



Avon Weir Act 1992

1992 CHAPTER v

PART IV

OPERATION OF WEIR, ETC.

35 Operation of weir, etc

(1) In this section—

“control gates” means the flood gates, fish pass and other works comprised in Works Nos. 1, 2 and 3, or any of those works; and

“the scheme” means the scheme of operation of the control gates which is in effect pursuant to subsection (5) or (7) below.

(2) As soon as may be after the passing of this Act, the Corporation shall after consultation with the rivers authority, the City Council and such other bodies as it considers to have an interest in the operation of the control gates, prepare proposals for a scheme of such operation.

(3) The Corporation shall publish in a newspaper circulating in the city notice—

- (a) that the proposals have been prepared;
- (b) that copies of the proposals may be inspected, and at a reasonable price obtained, at an office named in the notice;
- (c) of the general effect of the proposals; and
- (d) that representations in respect of the proposals may be made to the Corporation in writing before a date specified in the notice, being not less than six weeks from the date of the notice.

(4) The Corporation, after considering all representations made in accordance with subsection (3) above, shall determine a scheme of operation of the control gates and shall publish in a newspaper circulating in the city notice—

- (a) that the scheme has been made;
- (b) that copies of the scheme may be inspected, and at a reasonable price obtained, at an office mentioned in the notice; and

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- (c) that objections to the scheme may be made in writing to the Secretary of State at an address specified in the notice before a date specified in the notice, being not less than six weeks from the date of the notice.
- (5) If no objections to the scheme are made under subsection (4) above, the scheme shall take effect in the form determined by the Corporation under that subsection.
- (6) If objections are made under subsection (4) above and are not withdrawn, the Secretary of State shall cause an inquiry to be held with respect thereto, unless he is of opinion that the objections are frivolous or too trivial to warrant the holding of an inquiry with respect to them.
- (7) After considering the objections (if any) made and not withdrawn and the report of any person who held an inquiry, the Secretary of State may confirm the scheme—
 - (a) in the form determined by the Corporation; or
 - (b) in that form subject to such modifications as he thinks fit;
 and the scheme shall take effect in that form.
- (8) The Corporation shall not bring Work No. 1 into operation before the scheme takes effect.
- (9) (a) The Corporation shall carry out a periodic review of the scheme, such review to be undertaken at the request of the rivers authority not more than once every year after the scheme is brought into operation but in any event not less than once every five years.
- (b) The results of the review and any proposals for the modification of the scheme shall be the subject of the procedures of this section as they apply to the scheme, unless the context otherwise requires.
- (10) The control gates shall be operated in accordance with the scheme and not otherwise, notwithstanding that the impounded river or any part thereof may thereby be closed to navigation and that the passage of vessels in the impounded river may thereby be obstructed, delayed or interfered with, and the Corporation shall not, as a result of such closure, be liable for any costs, damages or expenses whatsoever incurred by any person as a result, directly or indirectly, of such obstruction, delay or interference.
- (11) Without prejudice to subsection (10) above, the Corporation shall give to the rivers authority as much notice as is reasonably practicable in the circumstances of its intention to operate the control gates for the purposes of the scheme.
- (12) The Corporation shall consult with the rivers authority when considering any representations or objections in respect of or to the scheme or any proposed modification thereof.
- (13) Nothing in this section shall have the effect of overriding the application of section 9 of the Salmon and Freshwater Fisheries Act 1975 to the fish pass comprised in Work No. 1.
- (14) The functions of the Corporation under this section may, if so agreed by the Corporation and the City Council, be exercised by the City Council.

36 Misuse of equipment or machinery

- (1) Any person who, without lawful authority or excuse, closes or opens or operates any of the equipment or machinery comprised in Works Nos. 1, 2 and 3, or in any other

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way intentionally or recklessly interferes with the operation thereof, shall be liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine.

- (2) A person shall not be guilty of an offence under subsection (1) above as respects any act done in an emergency in order to avoid danger to any person.