



Avon Weir Act 1992

1992 CHAPTER v

PART VI

PROTECTIVE PROVISIONS

46 Notice to police, etc

before breaking up or otherwise interfering with any road in connection with the construction of the works, the corporation shall (except in a case of emergency) give not less than 14 days' notice to the chief officer of police and to the fire authority of its intention so to do.

47 Crown rights

- (1) Subject to section 24 (Status of works in impounded river) of this Act, nothing in this Act affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing in this Act shall authorise any person to take, use, enter upon or in any manner interfere with, any land or hereditaments (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary) or any rights of whatsoever description—
 - (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those commissioners; or
 - (b) belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that department.
- (2) Consent under subsection (1) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.

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48 Saving for Trinity House

Subject to section 24 (Status of works in impounded river) of this Act, nothing in this Act shall prejudice or derogate from the powers, rights and privileges of Trinity House.

49 For protection of electricity, gas and water undertakers

For the protection of the several undertakers referred to in this section, the following provisions shall, unless otherwise agreed in writing between the Corporation and the undertakers concerned, apply:—

(1) In this section—

“adequate alternative apparatus” means alternative apparatus adequate to enable the undertakers to fulfil their statutory functions in a manner not less efficient than previously;

“apparatus” means—

- (a) in the case of electricity undertakers, electric lines or electrical plant (as defined in the Electricity Act 1989) belonging to or maintained by such undertakers; or
- (b) in the case of gas or water undertakers, any mains, pipes or other apparatus belonging to or maintained by such undertakers;

and includes any building, structure or works for the lodging therein of apparatus;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land; and

“the undertakers” means any person authorised to carry on an undertaking for the supply of electricity, gas or water within the area within which the Corporation is by this Act authorised to purchase land or execute works and, in relation to any apparatus, means the undertakers to whom the apparatus belongs or by whom the apparatus is maintained:

- (2) Notwithstanding the temporary stopping up or diversion of any road, bridleway or footpath under the powers of section 14 (Footpaths) and section 15 (Temporary stoppage of roads, bridleways and footpaths) of this Act the undertakers shall be at liberty at all times to execute and do all such works and things in, upon or under any such road, bridleway or footpath as may be reasonably necessary or desirable to enable them to inspect, repair, maintain, renew, remove or use any apparatus which at the time of the stopping up or diversion was in that road, bridleway or footpath:
- (3) Notwithstanding anything in this Act or shown on the deposited plans the Corporation shall not acquire any apparatus under the powers of this Act otherwise than by agreement:
- (4) If the Corporation, in the exercise of the powers of this Act, acquires any interest in any land in which any apparatus is placed that apparatus shall not be removed under this section and any right of the undertakers to maintain, repair, renew or inspect that apparatus in that land shall not be extinguished until adequate alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the undertakers:
- (5) If the Corporation, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Act, requires the removal of

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any apparatus placed in that land and gives to the undertakers written notice of such requirement, together with a plan and section of the work proposed and of the proposed position of the alternative apparatus to be provided or constructed so as to provide adequate alternative apparatus in lieu of the apparatus to be removed, or if, in consequence of the exercise of any of the powers of this Act, the undertakers reasonably require to remove any apparatus, the Corporation shall afford to the undertakers the necessary facilities and rights for the construction of such alternative apparatus in other land of the Corporation and thereafter for the maintenance, repair, renewal and inspection of such apparatus:

Provided that, if the alternative apparatus or any part thereof is to be constructed elsewhere than in other land of the Corporation and the Corporation is unable to afford such facilities and rights as aforesaid in the land in which the alternative apparatus or such part thereof is to be constructed, the undertakers shall, on receipt of a written notice to that effect from the Corporation, forthwith use their best endeavours to obtain the necessary facilities and rights in such last-mentioned land:

- (6) (a) Any alternative apparatus to be constructed in land of the Corporation under this section shall be constructed to any standard specification which the appropriate undertakers may have for the relevant apparatus, in the location and at depths and gradients applying in these circumstances or in such manner and in such line or situation as may be agreed between the undertakers and the Corporation or in default of agreement settled by arbitration;
- (b) The undertakers shall, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration as aforesaid and after the grant to the undertakers of any such facilities and rights as are referred to in paragraph (5) above, proceed with all reasonable dispatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the Corporation to be removed under the provisions of this section:
- (7) Notwithstanding anything in paragraph (6) above, if the Corporation gives notice in writing to the undertakers that it desires itself to execute any part of so much of the work necessary in connection with the construction of the alternative apparatus or the removal of the apparatus required to be removed as will be carried out in any land of the Corporation, such work, in lieu of being executed by the undertakers, shall be executed by the Corporation with all reasonable dispatch under the superintendence, if given, and to the reasonable satisfaction of the undertakers:

Provided that nothing in this paragraph shall authorise the Corporation to execute the actual placing, installation, bedding, packing, removal, connection or disconnection of any apparatus or any filling around any apparatus extending (where the apparatus is laid in a trench) to 300 millimetres or more above the apparatus:

- (8) Where, in accordance with the provisions of this section, the Corporation affords to the undertakers facilities and rights for the construction, maintenance, repair, renewal and inspection in land of the Corporation of alternative apparatus in substitution for apparatus to be removed as aforesaid, those facilities and rights shall be granted upon such terms and conditions as may be agreed between the Corporation and the undertakers or in default of agreement settled by arbitration:

