

SCHEDULES

SCHEDULE 13

PROTECTIVE PROVISIONS

PART V

PROTECTION FOR BRITISH WATERWAYS BOARD

Powers requiring BW's consent

42.—(1) Network Rail shall not in the exercise of the powers conferred by this Order permanently obstruct or interfere with pedestrian or vehicular access to a waterway unless such permanent obstruction or interference with such access is with the consent of BW.

(2) Nothing in article 19 of this Order shall authorise Network Rail—

(a) to discharge any water directly or indirectly into a waterway, or

(b) to carry out any works to, or make any opening in, or otherwise interfere with, a waterway (including the banks and bed thereof),

except with the consent of BW and in accordance with plans approved by, and under the supervision (if given) of, the engineer.

(3) Network Rail shall not exercise the powers conferred by article 21 of this Order, or the powers conferred by section 11(3) of the 1965 Act, in relation to a waterway unless such exercise is with the consent of BW.

(4) Network Rail shall not exercise the powers conferred by section 271 or 272 of the Town and Country Planning Act 1990, as applied by Schedule 12 to this Order, so as permanently to divert any right of access to a waterway, but such right of access may be permanently diverted with the consent of BW.

(5) The consent of BW pursuant to any of sub-paragraphs (1) to (4) and the approval of plans under sub-paragraph (2) shall not be unreasonably withheld or delayed but may be given subject to reasonable conditions which in the case of article 19 may include conditions—

(a) specifying the maximum volume of water which may be discharged in any period; and

(b) authorising BW on giving reasonable notice (except in an emergency when BW may require immediate suspension) to Network Rail to require Network Rail to suspend the discharge of water or reduce the flow thereof where this is necessary by reason of any operational requirement of BW and where a reasonable alternative is available to enable Network Rail to discharge the water in question during the period of the suspension.