



Greater Nottingham Light Rapid Transit Act 1994

1994 CHAPTER xv

PART IV

PROTECTIVE PROVISIONS

43 For protection of National Rivers Authority

For the protection of the rivers authority the following provisions shall, unless otherwise agreed in writing between the undertakers and the rivers authority, have effect:—

(1) In this section—

“construction” includes execution, placing and altering and, in relation to temporary works, includes removal; and “construct” and “constructed” have corresponding meanings;

“drainage work” means any watercourse and includes any land used for providing flood storage capacity for any watercourse and any bank, wall, embankment or other structure or appliance constructed or used for defence against water;

“the fishery” means fish in the river Leen and the spawn, habitat or food of such fish;

“plans” includes sections, drawings, specifications and method statements and other such particulars;

“specified work” means so much of any work or operation authorised by this Act (other than works required in an emergency) as is in, on, under, over or within 16 metres of a drainage work or is otherwise likely to—

- (a) affect any drainage work or the volumetric flow of water in or flowing to or from any drainage work;
- (b) affect the purity or quality of water in any watercourse;
- (c) cause obstruction to the free passage of fish in any watercourse; or

Status: This is the original version (as it was originally enacted).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

- (d) affect the conservation, distribution or use of water resources; and
 “watercourse” has the meaning given in section 221 of the Water Resources Act 1991;
- (2) In the event that the undertakers commence to construct Work No. 7C or any other specified work the rivers authority may so far as is reasonably necessary for the protection of any drainage work or fishery or water resources or for the prevention of flooding and pollution require the undertakers to construct and complete the whole of that work and any other work required in the approval of that work under paragraph (3) below:
- (3) (a) Before beginning to construct any specified work, the undertakers shall submit to the rivers authority plans of the work and such further particulars available to them as the rivers authority may reasonably require;
- (b) Any such specified work shall not be constructed except in accordance with such plans as may be approved in writing by the rivers authority, or settled in accordance with paragraph (12) below;
- (c) Any approval of the rivers authority required under this paragraph—
- (i) shall not be unreasonably withheld;
 - (ii) shall be deemed to have been given if it is neither given nor refused in writing and with a statement of the grounds for refusal within two months of the submission of plans for approval;
 - (iii) may be given subject to such reasonable requirements as the rivers authority may impose for the protection of any drainage work or the fishery or water resources, for the prevention of flooding and water pollution and in the discharge of its environmental and recreational duties:
- (4) Without prejudice to the generality of paragraph (3) above, the requirements which the rivers authority may impose under that paragraph include—
- (a) requirements as to the levels and alignments within the limits of deviation for Work No. 7C;
 - (b) requirements as to sluices, gauges and other monitoring devices to be constructed as part of or in connection with Work No. 7C;
 - (c) conditions as to the time at which and the manner in which any work is to be carried out;
 - (d) conditions requiring the undertakers at their own expense—
 - (i) to provide or maintain means of access for the rivers authority;
 - (ii) to undertake landscaping;
 - (iii) to construct such protective works whether temporary or permanent during the construction of the specified works (including the provision of flood banks, walls or embankments and other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary to safeguard any drainage work against damage or to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased by reason of any specified work:
- (5) Any specified work, and all protective works required by the rivers authority under paragraph (3) above, shall be constructed to the reasonable satisfaction of the rivers authority and the rivers authority shall be entitled by its officer to watch and inspect the construction of such works:

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

- (6) If by reason of the construction of any specified work the efficiency of any drainage work for flood defence purposes is impaired or that work is damaged, such impairment or damage shall be made good by the undertakers to the reasonable satisfaction of the rivers authority and, if the undertakers fail to do so, the rivers authority may make good the same and recover from the undertakers the expense reasonably incurred by it in so doing:
- (7) (a) Without prejudice to the other provisions of this section, the undertakers shall take all such measures as may be reasonably practicable to prevent any interruption in the passage of fish during the construction of any specified work;
- (b) The undertakers shall be responsible for and make good to the rivers authority all costs, charges, expenses and losses which may be occasioned to, suffered by, or reasonably incurred by the rivers authority in taking action—
- (i) after notice in writing to the undertakers to protect the fishery against anticipated damage; or
- (ii) to remedy any damage to that fishery; being damage anticipated or suffered by reason or in consequence of the execution of the authorised works, of the failure or want of repair of the works, or in consequence of any act or omission of the undertakers, their contractors, agents, workmen or servants in connection with those works:
- (8) The undertakers shall indemnify the rivers authority in respect of all costs, charges and expenses which the rivers authority may reasonably incur or have to pay or which it may sustain—
- (a) in the examination or approval of plans under this section;
- (b) in the inspection of the construction of the specified works or any protective works required by the rivers authority under this section:
- (9) (a) Without prejudice to the other provisions of this section the undertakers shall indemnify the rivers authority from all claims, demands, proceedings, costs, damages or expenses or loss which may be made or taken against, or recovered from or incurred by, the rivers authority by reason of—
- (i) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence; or
- (ii) any damage to the fishery; or
- (iii) any raising of the water table in land adjoining the works or any sewers, drains and watercourses; or
- (iv) any flooding or increased flooding of any such lands; or
- (v) inadequate water quality in any watercourse or other surface waters or in groundwater;
- which is caused by the construction of any of the works or any act or omission of the undertakers, their contractors, agents, workmen or servants whilst engaged upon any such work;
- (b) The rivers authority shall give to the undertakers reasonable notice of any such claim or demand and no settlement or compromise thereof shall be made without the agreement of the undertakers which agreement shall not be unreasonably withheld:

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

- (10) The fact that any work or thing has been executed or done in accordance with a plan approved or deemed to be approved by the rivers authority, or to its satisfaction, or in accordance with any directions or award of an arbitrator, shall not relieve the undertakers from any liability under the provisions of this section:

Provided that this paragraph shall not apply to the extent that such liability arises from a failure by the rivers authority properly to perform its functions.

- (11) For the purposes of section 109 of the Water Resources Act 1991 (as to structures in, over or under watercourses) as applying to the construction of any authorised work, any consent or approval given or deemed to be given by the rivers authority under this section with respect to such construction shall be deemed also to constitute a consent or approval under that section:
- (12) (a) Unless the parties agree to arbitration any difference arising between the undertakers and the rivers authority under paragraph (3) above shall be settled by the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly on a reference to them by the undertakers or rivers authority after notice by one to the other;
- (b) Subject to sub-paragraph (a) above, any difference arising between the undertakers and the rivers authority under this section (other than a difference as to its meaning or construction) shall be referred to and settled by arbitration.