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- (a) in determining such terms and conditions as aforesaid in respect of alternative apparatus to be constructed in or along any works of the Corporation, the arbitrator shall—
 - (i) give effect to all reasonable requirements of the Corporation for ensuring the safety and efficient operation of the works and for securing any subsequent alteration, which may be required to prevent interference with any proposed works of the Corporation; and
 - (ii) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions applicable to the apparatus, if any, constructed in or along the works for which the alternative apparatus is to be substituted;
 - (b) if the facilities and rights to be afforded by the Corporation in respect of any alternative apparatus and the terms and conditions subject to which the same are to be granted are in the opinion of the arbitrator less favourable on the whole to the undertakers than the facilities and rights enjoyed by them in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator shall make such provision for the payment of compensation by the Corporation to the undertakers in respect thereof as appears to him to be reasonable having regard to all the circumstances of the particular case:
- (9) (a) Not less than 56 days before commencing to execute any such works as are referred to in paragraph (5) above and are near to or will or may affect any apparatus the removal of which has not been required by the Corporation under the said paragraph (5) the Corporation shall submit to the undertakers a plan, section and description of the works to be executed;
- (b) Such works shall be executed only in accordance with the plan, section and description submitted as aforesaid and in accordance with such reasonable requirements as may be made by the undertakers for the alteration or otherwise for the protection of the apparatus or for securing access thereto, and the undertakers shall be entitled by their officer to watch and inspect the execution of such works:

Provided that—

- (i) if the undertakers within 28 days after the submission to them of any such plan, section and description, in consequence of the works proposed by the Corporation, reasonably require the removal of any apparatus and give written notice to the Corporation of such requirement, the foregoing provisions of this section shall apply and have effect as if the removal of such apparatus had been required by the Corporation under the said paragraph (5);
 - (ii) nothing in this sub-paragraph shall preclude the Corporation from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of any such works, a new plan, section and description thereof in lieu of the plan, section and description previously submitted, and thereupon the provisions of this paragraph shall apply to and in respect of such new plan, section and description;
- (c) The Corporation shall not be required to comply with sub-paragraph (a) above in a case of emergency but in such a case it shall give to the undertakers notice as soon as reasonably practicable and a plan, section and description of the

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works as soon as reasonably practicable thereafter and shall comply with subparagraph (b) above so far as reasonably practicable in the circumstances:

- (10) Where, in consequence of this Act, any part of any street, road, bridleway or footpath in which any apparatus is situate ceases to be part of a street, road, bridleway or footpath, the undertakers may exercise the same rights of access to such apparatus as they enjoyed immediately before the passing of this Act, but nothing in this paragraph shall prejudice or affect any right of the Corporation or of the undertakers to require removal of such apparatus under this section or the power of the Corporation to execute works in accordance with paragraph (9) above:
- (11) The Corporation shall pay to the undertakers the costs, charges and expenses reasonably incurred by the undertakers in or in connection with the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph (5) above, less the value of any apparatus removed under the provisions of this section (such value being calculated after removal) and shall also make compensation to the undertakers—
- (a) for any damage caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal in accordance with the provisions of this section); and
 - (b) for any other expenses, loss, damages, penalty or costs incurred by the undertakers;

by reason or in consequence of the execution, maintenance, user or failure of any such works or otherwise by reason or in consequence of the exercise by the Corporation of the powers of this Act:

- (12) Where, by reason or in consequence of the stopping up of any street, road, bridleway or footpath under the powers of this Act, any apparatus belonging to the undertakers and laid or placed in such street, road or footpath or elsewhere is rendered derelict or unnecessary, the Corporation shall pay to the undertakers the then value of such apparatus (which shall thereupon become the property of the Corporation) and the reasonable cost of and incidental to the cutting off of such apparatus from any other apparatus and of and incidental to the execution or doing of any works or things rendered necessary or expedient by reason or in consequence of such apparatus being so rendered derelict or unnecessary:

Provided that the Corporation shall not under the provisions of this paragraph be required to pay to the undertakers the value of any apparatus rendered derelict or unnecessary if, to the reasonable satisfaction of the undertakers, other apparatus has at the expense of the Corporation been provided and laid and made ready for use in substitution for the apparatus so rendered derelict or unnecessary:

- (13) Any difference arising between the Corporation and the under-takers under this section (other than a difference as to the meaning or construction of this section) shall be referred to and settled by arbitration:
- (14) Nothing in this section shall be deemed to prejudice or affect the provisions of any enactment or agreement regulating the relations between the Corporation and the undertakers in respect of any apparatus laid or erected in land belonging to the Corporation at the date of the passing of this Act.

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50 For protection of sewers of Wessex Water Services Limited

For the protection of the sewers of the water company the following provisions shall, unless otherwise agreed in writing between the Corporation and the water company, apply:—

(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” includes any sewer, drain or works vested in the water company under the Water Industry Act 1991, any main used for the conveyance of sewage sludge or sewage effluent and any pipe or subway vested in or maintained by the water company; and

“specified work” means so much of the works and of any work (whether temporary or permanent) forming part of, or constructed in connection with, the works, or any of them, as—

- (a) will or may be situated over or within 10 metres measured in any direction of any sewer; or
- (b) wherever situated, imposes any physical load directly on any sewer, pipe or drain; or
- (c) wherever situated, adversely affects the operation of any sewer, pipe or drain:

(2) The Corporation shall not commence the construction of any specified work unless it has given to the water company not less than 56 days' notice in writing of its intention to commence the same by leaving such notice at the principal office of the water company with plans as described in paragraph (7) below (in this section referred to as “the said plans”) and until the water company have signified their approval of the said plans:

