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STATUTORY INSTRUMENTS

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**1998 No. 683**

**The Porthmadog Harbour Revision Order 1998**

**PART V**

**MISCELLANEOUS**

**For protection of Dwr Cymru Cyfyngedig**

**34.**—(1) The following provisions of this article shall, unless otherwise agreed in writing between the Council and Dwr Cymru Cyfyngedig (in this article referred to as “the company”), have effect for the protection of the company.

(2) In this article—

“protected work” means any work, building, structure, plant, appliance, main, pipe, sewer outfall or other apparatus owned or maintained by, or under the control of, the company for the purposes of its functions as sewerage undertaker or water undertaker;

“the relevant powers” means the powers conferred on the Council by any of the following provisions of this Order—

Article 5

Article 8

Article 10

Article 11

Article 12

Article 13

Article 15.

(3) In exercising the relevant powers the Council, or any person acting by arrangement with the Council, shall not without the consent of the company (which consent shall not be unreasonably withheld or delayed) damage, injuriously affect or interfere with a protected work or render unreasonably inconvenient the access to a protected work.

- (a) (4) (a) If the company have reasonable ground for believing that any protected work is likely to be damaged, injuriously affected or interfered with by reason of the exercise of the relevant powers, it may carry out such protective works or measures as are reasonably necessary to avoid or mitigate such damage, affection or interference.
- (b) If as a consequence of the exercise of the relevant powers a protected work is damaged, injuriously affected or interfered with, the company may take such steps as are reasonably necessary to make good the damage, affection or interference.
- (c) Protective works or measures which the company may carry out under sub-paragraph (a) above and the steps which the company may take under sub-paragraph (b) above shall be such as may in either case be agreed between the Council and the company or, in default of agreement, as may be settled by arbitration, and the company may recover the reasonable

costs thereof from the Council (including a proper proportion of the overhead charges of the company).

- (a) (5) (a) If as a result of the exercise of the relevant powers the company reasonably incur additional expenditure in respect of the maintenance or operation of any protected work affected by the exercise of the relevant powers, or in complying with any discharge consent under Chapter II of Part III of the Water Resources Act 1991<sup>(1)</sup> in relation to a protected work, the company may recover such expenditure from the Council.
- (b) Nothing in sub-paragraph (a) above shall impose any liability on the Council with respect to any expenditure which may be attributable to the act, neglect or default of the company, its contractors, agents, workmen or servants.

(6) Not less than two months before the Council undertake any dredging (other than maintenance dredging) in exercise of the powers of article 8 of this Order they shall consult the company.

(7) Not less than two months before the Council make, amend or revoke any byelaws under article 29 or article 30 of this Order or under section 83 of the Act of 1847 they shall consult the company.

(8) Any difference arising between the company and the Council under this article (other than a difference as to the meaning or construction of this article) shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed, on the application of either party (after notice in writing to the other), by the President of the Institution of Civil Engineers.

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<sup>(1)</sup> 1991 c. 57.