



Cattewater Reclamation Act 1992

1992 CHAPTER xiv

PART IV

GENERAL

31 For protection of British Railways Board

For the protection of the British Railways Board (in this section referred to as “the railways board”) the following provisions shall unless otherwise agreed in writing between the Company and the railways board apply:—

(1) In this section—

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer to be appointed by the railways board;

“plans” includes sections, drawings, specifications, soil reports, calculations and descriptions (including descriptions of methods of construction);

“the railway” means the Cattewater Branch Railway of the railways board;

“railway property” means any railway of the railways board and any works connected therewith for the maintenance or operation of which the railways board are responsible and includes any land held or used by the railways board for the purposes of such railway or works;

“specified works” means so much of the works authorised by this Act (whether temporary or permanent) as may be situated upon, across, under or over or within 15 metres of, or may in any way affect railway property and includes the construction, maintenance and renewal of such works:

(2) The Company shall before commencing the specified works (other than works of maintenance or repair) furnish to the railways board proper and sufficient plans thereof for the reasonable approval of the engineer and shall not commence the specified works until plans thereof have been approved in writing by the engineer or settled by arbitration:

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Provided that if within 56 days after such plans have been furnished to the railways board the engineer has not intimated his disapproval thereof and the grounds of his disapproval he shall be deemed to have approved the same:

- (3) If within 56 days after such plans have been furnished to the railways board, the railways board give notice to the Company that the railways board desire themselves to construct any part of the specified works which in the opinion of the engineer will or may affect the stability of railway property then, if the Company desire such part of the specified works to be constructed, the railways board shall construct the same with all reasonable dispatch on behalf of and to the reasonable satisfaction of the Company in accordance with the plans approved or deemed to be approved or settled as aforesaid:
- (4) Upon signifying his approval or disapproval of the plans the engineer may specify any protective works (whether temporary or permanent) which in his opinion should be carried out before the commencement of the specified works to ensure the safety or stability of railway property and such protective works as may be reasonably necessary for those purposes shall be constructed by the railways board or by the Company, if the railways board so desire, with all reasonable dispatch and the Company shall not commence the construction of the specified works until the engineer has notified the Company that the protective works have been completed to his reasonable satisfaction:
- (5) The Company shall give to the railways board 28 days' notice in writing of their intention to commence the construction of any of the specified works and, except in emergency (when they shall give such notice as may be reasonably practicable), also of their intention to carry out any works for the repair or maintenance of the specified works:
- (6) The specified works shall, when commenced, be carried out—
 - (a) with all reasonable dispatch in accordance with the plans approved or deemed to have been approved or settled as aforesaid;
 - (b) under the supervision (if given) and to the reasonable satisfaction of the engineer;
 - (c) in such manner as to cause as little damage to the railway property as may be; and
 - (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe user of any railway of the railways board or the traffic thereon and the use by passengers of railway property;

and, if any damage to railway property or any such interference or obstruction is caused or takes place, the Company shall, notwithstanding any such approval as aforesaid, make good such damage and shall on demand pay to the railways board all reasonable expenses to which they may be put and compensation for any loss which they may sustain by reason of any such damage, interference or obstruction:

- (7) The Company shall—
 - (a) at all times afford reasonable facilities to the engineer for access to the specified works during their construction;
 - (b) ensure access for the engineer at all reasonable times to all working sites, depots and premises at which materials to be employed in the construction of the specified works are being made, constructed or assembled;
 - (c) supply the engineer with all such information as he may reasonably require with regard to the specified works or the method of construction thereof:

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- (8) The railways board shall at all times afford reasonable facilities to the Company and their agents for access to any works carried out by the railways board under this section during their construction and shall supply the Company with such information as they may reasonably require with regard to such works or the method of construction thereof:
- (9) If any alterations or additions, either permanent or temporary, to railway property are reasonably necessary in consequence of the construction of the specified works, such alterations and additions may be effected by the railways board after not less than 28 days' notice has been given to the Company and the Company shall pay to the railways board on demand the cost thereof as certified by the engineer including, in respect of permanent alterations and additions, a capitalised sum representing the increased or additional cost of maintaining, working and, when necessary, renewing any such alterations or additions:
- (10) The Company shall repay to the railways board all costs, charges and expenses reasonably incurred by the railways board—
- (a) in constructing any part of the specified works on behalf of the Company as provided by paragraph (3) above or in constructing any protective works under the provisions of paragraph (4) above including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
 - (b) in respect of the employment of any inspectors, signalmen, watchmen and other persons whom it is reasonably necessary to appoint for inspecting, watching, lighting and signalling railway property and for preventing as far as may be all interference, obstruction, danger or accident arising from the construction, maintenance, repair or failure of the specified works;
 - (c) in respect of any special traffic working resulting from any speed restrictions which are necessary as a result of the construction, maintenance, repair or failure of the specified works and which may in the opinion of the engineer be required to be imposed or from the substitution, suspension or diversion of services which may be necessary for the same reason;
 - (d) in respect of any additional temporary lighting of railway property in the vicinity of the specified works being lighting made reasonably necessary as a result of the specified works or the failure thereof;
 - (e) in respect of the approval by the engineer of plans submitted by the Company and the supervision by him of the specified works:
- (11) If at any time after the completion of the specified works, not being works vested in the railways board, the railways board give notice to the Company informing them that the state of repair of the specified works appears to be such as prejudicially to affect railway property, the Company shall, on receipt of such notice, take such steps as may be reasonably necessary to put the specified works in such state of repair as not prejudicially to affect railway property and, if and whenever the Company fail to do so, the railways board may make and do in and upon the land of the railways board or the Company all such works and things as are requisite to put the specified works in such state of repair as aforesaid and the costs and expenses reasonably incurred by the railways board in so doing shall be repaid to them by the Company:
- (12) Any additional expense which the railways board may reasonably incur after giving 28 days' notice to the Company in widening, altering, reconstructing or maintaining railway property under any powers existing at the passing of this Act by reason of the existence of the specified works shall be repaid by the Company to the railways board:

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- (13) The Company shall be responsible for and make good to the railways board all costs, charges, damages and expenses not otherwise provided for in this section which may be occasioned to or reasonably incurred by the railways board—
- (a) by reason of the specified works or failure thereof; or
 - (b) by reason of any act or omission of the Company or of any persons in their employ or of their contractors or others whilst engaged upon the specified works;

and the Company shall effectively indemnify and hold harmless the railways board from and against all claims and demands arising out of or in connection with the specified works or any such failure, act or omission as aforesaid and the fact that any act or thing may have been done by the railways board on behalf of the Company or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not (if it was done without negligence on the part of the railways board or of any person in their employ or of their contractors or agents) excuse the Company from any liability under the provisions of this section:

Provided that the railways board shall give to the Company reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Company:

- (14) Any difference arising between the Company and the railways board under this section (other than a difference as to the meaning or construction of this section) shall be determined by arbitration.