Provided that such approval shall not be unreasonably withheld and, if within 56 days after the submission of the said plans the water 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 water company in the construction of any specified work and shall provide new, altered or substituted works which shall be constructed to the water company's standard specification for the relevant apparatus, and in the location and at depths and gradients applying in these circumstances, in such manner as the water company reasonably require for the proper protection of, and for preventing injury or impediment to, a sewer of the water company by reason of any specified work and shall save harmless the water company against all expenses to be occasioned thereby:
- (4) All such new, altered or substituted works shall, where so required by the water company, be constructed by or under the direction, superintendence and control of an officer of the water company duly appointed for the purpose at the cost, charge and expense in all respects of the Corporation and all reasonable costs, charges and expenses to which the water 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 water company by the Corporation on demand:

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- (5) When any such new, altered or substituted works or any work of defence connected therewith shall be completed by or at the cost, charge and expense of the Corporation under the provisions of this section, the same shall thereafter be as fully and completely under the direction, jurisdiction and control of the water company as any sewers or works now or hereafter may be:
- (6) Nothing in this Act shall extend to prejudice, diminish, alter or take away any of the rights, powers or authorities vested or to be vested in the water company in relation to sewers but all such rights, powers and authorities shall be as valid and effectual as if this Act had not been passed:
- (7) The plans to be submitted to the water 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 water company within the limits of deviation (for which purpose the water 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 water company may require such modifications to be made in the said plans as may be reasonably necessary to secure the sewerage system of the water company against interference or risk of damage and to provide and secure a proper and convenient means of access to the sewers of the water company:
- (9) The Corporation shall be liable to make good, or, if the water company so decide, to bear any expense reasonably incurred by the water company in making good, all injury or damage caused by or resulting from the construction of any specified work to any sewers, drains or works vested in the water company, and the water company shall have power to recover any expense so incurred by them from the Corporation:
- (10) If, in the construction of any specified work, or any new, altered or substituted works, or any work of defence connected therewith provided in accordance with this section, the Corporation damages, or, without the consent of the water company, alters or in any way interferes with any existing sewer of the water company the Corporation shall—
 - (a) pay to the water company any additional expense to which they may be put in the maintenance, management or renewal of any new, altered or substituted sewer which may be necessary in consequence of the said construction; and
 - (b) give to the water company full, free and uninterrupted access at all times to any such new, altered or substituted sewer (but under the supervision and control of the Corporation which shall be provided as soon as possible) and every reasonable facility for the inspection, maintenance, alteration and repair thereof:
- (11) It shall be lawful for an officer of the water company duly appointed for the purpose at any reasonable time and, if required by the Corporation, under its supervision to enter upon and inspect any specified work or any other works constructed under the powers of this section:
- (12) The approval by the water company of any plans or the superintendence by them of any work under the provisions of this section shall not exonerate the Corporation from any liability or affect any claim for damages under this section or otherwise:

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- (13) As soon as reasonably practicable after the completion of the construction of a specified work the Corporation shall deliver to the water 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:
- (14) Any difference arising between the Corporation and the water company under this section (other than a difference as to the meaning or construction of this section) shall be referred to and settled by arbitration.

51 For protection of National Rivers Authority

For the protection of the rivers authority, the following provisions shall, unless otherwise agreed in writing between the Corporation and the rivers authority, apply:—

- (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 as defined in the Land Drainage Act 1991, and includes any land used for providing flood storage capacity for any such watercourse and any structure or appliance constructed or used for defence against water;

“plans” includes sections, drawings, specifications, method statements and other such particulars including in relation to the weir the operational criteria;

“the prescribed minimum flow” means a flow of not less than that for which the fish pass forming part of the weir is designed or adapted;

“the protected fishery” means the river and fish in, or migratory fish proceeding to or from, the impounded river and the spawn or food of such fish;

“specified work or operation” means so much of any work or operation authorised by Part II of this Act as is likely to—

- (a) affect any drainage work or the volumetric flow rate of water in, or flowing to or from, any drainage work;
- (b) affect the flow, purity or water quality of water in any watercourse;
- (c) cause obstruction to the free passage of fish in any watercourse; or
- (d) affect the conservation, distribution or use of water resources; and

“specified work” and “specified operation” shall be construed accordingly:

- (2) The Corporation shall not under the powers of this Act acquire any apparatus belonging to or maintained by the rivers authority otherwise than by agreement:
- (3) In the event that the Corporation commences to construct Work No. 1 or any other specified work or specified operation, the rivers authority may require the Corporation—
- (a) to construct and complete the whole of that work or operation; and
 - (b) before any impoundment of the river by means of the weir, to construct and complete any other work or operation required by the rivers authority in connection with its approval of Work No. 1 under paragraph (4) below.
- (4) (a) The Corporation shall submit to the rivers authority for its approval plans of any specified work or operation and such further particulars available to it as the rivers authority may reasonably require;

