



Medway Ports Authority Act 1973

1973 CHAPTER xxi

PART VII

MISCELLANEOUS AND GENERAL

91 For protection of river authority

For the protection of the river authority the following provisions shall, unless otherwise agreed in writing between the Authority and the river authority, apply and have effect:—

- (1) (a) In this section unless the subject or context otherwise requires—
- " authorised work " means a work or equipment in, on, under or over the port (including an operation authorised by section 34 (Reclaiming creeks, etc.) of this Act) which may interfere with, or with the use of a protected work or a watercourse but does not include— (i) the carrying out of any works authorised by section 63 of the Land Drainage Act, 1930; or
 - (i) the erection of a structure or the carrying out of any work of alteration or repair of a structure in respect of which the consent of the river authority is required under section 31 of the Land Drainage Act, 1961;
 - " to construct" includes to carry out, place, lay down, alter, renew or remove and "constructed" and "construction" shall be construed accordingly;
 - " inland water " means any inland water as defined in subsection (1) of section 135 of the Water Resources Act, 1963, which is under the jurisdiction of the river authority for the purpose of any of their functions;
 - " plan " includes sections and particulars;
 - " protected work" means any work owned or maintained by, or under the control of, the river authority for the purpose of any of their functions;

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- (b) References in this section to interference with or damage to an inland water include interference with or impairment of its efficiency for drainage purposes:
- (2) (a) Before exercising their powers under section 36 (Power to dredge) of this Act within a distance of 500 yards of any protected work the Authority shall, except in a case which is, in the opinion of the Authority one of emergency (in which case the Authority shall give the river authority notice thereof as soon as is practicable), submit to the river authority for their reasonable approval plans defining the nature, extent and manner of the operations to be carried out in the exercise of those powers and except as aforesaid the powers shall not be exercised otherwise than in accordance with such plans as may be reasonably approved by the river authority or as may be settled by arbitration and in such manner as may be reasonably approved by the river authority;
 - (b) If by reason of any dredging operations carried out by the Authority any protected work shall be injured or its efficiency impaired, the river authority may make good such injury and restore the protected work to a proper standard of efficiency, or may construct some other work in substitution therefor, and in any such case the Authority shall pay the river authority the costs reasonably incurred by the river authority (including a proper proportion of their overhead charges) in carrying out any such works:
- (3) (a) Before commencing to construct an authorised work the Authority shall submit a plan of the work to the river authority for their approval, which is not to be unreasonably withheld, and shall not commence to construct the authorised work until the plan has been approved by the river authority or, in the case of difference, until it has been settled by arbitration;
 - (b) Not less than fourteen days before commencing a work of maintenance or repair of any authorised work which may interfere with a protected work or may interfere with an inland water the Authority shall, except in the case of emergency, submit to the river authority for their information a notice of intention to commence the work and a description of the work;
 - (c) Sub-paragraph (a) of this paragraph shall not apply in any case to which sub-paragraph (b) thereof applies:
- (4) (a) If the river authority do not signify their approval or disapproval of a plan submitted under either paragraph (2) or (3) of this section within two months after the receipt thereof they shall be deemed to have approved the plan;
 - (b) In giving their approval of a plan submitted under either paragraph (2) or (3) of this section the river authority may attach thereto such conditions (including conditions requiring the construction of protective works by and at the expense of the Authority during the construction of an authorised work or during the carrying out of a dredging operation by the Authority involving the cutting of a bank) as are reasonably necessary to safeguard the protected work or inland water against damage:
- (5) (a) If by reason of—
 - (i) the construction, maintenance or repair of an authorised work; or
 - (ii) the failure of that work or of the Authority to maintain it;
 a protected work or inland water is interfered with the river authority may—
 - (a) make good the protected work or inland water so as to restore it to its former standard of efficiency; or

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- (b) where necessary, construct some other work in substitution therefor;
and may recover from the Authority the reasonable cost of so doing;
- (b) For the purposes of this paragraph the reasonable cost shall include a proper proportion of the overhead charges of the river authority and any cost of executing works needed for remedying any subsidence of the protected work or of the substituted work during such reasonable period as is agreed between the Authority and the river authority or, in default of agreement, as may be settled by arbitration:
- (6) If the river authority have reasonable grounds for believing that a protected work or inland water is likely to be damaged in any of the circumstances mentioned in the last foregoing paragraph, they may carry out such protective works as may be agreed between the river authority and the Authority or as, in default of agreement, may be settled by arbitration:
- (7) The Authority shall not without the consent of the river authority construct an authorised work so as to obstruct to an unreasonable extent access to a protected work or inland water by the river authority and their officers, servants, workmen, contractors and agents together with any vehicles, plant and machinery as may be reasonably necessary but such consent shall not be unreasonably withheld and may be given subject to reasonable terms and conditions:
- (8) Any difference which may arise between the Authority and the river authority under this section (save a difference as to the meaning thereof) 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 :
- (9) Except in a case which is, in the opinion of the Authority, a case of emergency, the Authority shall, before raising, removing or destroying under the powers conferred upon them by section 530 of the Merchant Shipping Act, 1894, any vessel sunk, stranded or abandoned in the port or in or near any approach thereto and within a distance of 500 yards of any protected work, give to the river authority in writing as long notice as is practicable of their intention to do so.