

23 Lights on tidal works

- (1) The Corporation shall at or near a tidal work during the whole of the construction, alteration, replacement or re-laying thereof, exhibit every night from sunset to sunrise such lights and take such other steps for the prevention of danger to navigation as the Secretary of State may from time to time direct.
- (2) After the completion of a tidal work, the Corporation shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.
- (3) If the Corporation fails to comply in any respect with a direction given under this section it shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

24 Status of works in impounded river

For the purposes of any function of—

- (a) Trinity House; and

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- (b) the Secretary of State; works in the impounded river other than—
 - (i) Work No. 1; and
 - (ii) any works downstream of the weir;shall not be treated as tidal works.