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- (b)
 - (i) Any such specified work or operation shall not be constructed except in accordance with plans approved in writing by the rivers authority, or settled pursuant to paragraph (17) (a) below, and in accordance with any reasonable requirements made by the rivers authority for the protection of any drainage work or of the protected fishery or water resources and for the prevention of flooding or pollution;
 - (ii) Requirements under this sub-paragraph may include, in relation to the weir, requirements as to levels, an alignment within the limits of deviation for the weir and as to the fish pass facilities and sluices which form part of the weir;
 - (c) Without prejudice to the generality of the foregoing the requirements which the rivers authority may make under sub-paragraph (b) above include conditions requiring the Corporation at its own expense—
 - (i) to provide or maintain means of access for the rivers authority;
 - (ii) to undertake landscaping; and
 - (iii) to construct such protective works whether temporary or permanent during the construction of the specified work or operation (including the provision of flood embankments or walls and other new works and the strengthening, repair or renewal of existing banks, embankments or walls) as are reasonably necessary to safeguard the weir or any drainage work against damage or to secure that its efficiency for flood defence purposes is not impaired or the risk of flooding is not otherwise increased by reason of any specified work;
 - (d) Protective works required by the rivers authority under sub-paragraphs (b) and (c) above may include the construction of such works on any land whether or not the Corporation has a sufficient interest therein and may be in addition to such works as are authorised by section 7 (Further works and powers) of this Act;
 - (e) Approval of plans submitted under this paragraph shall not be unreasonably withheld and if within a period of two months after the submission of any plans under sub-paragraph (a) above the rivers authority does not inform the Corporation in writing that it disapproves of those plans, stating the grounds of its disapproval, it shall be treated for the purposes of this section as having approved them:
- (5)
 - (a) Any specified work or operation, and all protective works required by the rivers authority under paragraph (4) above, shall be constructed to the reasonable satisfaction of the rivers authority and the rivers authority shall be entitled by its officer to watch and inspect the construction of such works and operations;
 - (b) If any of the works is constructed other than in accordance with the requirements of this section, the rivers authority may by notice in writing require the Corporation at the Corporation's own expense to comply with the requirements of this section or to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition;
 - (c) Subject to sub-paragraph (d) below, if, on the expiration of 30 days from the date when a notice under sub-paragraph (b) above is served upon the Corporation, it has failed to comply with the requirements of the notice, the rivers authority may execute the works specified in the notice and any expenditure incurred by it in so doing shall be recoverable from the Corporation;

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- (d) In the event of any dispute as to whether sub-paragraph (b) above is properly applicable to any work in respect of which notice has been served under that sub-paragraph, the rivers authority shall not except in emergency exercise the powers of sub-paragraph (c) above until the dispute has been finally determined:
- (6) (a) Any work constructed under this Act which provides a defence against flooding shall be maintained by and at the expense of the Corporation to the reasonable satisfaction of the rivers authority;
 - (b) If any such work is not maintained to the reasonable satisfaction of the rivers authority it may by notice in writing require the Corporation at the Corporation's own expense to carry out such works of maintenance, repair or replacement as may be specified in the notice and if, on the expiration of 30 days from the date when the notice is served upon the Corporation, it has failed to comply with the requirements of the notice, the provisions of sub-paragraph (5) (c) above shall apply:
- (7) The Corporation shall not commence impounding of the river by means of the weir until—
 - (a) such protective works as the rivers authority may require under paragraph (4) above have been constructed; and
 - (b) there have been secured to the reasonable satisfaction of the rivers authority the removal, relocation, improvement or effective operation of such outfalls as the rivers authority may reasonably require having regard to the likely effect of the construction or operation of the weir upon the operation of such outfalls and the environmental effect of their operation:
 - (8) (a) Without prejudice to the other provisions of this section, the Corporation shall take all such measures as may be reasonably practicable to prevent any interruption in the passage of fish during the construction of the weir and shall not exercise the powers of section 11 (Dredging and other operations in river) of this Act in such a manner as is likely to affect prejudicially the operation of any fish pass facilities or other work provided to help secure or monitor the passage of fish;
 - (b) The Corporation shall be responsible for and make good to the rivers authority all costs, charges, expenses and losses which may be occasioned to, suffered by, or reasonably incurred by the rivers authority in taking action—
 - (i) after notice in writing to the Corporation to protect the protected fishery against anticipated damage; or
 - (ii) to remedy any damage to that fishery;
 being damage anticipated or suffered by reason or in consequence of the execution of the works or operations authorised by this Act, of the failure or want of repair of the works, or in consequence of any act or omission of the Corporation or its contractors, agents, workmen or servants in connection with those works or operations:
 - (9) (a) The Corporation shall when requested so to do in writing by the rivers authority remove any accumulation in the river caused or created in consequence of the construction of any specified work or operation where such removal is reasonably required by the rivers authority so as to secure that the efficiency of either—
 - (i) the fish pass comprised in the weir; or

