



Heathrow Express Railway Act 1991

1991 CHAPTER vii

PART IV

PROTECTIVE PROVISIONS

38 For protection of sewers of Thames Water Utilities Limited

For the protection of the sewers of Thames Water Utilities Limited (hereinafter called “the undertaker”) the following provisions shall, unless otherwise agreed in writing between the appropriate authority and the undertaker, apply and have effect:—

(1) In this section—

“construction” includes execution, placing and altering and, in relation to temporary works, includes removal and “constructed” shall be construed accordingly;

“new, altered or substituted works” includes any works required under paragraph (3) below for the protection of any sewer;

“sewer” includes any sewer, drain or other works vested in the undertaker under the Water Act 1989, any main used for the conveyance of sewage sludge or sewage effluent and any pipe subway vested in or maintained by the undertaker; and

“specified work” means so much of the works and of any work (whether temporary or permanent) forming part of, or constructed in connection with, the works, or any of them, as will or may be situated over or within 15 metres measured in any direction of, or (wherever situated) impose any load directly upon, any sewer, and includes the construction, maintenance or renewal of any such works:

(2) The appropriate authority shall not commence any specified work (other than works of maintenance or repair) until they shall have given to the undertaker 56 days' previous notice in writing of their intention to commence the same by leaving such notice at the principal office of the undertaker with plans as described in paragraph (7) below (in this section referred to as “the said plans”) and until the undertaker shall have signified their approval of the said plans:

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

- (3) The appropriate authority shall comply with and conform to all reasonable orders, directions and regulations of the undertaker in the construction of any specified work and shall provide new, altered or substituted works in such manner as the undertaker shall reasonably require for the proper protection of, and for preventing injury or impediment to, a sewer of the undertaker by reason of any specified work and shall save harmless the undertaker against all expenses to be occasioned thereby:
- (4) All such new, altered or substituted works shall, where so required by the undertaker be constructed by or under the direction, superintendence and control of an officer of the undertaker duly appointed for the purpose at the cost, charge and expense in all respects of the appropriate authority and all reasonable costs, charges and expenses to which the undertaker may be put 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 undertaker by the appropriate authority on demand:
- (5) When any such new, altered or substituted works or any work of defence connected therewith shall be completed by or at the cost, charges and expense of the appropriate authority under the provisions of this section, the same shall thereafter be as fully and completely under the direction, jurisdiction and control of the undertaker as any sewers or works now or hereafter may be:
- (6) Nothing in this Act shall extend to prejudice, diminish, alter or take away any of the rights, powers or authorities vested or to be vested in the undertaker in relation to sewers but all such rights, powers and authorities shall be as valid and effectual as if this Act had not been passed:
- (7) The plans to be submitted to the undertaker 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, any specified work is proposed to be constructed and shall accurately describe the position of all sewers of the undertaker within the limits of deviation (for which purpose the undertaker shall allow the appropriate authority access to plans in their possession and to any of their sewers in order to enable the appropriate authority to obtain reliable information) and shall comprise detailed drawings of every alteration which the appropriate authority may propose to make in any such sewers:
- (8) The undertaker may require such modifications to be made in the said plans as may be reasonably necessary to secure the sewerage system of the undertaker against interference or risk of damage and to provide and secure a proper and convenient means of access to their sewers:
- (9) The appropriate authority shall be liable to make good, or, if the undertaker so decide, to bear any expense reasonably incurred by the undertaker in making good, all injury or damage caused by or resulting from the construction of any specified work to any sewers, drains or works vested in the undertaker which shall have power to recover any expense so incurred by them from the appropriate authority:
- (10) If, in the construction of any specified work, or any new, altered or substituted works, or any work of defence connected therewith provided in accordance with this section, the appropriate authority damage, or, without the consent of the undertaker, alter or in

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any way interfere with any existing sewer of the undertaker the appropriate authority shall—

- (a) pay to the undertaker any additional expense to which they may be put in the maintenance, 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 undertaker full, free and uninterrupted access at all times to any such new, altered or substituted sewer (but under the supervision and control of the appropriate authority which shall be provided as soon as possible) and every reasonable facility for the inspection, maintenance, alteration and repair thereof:
- (11) It shall be lawful for an officer of the undertaker duly appointed for the purpose at any reasonable time and, if required by the appropriate authority, under their supervision to enter upon and inspect any specified work or any other works constructed under the powers of this section:
- (12) The approval by the undertaker of any plans or the superintendence by them of any work under the provisions of this section shall not exonerate the appropriate authority from any liability or affect any claim for damages under this section or otherwise:
- (13) As soon as reasonably practicable after the completion of the construction of a specified work the appropriate authority shall deliver to the undertaker a plan and section showing the position and level of that work as constructed and all new, altered or substituted works provided under this section:
- (14) Any difference arising between the appropriate authority and the undertaker under this section (other than a difference as to the meaning or construction of this section) shall be referred to and settled by arbitration.