
STATUTORY INSTRUMENTS

1995 No. 2142

The Oswestry Light Railway Order 1995

For the protection of sewerage and water undertakers

10.—(1) For the protection of sewerage and water undertakers (in this article referred to as “the undertakers”) the following provisions shall, unless otherwise agreed in writing between the Society and the undertakers concerned, apply and have effect.

(2) In this article, “relevant pipe” in relation to any of the undertakers has the meaning given in section 179(7) of the Water Industry Act 1991⁽¹⁾.

(3) Nothing in section 18 of the Railways Clauses Consolidation Act 1845 in its application to the railway shall authorise the Society to raise, sink or otherwise alter the position of, or in any way interfere with, any relevant pipe without the consent in writing of the undertaker concerned, such consent not to be unreasonably withheld.

(4) Where any relevant pipe is situated in or under any land owned or held for the purpose of the railway the Society shall at their own expense maintain all culverts over such relevant pipe which are in existence at the coming into force of this Order so as to leave the relevant pipe accessible for the purpose of repairs: Provided that nothing in this paragraph shall have the effect of requiring the Society to carry out works of maintenance in respect of any culvert which the undertakers or any other person are liable to maintain.

(5) The Society shall afford reasonable facilities to the undertakers for the execution and doing of all such works and things as may be reasonably necessary to enable them to inspect, repair, maintain, renew, replace, remove, alter or use any relevant pipe.

(6) The Society shall compensate the undertakers:—

- (a) for any damage done or disturbance caused to any relevant pipe; and
- (b) for any other expenses, loss, damages, penalty or costs incurred by the undertakers,

by reason or in consequence of the execution, maintenance, user or failure of any of the works authorised by this Order or otherwise by reason or in consequence of the exercise by the Society of the powers of this Order.

(a) (7) (a) Nothing in the foregoing paragraph shall entitle the undertakers to any payment in respect of damage attributable to the neglect or default of the undertakers, their servants or agents.

(b) Nothing in this Order shall prejudice or affect the rights of the undertakers in respect of any relevant pipe or the provisions of any agreement regulating the relationship between the Society and the undertakers with regard to any relevant pipe and whether made before or after this Order comes into force.

(8) The provisions of the Railways Clauses Consolidation Act 1845 applying to the railway shall be subject to the provisions of this article.

(9) Any difference arising between the Society and the undertakers under this article shall be referred to and settled by a single arbitrator to be agreed between the parties, or, failing agreement, to

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be appointed on the application of either party (after notice in writing to the other) by the President for the time being of the Institution of Civil Engineers.