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- (ii) the impounded river as a drainage work;
is not materially impaired;
 - (b) If by reason of the construction of any specified work or operation the efficiency of any drainage work is otherwise impaired or that work is otherwise damaged, such damage shall be made good by the Corporation to the reasonable satisfaction of the rivers authority;
 - (c) If the Corporation fails to remove any accumulation or make good any damage in accordance with the requirements of this paragraph, the rivers authority may do so and recover from the Corporation the expense reasonably incurred by it in so doing:
- (10)
 - (a) Plans of any specified work shall not be submitted by the Corporation to the Minister for his approval pursuant to section 9 of the Salmon and Freshwater Fisheries Act 1975 or to the Secretary of State under section 19 (Tidal works not to be executed without approval of Secretary of State) of this Act until plans of that work have been approved by the rivers authority or submitted for settlement under paragraph (17) (a) below, and if, on the submission of plans to the Minister or to the Secretary of State, either of them requires any alteration of the plans so approved or settled under this section, or of any such requirement relating thereto, the Corporation shall, not less than 28 days before commencing the work, inform the rivers authority of any such alteration;
 - (b) Subject to compliance with sub-paragraph (a) above, if there is any inconsistency between any plans approved or deemed to be approved by the rivers authority or settled under paragraph (4) above or any requirement relating thereto, and the plans approved by the Minister or by the Secretary of State (as the case may be) or any conditions or restrictions imposed by the Secretary of State under the said section 19 the specified work or operation shall be constructed in accordance with the plans approved by the Minister or by the Secretary of State (as the case may be) and subject to the conditions or restrictions imposed by the Secretary of State;
 - (c) When submitting any plans to the Secretary of State under the said section 19, the Corporation shall send a copy of the plans to the rivers authority and the Corporation shall, on receipt of approval of plans or of any conditions or restrictions imposed under that section, send a copy to the rivers authority:
- (11) The Corporation shall at its own expense and in consultation with the rivers authority—
 - (a) formulate and give effect to a programme for monitoring siltation or scouring, which may impair the efficiency of any drainage work, arising in consequence of the construction or operation of the weir, or any extension, enlargement, alteration or replacement of the weir; and
 - (b) formulate a programme for monitoring the effect on the protected fishery of the construction and operation of the weir or of any extension, enlargement, alteration or replacement of the weir:
- (12) The Corporation shall carry out such technical surveys and modelling as are reasonably required by the rivers authority by reason of the intended construction and operation of the weir for the purpose of securing the maintenance of water quality standards:

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- (13) The Corporation shall indemnify the rivers authority in respect of the following costs, charges and expenses which the rivers authority reasonably imposes, incurs or has to pay or sustain:—
- (a) any charge made for a consent under any enactment, being a charge of the amount usually made by the rivers authority for such consents;
 - (b) the actual cost to the rivers authority of supervision by it of the construction of any specified work or the carrying out of any specified operation where such supervision is reasonably required for the purposes of any function of the rivers authority in so far as such costs are not recovered under sub-paragraph (a) above;
- or such lump sum in respect of such costs, charges and expenses as may be agreed between the Corporation and the rivers authority:
- (14) (a) Without prejudice to the other provisions of this section, the Corporation shall indemnify the rivers 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 rivers authority by reason or 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 protected fishery; or
 - (iii) any raising of the water table in land adjoining the authorised works or any sewers, drains and watercourses; or
 - (iv) any flooding of land which prior to the construction of the works was not subject to flooding or any increased flooding of any land which prior to the construction of the works was subject to flooding; or
 - (v) deterioration of water quality in the river or other surface waters or in groundwater affected by the raising of the water table in any land adjoining the river;
- which may be caused by or result from the construction of any specified work or operation, or the failure or want of repair thereof, or any act or omission of the Corporation or its contractors, agents, workmen or servants whilst engaged upon the work or operation;
- (b) The rivers authority shall give to the Corporation reasonable notice of any such claim or demand and no settlement or compromise thereof shall be made without the agreement of the Corporation:
- (15) 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 its satisfaction or in accordance with any directions or award of an arbitrator or in accordance with any plans approved by the Secretary of State and any conditions or restrictions imposed by him, shall not relieve the Corporation from any liability under the provisions of this section:
- Provided that this sub-paragraph shall not apply to the extent that such liability arises from a failure by the rivers authority, or by the Minister or the Secretary of State (whether or not acting as an arbitrator), properly to perform their functions:
- (16) Except as otherwise provided by this Act, nothing in this Act shall prejudice or affect in their application to the rivers authority the powers, rights, jurisdictions and obligations conferred, arising or imposed under the Land Drainage Act 1991, the Water Resources Act 1991, the Salmon and Freshwater Fisheries Act 1975 or any other enactment, byelaw or regulation relating to the rivers authority:

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- (17) (a) Any difference arising between the Corporation and the rivers authority under paragraph (4) or (8) above shall be settled by the Minister and the Secretary of State acting jointly on a reference to them by the Corporation or the rivers authority after notice by one to the other;
- (b) Subject to sub-paragraph (a) above any difference arising between the rivers authority and the Corporation under this section (other than a difference as to the construction thereof) shall be settled by arbitration.

52 For further protection of National Rivers Authority

For the further protection of the rivers authority the following provisions shall, unless otherwise agreed in writing between the Corporation and the rivers authority, apply:—

- (1) Nothing in sections 40 (Works in impounded river), 41 (Licensing of works) or 43 (Powers as to moorings, etc.) of this Act shall relieve any person of the obligation to obtain consent under section 109 of the Water Resources Act 1991 (which requires the consent of the rivers authority to the erection of any structure in, over or under a watercourse which is designated as main river) or any other licence or consent required under any enactment:
- (2) Nothing in this Act shall exempt any person from any land drainage byelaws of the rivers authority:
- (3) (a) On receipt of application for a works licence under the said section 41 the Corporation shall serve on the rivers authority a copy of the application and all plans, sections and particulars incidental thereto;
- (b) The Corporation shall consider such observations as the rivers authority may submit to the Corporation within six weeks after service on the rivers authority of the application and particulars as aforesaid, and shall not grant a works licence before the expiry of that period;
- (c) In granting any works licence in response to such an application the Corporation shall impose on the applicant such terms and conditions as give effect to such reasonable requirements to prevent pollution of any watercourse, to safeguard it against damage or to secure that its efficiency for flood defence purposes is not impaired, as the rivers authority may, within the said period make in any observations to the Corporation:
- (4) If by reason of the carrying out by the Corporation of works or operations in exercise of any of the powers of subsection (1) of section 43 (Powers as to moorings, etc.) of this Act, a watercourse or any of the banks of a watercourse is damaged or the efficiency of a watercourse for flood defence purposes is impaired, and the rivers authority takes such steps as are reasonable—
- (a) to make good the watercourse to restore it to its former standard of efficiency; or
- (b) where necessary, to construct some other work in substitution therefor;
- it may recover from the Corporation the reasonable cost of so doing (including a proper proportion of the overhead charges of the rivers authority) and any such cost of executing works needed for remedying any subsidence of the substituted work during such reasonable period as may be agreed between the Corporation and the rivers authority, or failing agreement, settled by arbitration:

