



Avon Weir Act 1992

1992 CHAPTER v

PART VI

PROTECTIVE PROVISIONS

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

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- (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:
 - (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.