



Killingholme Generating Stations (Ancillary Powers) Act 1991

1991 CHAPTER viii

PART IV

PROTECTIVE PROVISIONS

27 For protection of rivers authority

For the protection of the rivers authority the following provisions shall unless otherwise agreed in writing between the appropriate company and the rivers authority have effect:—

(1) In this section—

“the authorised works” means the National Power works or the PowerGen works, as the case may be;

“construction” includes execution and placing, renewal, diversion or alteration and in relation to temporary works also includes removal, and “construct” and “constructed” have corresponding meanings;

“plans” includes drawings and specifications and a description of the method of carrying out the work; and as regards a work of maintenance, repair or renewal means a description of the work only;

“protective works” means any temporary or permanent works constructed or measures taken under paragraph (3) or paragraph (7) of this section necessary—

- (a) to ensure the stability of a sea defence work or to protect it or a watercourse from injury or to ensure the maintenance of the flow of all water which but for the construction of the specified works would have flowed through a watercourse;
- (b) for the protection of water resources;

“sea defence work” means so much of the sea defence as is for the time being under the jurisdiction of the rivers authority for the purpose of the Land

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Drainage Act 1976 and the Water Resources Act 1963 and includes the land lying between the said defence and the level of low water;

“specified work” means any authorised work or any work for the purposes of or in connection with the construction of such a work carried out under section 6 (Power to make subsidiary works) of this Act which will or may affect—

- (a) a sea defence work or watercourse under the control of the rivers authority; or
- (b) water resources;

“temporary works” means any temporary structures which may be necessary to enable the authorised works to be constructed;

“watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers (other than sewers under the control of a local authority) and passages through which water flows, other than the river:

- (2) (a) Not less than 28 days before commencing to construct a specified work the appropriate company shall submit plans of such work to the rivers authority for their reasonable approval and shall not commence the specified work until such plans have been approved by the rivers authority or in the case of difference until they have been settled by arbitration:

Provided that if the rivers authority do not within 28 days after the receipt of any such plans signify to the appropriate company their disapproval thereof and the grounds for their disapproval they shall be deemed to have approved thereof;

- (b) Not less than 14 days before commencing any work of maintenance or repair of a specified work the appropriate company shall, except in the case of emergency, submit to the rivers authority for their information a notice of intention to commence the work and a description of the work:

- (3) Upon signifying their approval or disapproval of the said plans the rivers authority may specify any protective works which in their opinion should be carried out or undertaken by the appropriate company during the construction of the specified work and such of the works so specified as may be reasonably necessary for those purposes shall be constructed by the appropriate company at their own expense and under the supervision (if given) and to the reasonable satisfaction of the rivers authority:

- (4) (a) Subject to the provisions of this section, a specified work shall not be constructed except in accordance with such plans as may be approved or deemed to be approved by the rivers authority as aforesaid or settled by arbitration and shall be constructed to the reasonable satisfaction of the engineer of the rivers authority who shall be given reasonable notice of the date and time on and at which the work is to be commenced;
- (b) The appropriate company shall at all reasonable times during the construction of a specified work afford to the engineer of the rivers authority and his duly authorised representatives access to such specified work for the purposes of inspection;
- (c) As soon as is reasonably practicable after the completion of a specified work or thereafter upon 14 days' notice in writing from the rivers authority requiring them so to do the appropriate company shall remove so much of the work as consists only of temporary works carried out for the purposes of such construction:

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- (5) If there shall be any inconsistency between any plans approved or deemed to be approved by the rivers authority or settled by arbitration under the provisions of this section and the plans approved by the Secretary of State under section 13 (Tidal works not to be executed without approval of Secretary of State) of this Act the specified work shall be constructed in accordance with the plans approved by the Secretary of State:
- (6) If by reason of—
- (a) the construction, maintenance or repair of any specified work;
 - (b) the failure of that work or of the appropriate company to maintain it; or
 - (c) any operations carried out by the appropriate company under section 9 (Power to dredge) of this Act;
- a sea defence work shall be breached or, as the case may be, a sea defence work or a watercourse shall at any time be injured or its efficiency as a sea defence work or watercourse is otherwise impaired, the rivers authority may fill in the breach or, as the case may be, make good such injury and in either such a case restore it to a proper standard of efficiency as a sea defence work or watercourse, as the case may be, and recover the reasonable cost thereof (including a proper proportion of the overhead charges of the rivers authority) from the appropriate company:
- (7) If the rivers authority have reasonable grounds for believing that damage to a sea defence work or watercourse is likely to take place or its efficiency as a sea defence work or watercourse is likely to be impaired in any of the circumstances mentioned in paragraph (6) above, they may carry out such protective works as may be agreed between the rivers authority and the appropriate company or as, in default of agreement, may be settled by arbitration and recover the reasonable cost thereof (including a proper proportion of the overhead charges of the rivers authority) from the appropriate company:
- (8) Any additional expense which may be reasonably incurred by the rivers authority in maintaining any protective works which become part of the sea defence works or a watercourse shall on demand be repaid to the rivers authority by the appropriate company:
- (9) (a) Where a specified work is in, on or under a sea defence work or abuts upon any lands acquired by the appropriate company under this Act the rivers authority and their officers, servants, workmen, contractors and agents together with any vehicles, plant or machinery shall be entitled at all reasonable times and in an emergency at any time to enter upon the said specified work, the part of the sea defence work in, on or over it or the said land for the purpose of carrying out works in connection with the sea defence work or of obtaining access to the sea defence work;
- (b) A specified work shall not be constructed so as to prevent access during construction to a sea defence work or a watercourse by the rivers authority and their officers, servants, workmen, contractors and agents together with such vehicles, plant and machinery as may be reasonably necessary:
- (10) The rivers authority for the purpose of performing or in connection with the performance of any of their functions shall be entitled at all reasonable times and in an emergency at any time to inspect any of the authorised works or any work for the purposes of or in connection with the construction of such authorised work carried out under section 6 (Power to make subsidiary works) of this Act:

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- (11) The appropriate company shall indemnify and hold harmless the rivers authority from all claims, demands or expenses which may be made on or against them or which they may have to pay by reason or in consequence of any injury or damage which may be caused or result to a sea defence work or watercourse or to the water resources of the rivers authority by or in consequence of the construction, maintenance or repair of an authorised work or any work for the purposes of or in connection with such first-mentioned work carried out under section 6 (Power to make subsidiary works) of this Act or of the failure or want of repair thereof or any subsidence caused by the construction thereof or in consequence of any act or omission of the appropriate company, their contractors, agents, workmen or servants whilst engaged upon an authorised work or any such other work as aforesaid:

Provided that the rivers authority shall give to the appropriate company reasonable notice of any such claim or demand as aforesaid and no settlement or compromise thereof shall be made without the agreement of the appropriate company:

- (12) The fact that any work or thing has been executed or done in accordance with a plan approved or deemed to be approved by the rivers authority or to their satisfaction or in accordance with any directions or award of an arbitrator shall not relieve the appropriate company from any liability under the provisions of this section:
- (13) Any difference arising between the appropriate company and the rivers authority under this section (other than a difference as to the construction of this section) shall be settled by arbitration.