



Greater Nottingham Light Rapid Transit Act 1994

1994 CHAPTER xv

PART IV

PROTECTIVE PROVISIONS

44 For protection of public sewers

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

(1) In this section—

“construction” includes placing and altering;

“sewer” means a public sewer within the meaning of the Water Industry Act 1991 and includes a sludge main, disposal main (within the meaning of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such public sewer, main or outfall not being, in any such case, apparatus in respect of which the relations between the undertakers and the sewerage authority are regulated by the provisions of Part III of the Act of 1991;

“sewerage authority” means a sewerage undertaker and any local authority which is a relevant authority for the purposes of section 97 of the Water Industry Act 1991;

“new, altered or substituted works” includes any works required for the protection of any public sewer of the sewerage authority;

“specified works” means any part of the authorised works which will or may be situated within 15 metres measured in any direction of any sewer vested in a sewerage authority:

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- (2) Wherever in this section provision is made with respect to the approval or consent of the sewerage authority such approval shall be in writing, but shall not be unreasonably withheld:
- (3) The undertakers shall not commence the construction of the specified works until they have given to the sewerage authority not less than 56 days' notice in writing of their intention to do so with plans as described in paragraph (9) below (in this section referred to as "the said plans") for their approval:

Provided that approval of the said plans shall not be unreasonably withheld and, if within 56 days after the submission of the said plans the sewerage authority have not approved or disapproved them, they shall be deemed to have approved the plans as submitted:

- (4) The undertakers shall comply with, and conform to, all reasonable orders, directions and regulations of the sewerage authority in the construction of the specified works and shall provide new, altered or substituted works in such manner as the sewerage authority shall reasonably require for the protection of, and for preventing injury or impediment to, or for securing access to, any existing sewer of the sewerage authority by reason of the specified works, and shall indemnify the sewerage authority against all expenses occasioned thereby:
- (5) The specified works and all such new, altered or substituted works—
- (a) shall be constructed in accordance with such plans as may be approved or deemed to be approved by the sewerage authority as aforesaid or settled by arbitration, subject however to any modification of those plans from time to time agreed upon between the undertakers and the sewerage authority; and
 - (b) shall be constructed to the reasonable satisfaction of the sewerage authority who shall be given reasonable notice of the date and time on and at which any new, altered or substituted works are to be commenced:
- (6) All new, altered or substituted works shall, where so required by the sewerage authority, be constructed by the sewerage authority, or under the direction, superintendence and control of an officer of the sewerage authority duly appointed for the purpose, at the cost of the undertakers and all costs, charges and expenses reasonably incurred by the sewerage authority by reason of such works, whether in the execution thereof, or in the preparation or examination of plans or designs, or in such direction, superintendence or control as aforesaid, or otherwise, shall be paid to the sewerage authority by the undertakers:
- (7) When any new, altered or substituted works shall be completed by, or at the cost of, the undertakers under the provisions of this section the same shall thereafter be as fully and completely under the direction, jurisdiction and control of the sewerage authority as any sewers or works now or hereafter may be:
- (8) It shall not be lawful for the undertakers without the consent of the sewerage authority, in the exercise of the powers of section 11 (3) of the Act of 1965 as applied by this Act, to make any trial holes which interfere with any sewer:
- (9) The plans to be submitted to the sewerage authority for the purposes of this section shall be detailed plans, drawings, sections and specifications which shall describe the exact position and manner in which, and the level at which, the specified works are to be constructed and shall accurately describe the position of all sewers of the sewerage authority within the limits of deviation (for which purpose the sewerage authority shall

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allow the undertakers access to plans in their possession and to any of their sewers in order to enable the undertakers to obtain reliable information) and shall comprise detailed drawings of every alteration which the undertakers may propose to make in any such sewer:

- (10) The undertakers shall be liable to make good, or, if the sewerage authority so decide, to repay any expense reasonably incurred by the sewerage authority in making good, damage caused by, or resulting from, the construction of the specified works to any sewers, drains or works vested in the sewerage authority whether or not identified at the commencement of the construction of the specified works:
- (11) If the undertakers, in the construction of the specified works or any new, altered or substituted works provided in accordance with this section, damage, or, without the consent of the sewerage authority, alter or in any way interfere with, any existing sewer of the sewerage authority, the undertakers shall—
 - (a) pay to the sewerage authority any additional expense which may be reasonably incurred by the sewerage authority in the maintenance, operation, management or renewal of any new, altered or substituted sewer which may be necessary in consequence of the said construction; and
 - (b) give to the sewerage authority free and uninterrupted access at all times to any such new, altered or substituted sewer and reasonable facilities for the inspection, maintenance, alteration and repair thereof:
- (12) It shall be lawful for the proper officer of the sewerage authority at any reasonable time, on giving to the undertakers such notice as may in the circumstances be reasonable, to enter upon and inspect the specified works or any other works constructed under the powers of this section:
- (13) The approval by the sewerage authority of any plans, or the superintendence by them of any work, under the provisions of this section shall not exonerate the undertakers from any liability, or affect any claim for damages, under this section or otherwise:
- (14) As soon as reasonably practicable after the completion of the construction of a specified work the undertakers shall deliver to the sewerage authority a plan and section showing the position and level of that work as constructed and all new, altered or substituted works of the sewerage authority provided under this section:
- (15) If by reason or in consequence of the construction or failure of any of the LRT system or any subsidence resulting from the LRT system any damage shall be caused to any sewer or property of the sewerage authority (other than a sewer the repair of which is not reasonably necessary in view of its intended removal), the undertakers shall repay the cost reasonably incurred by the sewerage authority in making good such damage and shall—
 - (a) make reasonable compensation to the sewerage authority for any loss sustained by them; and
 - (b) indemnify the sewerage authority against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from, or incurred by, the sewerage authority; by reason or in consequence of any such damage:

Provided that—

- (i) nothing in this paragraph shall impose any liability on the undertakers with respect to any damage to the extent that such damage is

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- attributable to the act, neglect or default of the sewerage authority, their officers, servants, contractors or agents; and
- (ii) the sewerage authority shall give to the undertakers reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the consent of the undertakers:
- (16) Notwithstanding the temporary stopping up or diversion of any highway under the powers of section 18 (Temporary stoppage of highways) of this Act, the sewerage authority shall be at liberty at all times to construct and do all such works and things in, upon or under any such highway as may be reasonably necessary to enable them to inspect, repair, maintain, renew, alter, protect, remove or use any sewer which at the time of the stopping up or diversion was in that highway:
- (17) Where, in consequence of this Act, any part of any street, bridleway or footpath in which any sewer is situate ceases to be part of the street, bridleway or footpath, the sewerage authority may exercise the same rights of access to such sewer as they enjoyed immediately before the passing of this Act, but nothing in this paragraph shall prejudice or affect any right of the undertakers or of the sewerage authority to require alteration of such sewer under this section:
- (18) The undertakers shall, so far as is reasonably practicable, so exercise the powers conferred by section 22 (Underpinning of houses near works) of this Act as not to obstruct or render less convenient the access to any sewer:
- (19) Any difference arising between the undertakers and the sewerage authority under this section (other than a difference as to its meaning or construction) shall be determined by arbitration.