Provided that nothing in this paragraph shall apply to the erection of any structure or the carrying out of any work of alteration or repair of a structure in accordance with

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a consent of the rivers authority given under section 110 of the Water Resources Act 1991:

- (5) If the rivers authority has reasonable grounds for believing that a watercourse or any of the banks of a watercourse is likely to be damaged or the efficiency of a watercourse for flood defence purposes is likely to be impaired in any of the circumstances mentioned in the last foregoing paragraph, it may carry out such protective works as may be agreed between it and the Corporation or as, failing 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 Corporation:
- (6) Any difference arising between the rivers authority and the Corporation under this section (other than a difference as to the construction thereof) shall be settled by arbitration.

53 For protection of port authority

For the protection of the port authority, the following provisions shall unless otherwise agreed in writing between the Corporation and the port authority, apply:—

- (1) In this section, unless the context otherwise requires, “the downstream river” means that part of the river which is downstream of the weir:
- (2) If, between the commencement of the construction of the weir and 10 years after the completion thereof—
 - (a) any part of the downstream river becomes subject to silting which is wholly or partly caused as a result of the weir; or
 - (b) other alterations occur in the regime of the downstream river wholly or partly as a result of the weir;

so as materially to affect the suitability of the river for safe navigation by vessels satisfying the long established size criteria for navigating the river and to necessitate dredging or other operations in order to facilitate navigation by such vessels in the downstream river or their access to and from the Floating Harbour, or to secure the efficiency of the river as a flood defence work; and

 - (c) the port authority give notice in accordance with paragraph (3) below;

the provisions of this section shall have effect:
- (3) In the circumstances described in paragraph (2) above the port authority may during the construction or within the period of 10 years after the completion of the weir give notice that in consequence of those circumstances having arisen such silting should be removed or that dredging or other operations are required for the purpose of—
 - (a) maintaining a channel in the downstream river in the interests of persons using the downstream river; or
 - (b) for the prevention of flooding; or
 - (c) for the protection of any works or installations in the downstream river (whether or not owned by the port authority):
- (4) If notice is given under paragraph (3) above the Corporation shall pay to the port authority any additional costs reasonably incurred by the port authority in connection with dredging the river, or the disposal of silt or carrying out any other operations for the purposes set out in that paragraph, in so far as the necessity therefor is attributable to the weir:

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- (5) In the event of any payment falling due under paragraph (4) above the period of 10 years shall be extended for a further 10 years from the date of discovery of the silting or other alterations referred to in that paragraph so that the Corporation shall be liable in each successive period of 10 years up to a maximum of 30 years after completion of the weir:
- (6) Against any sum payable by the Corporation under paragraph (4) or (5) above there shall be offset any diminution in the cost to the port authority of dredging or other operations which results from the construction of the weir to the extent that such diminution has not been offset against any other payment made by the Corporation under this section:
- (7) In the event of any payment falling due under paragraph (4) or (5) above the Corporation shall pay compensation to the port authority for any loss or damage arising from the circumstances which gave rise to the payment which is sustained by the port authority within a period of 30 years after the completion of the weir and is not so sustained as a result of any default on the part of the port authority:
- (8) The Corporation shall pay to the port authority any costs reasonably incurred by the port authority in order to ascertain whether any such events or alterations as are mentioned in paragraph 2(a) and (b) above have occurred, not being costs which the port authority would have incurred for other reasons:
- (9) The Corporation shall pay compensation to the port authority for any loss or damage which is sustained by the port authority by reason or in consequence of the failure or the want of repair of the weir:
- (10) The Corporation shall pay to the port authority the reasonable costs of such alterations to the marking and lighting of the navigational channel of the downstream river as may be reasonably necessary during, or as a direct consequence of, the construction of the weir:
- (11) Any difference arising between the Corporation and the port authority under this section (other than a difference as to the meaning or construction of this section) shall be referred to and settled by arbitration:
- (12) The Secretary of State shall in any order made under section 61 (Transfer of functions) of this Act make provision preserving the benefit of, or which is not less favourable than, this section (other than paragraph (9)) for the protection of the port authority.

