

SCHEDULES

SCHEDULE 7

PROTECTIVE PROVISIONS

PART IV

PROTECTION OF SEWERS AND LAND DRAINAGE

- 1 (1) The following provisions of this Part of this Schedule shall, unless otherwise agreed in writing between the Secretary of State and the protected authority, have effect for the protection of land drainage works and sewers.

- (2) In this Part of this Schedule—

“drainage work” means any work vested in or under the control of the protected authority for the purposes of their land drainage functions as defined in the Land Drainage Act 1976 and includes a watercourse as so defined;

“plans”, in relation to any specified work, means detailed plans, drawings, sections and specifications describing the position and manner in which, and the level at which, the work is proposed to be carried out and the position of all drainage works and sewers of the protected authority within the limits of deviation for that work, and shall comprise detailed drawings of every alteration which is to be made in any such drainage works and sewers by carrying out of the specified work;

“the protected authority” means the Anglian Water Authority and the Southern Water Authority, or either of them, in their capacities as—

- (a) authorities responsible for sewerage and sewage disposal; and
- (b) authorities responsible for land drainage, including defence against sea water;

“sewer” includes any main used for the conveyance of sewage sludge or sewage effluent, any drain or sewer forming or intended to form part of the general sewerage system of the protected authority, and any storm outflow or outfall or any other apparatus or structure vested in, or maintained by, the protected authority for the purposes of sewerage or sewage disposal; and

“specified work” means Work No. 3, and any works carried out within the limits of deviation for that work for the purpose of or in connection with the construction, maintenance or improvement of any part of the crossing which comprises that work or the tunnels;

but in paragraphs 2 and 5 to 7 below references to a specified work are references to so much only of any such work as is over, or within 15 metres of, any drainage work or sewer.

- 2 For the purpose of the preparation of the plans for any specified work the protected authority shall, on application by the Secretary of State, permit him or his agents

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to have access to plans in the possession of the protected authority and to any of their drainage works and sewers.

3 The carrying out of the works authorised by this Act shall not prevent the continued operation of the sewage pumping station of the Anglian Water Authority on the lands shown on the deposited plans numbered 14 in the Borough of Thurrock but nothing in this paragraph shall prevent the acquisition by the Secretary of State of such part of the said land, or of such rights in that land, as can be taken without preventing the continued operation of that pumping station.

4 In the design and carrying out of the works authorised by this Act the Secretary of State shall secure that no additional quantities of surface water are drained to the Mar Dyke in the Borough of Thurrock.

5 (1) Not less than 56 days before commencing the construction of any specified work, the Secretary of State shall submit to the protected authority for their approval plans for the work and such further particulars available to him as the protected authority may, within 28 days of the submission of the plans, reasonably require.

(2) The protected authority's approval of plans submitted under sub-paragraph (1) above shall not be unreasonably withheld; and if within 56 days after the submission of the plans the protected authority have not approved or disapproved them, they shall be deemed to have approved them.

6 The Secretary of State shall give to the protected authority not less than 28 days' notice of his intention to commence the construction or renewal of a specified work and, except in case of emergency (when he shall give such notice as may be reasonably practicable), of his intention to carry out works of maintenance of a specified work.

7 In carrying out any specified work the Secretary of State shall comply with all reasonable requirements of the protected authority of which due notice is given to him, and shall provide new, altered or substituted drainage works or sewers, or works for the protection of any drainage works or sewers of the protected authority, in such manner as the protected authority shall reasonably require to safeguard any drainage work against damage or to secure that its efficiency for land drainage purposes is not impaired or, as the case may be, to protect and prevent damage or impediment to any sewer, by reason of the specified work.

8 All works for the provision of new, altered or substituted drainage works or sewers or protective works in pursuance of paragraph 7 above shall be carried out to the reasonable satisfaction of the protected authority and, where so required by the protected authority, by or under the supervision (if given) of an officer of the protected authority duly appointed for the purpose; and all reasonable costs and expenses to which the protected authority may be put by reason of such works, whether in the course of the carrying out of the works, or in the preparation or examination of plans or designs or in such supervision, or otherwise, shall be payable to the protected authority by the Secretary of State.

9 When works for the provision of any such new, altered or substituted drainage works or sewers or protective works in pursuance of paragraph 7 above have been completed they shall be maintainable by the protected authority.

10 If by reason of the carrying out of a specified work, or the failure of a specified work, any sewer is damaged, the efficiency of a drainage work for land drainage purposes is impaired or a drainage work is otherwise damaged, the damage shall be made good by the Secretary of State to the reasonable satisfaction of the protected

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- authority or, failing that, the protected authority may make good the damage and recover from the Secretary of State costs reasonably incurred in so doing.
- 11 (1) The Secretary of State shall indemnify the protected authority against all claims, demands, costs, expenses, damages or loss which may be made on or against the protected authority or which the protected authority may incur or which they may sustain in consequence of any damage of, or interference with, a drainage work or sewer which may be caused by the construction of a specified work, or of the failure or want of maintenance of such a work, or any subsidence caused by the construction of any specified work or any act or omission of the Secretary of State, his contractors, agents, workmen or servants, while engaged upon the specified work.
- (2) The protected authority shall give to the Secretary of State reasonable notice of any such claim or demand and no settlement or compromise shall be made without the agreement in writing of the Secretary of State.
- (3) Nothing in this paragraph shall impose any liability on the Secretary of State with respect to any claim, demand, costs, expenses, damage or loss which is attributable to the act, neglect or default of the protected authority or their servants or agents.
- 12 Nothing in section 23 of this Act shall preclude the protected authority or their officers, servants or agents from having, for the purposes of inspecting, repairing, maintaining, removing or replacing any drainage work or sewer, reasonable access to any part in which the work or sewer is situated of any road which forms part of any of the approach roads.
- 13 (1) An officer of the protected authority duly appointed for the purpose may, subject to sub-paragraph (2) below, enter upon and inspect any specified work or any other works constructed under this Part of this Schedule.
- (2) Entry upon any specified work under sub-paragraph (1) above shall be subject to supervision and control by the Secretary of State but shall be afforded by him at any reasonable time at which it is required.
- 14 Any difference arising between the Secretary of State and the protected authority under this Part of this Schedule shall be determined by arbitration.