



British Railways (No. 2) Act 1992

1992 CHAPTER xi

PART V

PROTECTIVE PROVISIONS

42 For protection of National Rivers Authority

For the protection of the National Rivers Authority (in this section referred to as “the authority”) the following provisions shall, unless otherwise agreed in writing between the Board and the authority, have effect:—

(1) In this section—

“construction” includes execution, placing and altering and, in relation to temporary works, includes removal; and “construct” and “constructed” have corresponding meanings;

“drainage work” means any watercourse and includes any land regularly used for providing flood storage capacity for any such watercourse and any other structure or appliance under the control of the authority constructed or used for defence against water;

“the fishery” means fish in, or migrating to or from, the river Eye or the river Trent and the spawn, spawning grounds or food of such fish in either of those rivers;

“plans” includes sections, drawings, specifications, method statements and other such particulars;

“specified work” means so much of any work or operation authorised by this Act as is in, on, under or over a watercourse or is likely to—

- (a) interfere with or affect (either directly or indirectly) any drainage work;
or
- (b) cause obstruction to the free passage of water or fish in any watercourse;
and

“watercourse” has the meaning given in section 72 of the Land Drainage Act 1991:

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- (2) (a) Not less than 56 days before beginning to construct any specified work, the Board shall submit to the authority plans of the work and the work shall not be constructed except in accordance with plans approved by the authority, or settled by arbitration, and in accordance with any reasonable requirements made by the authority for the protection of any drainage work or the fishery or for the prevention of flooding or pollution;
- (b) The requirements which the authority may make under sub-paragraph (a) above include conditions requiring the construction of such protective works by, and at the expense of, the Board during the construction of the specified work as are reasonably necessary to safeguard a drainage work against damage or to secure that the efficiency of a drainage work for flood defence purposes is not impaired:
- (3) If within a period of 56 days after the submission of any plans under sub-paragraph (2) (a) above the authority do not inform the Board in writing that they disapprove of those plans, stating the grounds of their disapproval, they shall be treated for the purposes of this section as having approved them:
- (4) Any specified work, and all protective works required by the authority under paragraph (2) above, shall be constructed to the reasonable satisfaction of the authority and the authority shall be entitled by their officer to watch and inspect the construction of such works:
- (5) If by reason of the construction of any specified work the efficiency of any flood defence work for drainage purposes is impaired or that work is damaged, such impairment or damage shall be made good by the Board to the reasonable satisfaction of the authority and, if the Board fail to do so, the authority may make good the same and recover from the Board the expense reasonably incurred by them in so doing:
- (6) (a) The Board shall indemnify the authority from all claims, demands, proceedings, costs, damages, expenses or loss which may be made or taken against, or recovered from or incurred by, the authority in consequence of—
- (i) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence; or
 - (ii) any damage to the fishery; or
 - (iii) any raising of the water table in land adjoining any of the works or adjoining any sewers, drains and watercourses; or
 - (iv) any flooding or increased flooding of any such land;
- which may be caused by, or result from, the construction of any specified work or any act or omission of the Board, their contractors, agents, workmen or servants whilst engaged upon the work;
- (b) The authority shall give to the Board reasonable notice of any such claim or demand and no settlement or compromise thereof shall be made without the agreement of the Board:
- (7) 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 authority, or to their satisfaction, or in accordance with any directions or award of an arbitrator, shall not relieve the Board from any liability under the provisions of this section:
- (8) For the purposes of section 109 of the Water Resources Act 1991 (as to structures in, over or under a main river) as applying to the construction of any specified work, any consent or approval given or deemed to be given by the authority under this section

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with respect to the erection of any structure shall be deemed also to constitute a consent or approval under the said section 109 as respects the erection of that structure:

- (9) Any difference arising between the Board and the authority under this section (other than a difference as to its meaning or construction) shall be referred to and settled by arbitration.