54 For protection of highway authority

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

- (1) In this section “highway” includes any intended highway (including a walkway to be created under section 35 of the Highways Act 1980) construction of which has been commenced but which has not yet been dedicated to public use:
- (2) Before commencing any part of the works the Corporation shall consult the highway authority as to—
 - (a) the programme for the construction of the works so as to secure, so far as may be reasonably practicable, that the duration of any disturbance occasioned by, or in connection with, such construction shall be reduced to a minimum; and

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- (b) any land to be occupied or used by the Corporation or its contractors as a temporary working site for the purposes of such construction, the period for which and the manner in which any such site is to be used and the steps to be taken by the Corporation in order to mitigate injury to the amenity, or interference with the convenience, of other highway users:
- (3) If the construction of any works affects any highway, the Corporation shall submit plans, sections and particulars relating thereto to the highway authority for its approval and notwithstanding anything shown on the deposited plans and the deposited sections the work to which such plans, sections and particulars relate shall not be constructed otherwise than in accordance with such plans, sections and particulars as have been approved by the highway authority as aforesaid provided that, if within 56 days after the submission to it of plans, sections and particulars in accordance with the provisions of this paragraph the highway authority does not signify its approval or disapproval thereof and the grounds for such disapproval, it shall be deemed to have approved thereof:
- (4) The Corporation shall consult the highway authority as to the routes proposed to be used by vehicles, machinery and plant, passing to or from any works under construction for the purposes of this Act and shall procure that all such vehicles, machinery and plant (whether belonging to the Corporation or to any contractor or other person) shall comply with such directions as the highway authority may give in respect of such routes and times or manner of their use:
- (5) (a) Before commencing to construct any part of any work which would involve interference with any highway the Corporation shall consult the highway authority as to—
- (i) the time when that part shall be commenced;
 - (ii) the extent of the surface of the highway which it may be reasonably necessary for the Corporation to occupy in the construction of that part;
 - (iii) the conditions under which that part shall be constructed so as to reduce so far as possible inconvenience to the public and to ensure the safety of the public;
- and that part shall not be constructed and the surface of the highway shall not be occupied by the Corporation except at the time, to the extent and in accordance with such reasonable conditions as may be agreed between the Corporation and the highway authority;
- (b) Any such highway shall be reinstated by the Corporation in the manner approved by the highway authority and to its satisfaction:
- (6) Any part of the construction of any work which involves interference with the highway shall be carried out under the supervision (if given) and to the reasonable satisfaction of the highway authority:
- (7) No part of the works (whether in or under a highway or elsewhere) shall be constructed in any way which shall have a detrimental effect either temporarily or permanently on the drainage of the surface of any highway:
- (8) The Corporation shall at all reasonable times during the construction of any part of the works that affect a highway or land supporting a highway afford to the surveyor of the highway authority or his duly authorised representatives access to the works for the purposes of inspection:

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- (9) It shall be the responsibility of the Corporation at all times during the construction of the works to procure that the works are fenced against the highway:
- (10) (a) Subject to sub-paragraph (b) below, where the Corporation has carried out any works in any highway maintainable at public expense, that highway shall remain vested in and maintained by the highway authority which shall continue to have all such rights in relation to the subsoil and undersurface thereof as may be necessary for the purpose of its functions;
- (b) The Corporation shall be liable to the highway authority for the maintenance or repair of any works it has carried out in or affecting a highway for a period of 12 months after completion of those works:
- (11) The Corporation shall compensate the highway authority for any loss or expenditure it reasonably incurs as a result of subsidence of, or damage to, any highway or any other property belonging to, under the control of, or repairable by the highway authority in so far as such may be caused by, or in consequence of, any default of the Corporation, its contractors, servants or agents and whether such subsidence or damage happened during the construction of the works or at any time thereafter:
- (12) The Corporation shall keep the highway authority indemnified against all actions, costs, claims and demands whatsoever (save in so far as the same may arise from the default or negligence of the highway authority, its contractors, servants or agents) brought or made against the highway authority by any person in respect of loss or damage caused by or in consequence of the construction of any of the works and the fact that any act or thing may have been done in accordance with plans, sections and particulars approved by the highway authority or in accordance with any requirements of the highway authority or under its supervision shall not excuse the Corporation from liability under the provisions of this section:
- (13) The Corporation shall repay to the highway authority all reasonable costs, charges and expenses of the highway authority for the examination of the plans, sections and particulars submitted to the highway authority under this section, for supervising any works to highways and for the carrying out of all or any steps in connection with the making of any traffic regulation orders or the carrying out of any other act or thing which the highway authority reasonably deems necessary for the purposes of any traffic management measure in connection with any part of the construction of the works:
- (14) The Corporation shall not except with the highway authority's consent by itself or its contractor or agent deposit any soil, subsoil or other material on any highway and shall not permit any vehicle to obstruct any highway except in so far as such obstruction may be authorised by this Act:
- (15) The Corporation shall not without the consent of the highway authority place any hoarding on any part of the highway.

55 For protection of British Railways Board

For the protection of the British Railways Board (in this section referred to as “the railways board”) the following provisions shall unless otherwise agreed in writing between the Corporation and the railways board apply:—

- (1) In this section—

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“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer to be appointed by the railways board;

“plans” includes sections, drawings, specifications, soil reports, calculations and descriptions (including descriptions of methods of construction);

“railway property” means any railway of the railways board and any works connected therewith for the maintenance or operation of which the railways board are responsible and includes any land held or used by the railways board for the purposes of such railway or works;

“specified works” means so much of the works and operations authorised by this Act (whether temporary or permanent) as may be situated upon, across, under or over or within 15 metres of, or may in any way affect railway property and includes the construction, maintenance and renewal of such works:

- (2) The exercise of the powers of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of land, as applied by section 3 (Incorporation of general enactments) of, and incorporated with, this Act, shall not prevent the exercise by the railways board of such rights as the railways board may have of access (with or without vehicles, machinery and materials) for the railways board and their agents and employees over any such land to and from railway property:
- (3) The Corporation shall before commencing the specified works (other than works of maintenance or repair) furnish to the railways board proper and sufficient plans, sections and particulars thereof for the reasonable approval of the engineer and shall not commence the specified works until plans thereof have been approved in writing by the engineer or settled by arbitration:

