



Folkestone Harbour Act 1992

1992 CHAPTER vi

PART III

MISCELLANEOUS AND GENERAL

21 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 Company 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 used for providing flood storage capacity for any watercourse and any bank, wall, embankment or other structure or appliance constructed or used for defence against water (including sea water);

“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 otherwise likely to affect any drainage work or the volumetric flow rate of water in or flowing to or from any drainage work;

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

- (2) (a) Before beginning to construct any specified work, the Company shall submit to the Authority plans of the work and such further particulars available to it as the Authority may reasonably require;
- (b) A specified work shall not be constructed except in accordance with such plans as may be approved in writing by the Authority, or settled in accordance with the provisions of paragraph (9) below;

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- (c) Any approval of the Authority required under this paragraph—
 - (i) shall not be unreasonably withheld;
 - (ii) shall be deemed to have been given if it is neither given nor refused in writing and with a statement of the grounds for refusal within two months of the submission of plans for approval;
 - (iii) may be given subject to such reasonable requirements as the Authority may impose for the protection of any drainage work and for the prevention of flooding;
- (3) Without prejudice to the generality of paragraph (2) above, the requirements which the Authority may impose under that paragraph include conditions requiring the Company at its own expense to construct such protective works, whether temporary or permanent, during the construction of the specified works as are reasonably necessary to safeguard any drainage work against damage or to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased by reason of any specified work:
- (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 its 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 drainage work for flood defence purposes is impaired or that work is damaged, such impairment or damage shall be made good by the Company to the reasonable satisfaction of the Authority and, if the Company fails to do so, the Authority may make good the same and recover from the Company the expense reasonably incurred by it in so doing:
- (6) The Company shall repay to the Authority all reasonable costs, charges and expenses which the Authority may reasonably incur—
 - (a) in the approval of plans under this section;
 - (b) in the inspection of the construction of the specified works or any protective works required by the Authority under this section:
- (7) (a) Without prejudice to the other provisions of this section the Company 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 reasonably incurred by, the Authority by reason of—
 - (i) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence; or
 - (ii) any raising of the water table in land adjoining the works authorised by this Act or any sewers, drains and watercourses; or
 - (iii) any flooding or increased flooding of any such land;
 which may be caused by, or result from, the construction of any of the works or any act or omission of the Company, its contractors, agents, workmen or servants whilst engaged upon the works;
 - (b) The Authority shall give to the Company reasonable notice of any such claim or demand and no settlement or compromise thereof shall be made without the agreement of the Company:
- (8) 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 its satisfaction, or in

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accordance with any directions or award of an arbitrator, shall not relieve the Company from any liability under the provisions of this section:

- (9) Any difference arising between the Company and the Authority under this section (other than a difference as to the meaning or construction thereof) shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed, on the application of either party (after notice in writing to the other), by the President of the Institution of Civil Engineers.