



Aire and Calder Navigation Act 1992

1992 CHAPTER iv

PART IV

PROTECTIVE PROVISIONS

35 For protection of sewers

For the protection of the sewers of Yorkshire Water Services Limited (hereinafter called "the company") the following provisions shall, unless otherwise agreed in writing between the Corporation and the company, have effect:—

(1) In this section—

"construction" includes execution, placing and altering and, in relation to temporary works, includes removal and "constructed" shall be construed accordingly;

"new, altered or substituted works" includes any works required for the protection of any sewer;

"sewer" means a public sewer within the meaning of the Water Industry Act 1991 and includes a disposal main within the meaning of that Act;

"specified work" means Works Nos. 11 and 12 and so much of any work (whether temporary or permanent) forming part of, or constructed in connection with, the works, or any of them, as will or may be situated over or within 15 metres measured in any direction of, or (wherever situated) impose any load directly upon, any sewer, and includes the construction, maintenance or renewal of any such works:

(2) The Corporation shall not commence any specified work until they have given to the company 56 days' previous notice in writing of their intention to commence the same by leaving such notice at the principal office of the company with plans as described in paragraph (7) below (in this section referred to as "the said plans") and until the company have signified their approval of the said plans:

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Provided that such approval shall not be unreasonably withheld and, if within 56 days after the submission of the said plans the company have not approved or disapproved them, they shall be deemed to have approved the said plans:

- (3) The Corporation shall comply with and conform to all reasonable orders, directions and regulations of the company in the construction of any specified work and shall provide new, altered or substituted works in such manner as the company reasonably require for the proper protection of, and for preventing injury or impediment to, or for securing access to any existing sewer of the company by reason of any specified work and shall indemnify the company against all expenses to be occasioned thereby:
- (4) All such new, altered or substituted works shall, where so required by the company, be constructed by or under the direction, superintendence and control of an officer of the company duly appointed for the purpose at the expense of the Corporation and all reasonable expenses to which the company may be put by reason of such works, whether in the execution thereof, or in the preparation or examination of plans or designs or in such direction, superintendence or control as aforesaid, or otherwise, shall be paid to the company by the Corporation:
- (5) When any such new, altered or substituted works or any other work connected therewith is completed by or at the expense of the Corporation under the provisions of this section, it shall be under the control of the company:
- (6) Nothing in this Act shall affect any right or power of the company in relation to sewers:
- (7) The plans to be submitted to the company for the purposes of this section shall be detailed plans, drawings, sections and specifications which shall describe the exact position and manner in which, and the level at which, any specified work is proposed to be constructed and shall accurately describe the position of all sewers of the company within the limits of deviation (for which purpose the company shall allow the Corporation access to plans in their possession and to any of their sewers in order to enable the Corporation to obtain reliable information) and shall comprise detailed drawings of every alteration which the Corporation may propose to make in any such sewers:
- (8) The company may require such modifications to be made in the said plans as may be reasonably necessary to secure the sewerage system of the company against interference or risk of damage and to provide and secure a proper and convenient means of access to the sewers of the company:
- (9) If, in consequence of the construction of the works, any damage shall be caused to any sewer or property of the company (other than a sewer the repair of which is not reasonably necessary in view of its intended removal), the Corporation shall either make good the damage by restoring the sewer to its former standard of efficiency or where necessary construct some other work in substitution therefor or, if the company so requires, repay the cost reasonably incurred by the company in making good such damage and shall—
 - (a) make reasonable compensation to the company for any loss sustained by them; and
 - (b) indemnify the company against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from, or incurred by the company;in consequence of any such damage:

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Provided that—

- (i) nothing in this paragraph shall impose any liability on the Corporation with respect to any damage to the extent that such damage is attributable to the act, neglect or default of the company, their officers, servants, contractors or agents; and
 - (ii) the company shall give to the Corporation reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Corporation:
- (10) Notwithstanding the temporary stopping up or diversion of any highway under the powers of section 10 (Temporary stoppage of roads, rivers, etc.) of this Act, the company shall be at liberty at all times to construct and do all such works and things in, upon or under any such highway as may be reasonably necessary to enable them to inspect, repair, maintain, renew, alter, protect, remove or use any sewer which at the time of the stopping up or diversion was in that highway:
- (11) It shall be lawful for an officer of the company duly appointed for the purpose at any reasonable time and, if required by the Corporation, under their supervision to enter upon and inspect any specified work or any other works constructed under the powers of this section:
- (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 company or to the satisfaction of the company in accordance with any directions or award of an arbitrator, shall not relieve the Corporation from any liability under the provisions of this section:
- (13) Costs and expenses recoverable by the company from the Corporation under this Act include a proper proportion of the overhead charges of the company:
- (14) As soon as reasonably practicable after the completion of the construction of a specified work the Corporation shall deliver to the company a plan and section showing the position and level of that work as constructed and all new, altered or substituted works provided under this section:
- (15) Any difference arising between the Corporation and the company under this section shall be determined by arbitration.