Provided that if within 56 days after such plans, sections and particulars have been furnished to the railways board the engineer has not intimated his disapproval thereof and the grounds of his disapproval he shall be deemed to have approved the same:

- (4) If within 56 days after such plans have been furnished to the railways board, the railways board give notice to the Corporation that the railways board desire themselves to construct any part of the specified works which in the opinion of the engineer will or may affect the stability of railway property then, if the Corporation desires such part of the specified works to be constructed, the railways board shall construct the same with all reasonable dispatch on behalf of and to the reasonable satisfaction of the Corporation in accordance with the plans approved or deemed to be approved or settled as aforesaid:
- (5) Upon signifying his approval or disapproval of the plans the engineer may specify any protective works (whether temporary or permanent) which in his opinion should be carried out before the commencement of the specified works to ensure the safety or stability of railway property and such protective works as may be reasonably necessary for those purposes shall be constructed by the railways board or by the Corporation, if the railways board so desire, with all reasonable dispatch and the Corporation shall not commence the construction of the specified works until the engineer has notified the Corporation that the protective works have been completed to his reasonable satisfaction:
- (6) The Corporation shall give to the railways board not less than 28 days' notice in writing of its intention to commence the construction of any of the specified works and, (except in emergency when the Corporation shall give such notice as may be

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reasonably practicable), also of its intention to carry out any works for the repair or maintenance of the specified works:

- (7) The specified works shall, when commenced, be carried out—
 - (a) with all reasonable dispatch in accordance with the plans approved or deemed to have been approved or settled as aforesaid;
 - (b) under the supervision (if given) and to the reasonable satisfaction of the engineer;
 - (c) in such manner as to cause as little damage to railway property as may be; and
 - (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe user of any railway of the railways board or the traffic thereon and the use by passengers of railway property; and, if any damage to railway property or any such interference or obstruction shall be caused or take place, the Corporation shall, notwithstanding any such approval as aforesaid, make good such damage and shall on demand pay to the railways board all reasonable expenses to which they may be put and compensation for any loss which they may sustain by reason of any such damage, interference or obstruction:
- (8) The Corporation shall—
 - (a) at all times afford reasonable facilities to the engineer for access to the specified works during their construction;
 - (b) ensure access for the engineer at all reasonable times to all working sites, depots and premises at which materials to be employed in the construction of the specified works are being made, constructed or assembled;
 - (c) supply the engineer with all such information as he may reasonably require with regard to the specified works or the method of construction thereof:
- (9) The railways board shall at all times afford reasonable facilities to the Corporation and its agents for access to any works carried out by the railways board under this section during their construction and shall supply the Corporation with such information as it may reasonably require with regard to such works or the method of construction thereof:
- (10) If any alterations or additions, either permanent or temporary, to railway property are reasonably necessary in consequence of the construction of the specified works, such alterations and additions may be effected by the railways board after not less than 28 days' notice has been given to the Corporation and the Corporation shall pay to the railways board on demand the cost thereof as certified by the engineer including, in respect of permanent alterations and additions, a capitalised sum representing the increased or additional cost of maintaining, working and, when necessary, renewing any such alterations or additions:
- (11) The Corporation shall repay to the railways board all costs and charges and expenses reasonably incurred by the railways board—
 - (a) in constructing any part of the specified works on behalf of the Corporation as provided by paragraph (4) of this section or in constructing any protective works under the provisions of paragraph (5) of this section including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
 - (b) in respect of the employment of any inspectors, signalmen, watchmen and other persons whom it is reasonably necessary to appoint for inspecting, watching, lighting and signalling railway property and for preventing as far

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- as may be all interference, obstruction, danger or accident arising from the construction, maintenance, repair or failure of the specified works;
- (c) in respect of any special traffic working resulting from any speed restrictions which are necessary as a result of the construction, maintenance, repair or failure of the specified works and which may in the opinion of the engineer be required to be imposed or from the substitution, suspension or diversion of services which may be necessary for the same reason;
 - (d) in respect of any additional temporary lighting of railway property in the vicinity of the specified works being lighting made reasonably necessary as a result of the specified works or the failure thereof;
 - (e) in respect of the approval by the engineer of plans submitted by the Corporation and the supervision by him of the specified works:
- (12) If at any time after the completion of the specified works, not being works vested in the railways board, the railways board give notice to the Corporation informing it that the state of repair of the specified works appears to be such as prejudicially to affect railway property, the Corporation shall, on receipt of such notice, take such steps as may be reasonably necessary to put the specified works in such state of repair as not prejudicially to affect railway property and, if and whenever the Corporation fails to do so, the railways board may make and do in and upon the land of the railways board or of the Corporation all such works and things as shall be requisite to put the specified works in such state of repair as aforesaid and the costs and expenses reasonably incurred by the railways board in so doing shall be repaid to them by the Corporation:
- (13) The Corporation shall not exercise the powers of section 11 (Dredging and other operations in river) of this Act within a distance of 50 metres of any railway property otherwise than in accordance with the provisions of this section:
- (14) Any difference arising between the Corporation and the railways board under this section (other than a difference as to the meaning or construction of this section) shall be referred to and settled by arbitration.

56 For protection of flora and fauna

The Corporation shall consult the Nature Conservancy Council for England as to measures which may be taken by the Corporation to develop and, so far as may be consistent with the purposes of this Act, to conserve flora and fauna within the impounded river.