
STATUTORY INSTRUMENTS

1995 No. 2501

The Low Moor Tramway Light Railway Order 1995

For protection of sewerage and water undertakers

9.—(1) For the protection of sewerage and water undertakers (in this article referred to as “the undertakers”) the following provisions shall, unless otherwise agreed in writing between the Trust and the undertakers concerned, apply and have effect.

(2) In this article, “relevant pipe” in relation to any of the undertakers has the meaning given in section 179(7) of the Water Industry Act 1991⁽¹⁾.

(3) Nothing in section 18 of the Railways Clauses Consolidation Act 1845 in its application to the Railway shall authorise the Trust to raise, sink or otherwise alter the position of, or in any way interfere with, any relevant pipe without the consent in writing of the undertaker concerned, such consent not to be unreasonably withheld.

(a) (4) (a) The Trust shall not within the limits of deviation and without the consent of the undertakers concerned—

(i) place or deposit any materials or erect any structure or works; or

(ii) make any excavation to a depth of more than 300 millimetres below the surface of the ground,

in so far as the same is or would be carried out or situated within 15 metres (measured in any direction) of any part of a relevant pipe.

(b) The undertakers concerned shall not withhold their consent under this paragraph to the construction of a single or double line of rails and shall not otherwise unreasonably withhold their consent under this paragraph but may grant their consent subject to reasonable conditions for the protection of a relevant pipe.

(5) Where any relevant pipe is situated in or under any land owned or held for the purpose of the Railway the Trust shall at their own expense maintain all culverts over such relevant pipe which are in existence at the coming into force of this Order so as to leave the relevant pipe accessible for the purpose of repairs.

(6) The Trust shall afford reasonable facilities to the undertakers for the execution of all such works and the doing of all such things as may be reasonably necessary to enable them to inspect, repair, maintain, renew, replace, remove, alter or use any relevant pipe.

(a) (7) (a) The Trust shall compensate the undertakers—

(i) for any damage done or disturbance caused to any relevant pipe; and

(ii) or any other expenses, loss, damages, penalty or costs incurred by the undertakers, by reason or in consequence of the execution, maintenance, user or failure of any of the works authorised by this Order or otherwise by reason or in consequence of the exercise by the Trust of the powers of this Order.

(b) Nothing in this paragraph shall entitle the undertakers to any payment in respect of damage attributable to the neglect or default of the undertakers, their servants or agents.

(1) 1991 c. 56.

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

(8) Nothing in this Order shall prejudice or affect the rights of the undertakers in respect of any relevant pipe or the provisions of any agreement regulating the relationship between the Trust and the undertakers with regard to any relevant pipe and whether made before or after this Order comes into force.

(9) The provisions of the Railways Clauses Consolidation Act 1845 applied by this Order shall be subject to the provisions of this article.

(10) Any difference arising between the Trust and the undertakers under this article shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President for the time being of the Institution of Civil Engineers.