



# Leeds Supertram Act 1993

## 1993 CHAPTER xv

### PART IV

#### PROTECTIVE PROVISIONS

#### **40 For protection of public sewers**

For the protection of sewerage authorities the following provisions shall, unless otherwise agreed in writing between the Executive and the sewerage authority concerned, have effect:—

(1) In this section—

“public sewer” means a public sewer within the meaning of the Water Industry Act 1991, and includes a sludge main, disposal main (within the meaning of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such public sewer, main or outfall, not being, in any such case, apparatus in respect of which the relations between the Executive and the sewerage authority are regulated by the provisions of Part III of the Act of 1991;

“sewerage authority” means a sewerage undertaker and any local authority which is a relevant authority for the purposes of section 97 of the Water Industry Act 1991;

“new, altered or substituted works” includes any works required for the protection of any public sewer of the sewerage authority;

“specified works” means any part of the authorised works which will or may be situated within 15 metres measured in any direction of any public sewer vested in a sewerage authority:

- (2) Wherever in this section provision is made with respect to the approval or consent of the sewerage authority, that approval shall be in writing but shall not be unreasonably withheld:
- (3) The Executive shall not commence the construction of the specified works until they have given to the sewerage authority not less than 56 days' notice in writing of their

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intention to do so with plans as described in paragraph (10) below (in this section referred to as “the said plans”) for their approval:

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

- (4) The said plans of the specified works shall make provision for such new, altered or substituted works as the sewerage authority shall reasonably require for the protection of, and for preventing injury or impediment to, or for securing access to, any existing public sewer of the sewerage authority by reason of the specified works, and shall indemnify the sewerage authority against all expenses occasioned thereby:
- (5) The specified works, including any such new, altered or substituted works, shall be constructed in accordance with such plans as may be approved or deemed to be approved by the sewerage authority under paragraph (3) above, or settled by arbitration, and to their reasonable satisfaction in compliance with all reasonable orders, directions and regulations of the sewerage authority:
- (6) The Executive shall give to the sewerage authority reasonable notice of the commencement of any new, altered or substituted works:
- (7) All new, altered or substituted works shall, where so required by the sewerage authority, be constructed by the sewerage authority, or under the direction, superintendence and control of an officer of the sewerage authority duly appointed for the purpose, at the cost of the Executive, and all costs, charges and expenses reasonably incurred by the sewerage authority 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 sewerage authority by the Executive:
- (8) When any new, altered or substituted works shall be completed by, or at the cost of, the Executive under the provisions of this section the same shall thereafter be as fully and completely under the direction, jurisdiction and control of the sewerage authority as any sewers or works now or hereafter may be:
- (9) It shall not be lawful for the Executive without the consent of the sewerage authority, in the exercise of the powers of section 11 (3) of the Act of 1965 as applied by this Act, to make any trial holes which interfere with any public sewer:
- (10) The plans to be submitted to the sewerage authority 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, the specified works are to be constructed and shall accurately describe the position of all public sewers of the sewerage authority within the limits of deviation (for which purpose the sewerage authority shall allow the Executive access to plans in their possession and to any of their sewers in order to enable the Executive to obtain reliable information) and shall comprise detailed drawings of every alteration which the Executive may propose to make in any such sewer:
- (11) The Executive shall be liable to make good, or, if the sewerage authority so decide, to repay any expense reasonably incurred by the sewerage authority in making good, damage caused by, or resulting from, the construction of the specified works to any sewers, drains or works vested in the sewerage authority:

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- (12) If the Executive, in the construction of the specified works or any new, altered or substituted works provided in accordance with this section, damage or, without the consent of the sewerage authority, alter or in any way interfere with any existing public sewer of the sewerage authority, the Executive shall—
- (a) pay to the sewerage authority any additional expense which may be reasonably incurred by the sewerage authority in the maintenance, operation, 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 sewerage authority free and uninterrupted access at all times to any such new, altered or substituted sewer and reasonable facilities for the inspection, maintenance, alteration and repair thereof:
- (13) It shall be lawful for the proper officer of the sewerage authority at any reasonable time, on giving to the Executive such notice as may in the circumstances be reasonable, to enter upon and inspect the specified works or any other works constructed under the powers of this section:
- (14) The approval by the sewerage authority of any plans, or the superintendence by them of any work, under the provisions of this section shall not exonerate the Executive from any liability, or affect any claim for damages, under this section or otherwise:
- (15) The following provisions of this paragraph shall have effect for the provision by the Executive, in the construction of the railways authorised by this Act, of accommodation or other facilities for the laying under those railways of any sewer not more than 18 inches in diameter and any drains or private sewers connecting with any sewer and other associated apparatus (all or any of which is hereafter in this paragraph called “apparatus”):—
- (a) Not less than six months before the Executive commence the construction of any of the railways in any highway they shall give notice thereof in writing to the sewerage authority;
  - (b) If, within 56 days from the service on them of notice of the intended construction of any works under paragraph (a) above, the sewerage authority give to the Executive notice in writing that they desire such accommodation or other facilities to be provided, and such information as the Executive may require to enable them to determine the extent and description of the accommodation or facilities to be provided and the means of access to apparatus laid therein, the Executive shall, so far as it is reasonably practicable to do so, provide in the construction of the railway such accommodation or facilities for the laying of apparatus under the railway as may be agreed between them and the sewerage authority, or in default of agreement, determined by arbitration to be reasonably practicable;
  - (c) Subject to the provisions of this section, the sewerage authority shall be entitled to use accommodation or other facilities and the means of access thereto provided by the Executive for the laying and installing therein of the apparatus for which they were provided and for the purpose of inspecting, repairing, removing or renewing that apparatus;
  - (d) Except in case of emergency, when they shall give such notice as they can in the circumstances, the sewerage authority shall give to the Executive not less than 42 days' notice of their intention to lay and install, or to repair, remove or renew, apparatus in any such accommodation or facilities;
  - (e) In laying and installing apparatus in accommodation or other facilities provided by the Executive the sewerage authority shall conform with the

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reasonable requirements of the Executive as to the times at which, and the manner in which, such undertakers' works affecting the tramway system shall be carried out, and the Executive shall be entitled to superintend the carrying out of such works;

- (f) The sewerage authority shall maintain in good repair and to the reasonable satisfaction of the Executive any apparatus laid and installed in accommodation or facilities provided by the Executive and shall take such precautions as the Executive reasonably require to be taken for ensuring the safety of the railway and the traffic thereon;
  - (g) The accommodation or facilities provided by the Executive shall be maintained by the Executive to the reasonable satisfaction of the sewerage authority;
  - (h) Except in case of emergency, when they shall give such notice as they can, the Executive shall give to the sewerage authority not less than 42 days' notice in writing of their intention to carry out any works affecting any such accommodation or facilities and, in carrying out the same, shall take such measures as the sewerage authority may reasonably require for the protection of, or for preventing interference with, apparatus laid or installed therein:
- (16) As soon as reasonably practicable after the completion of the construction of a specified work the Executive shall deliver to the sewerage authority a plan and section showing the position and level of that work as constructed and all new, altered or substituted works of the sewerage authority provided under this section:
- (17) (a) If by reason, or in consequence of, the construction or failure of any part of the tramway system or any subsidence resulting from the tramway system, any damage shall be caused to any sewer or property of the sewerage authority (other than a sewer the repair of which is not reasonably necessary in view of its intended removal), the Executive shall repay the cost reasonably incurred by the sewerage authority in making good such damage and shall—
- (i) make reasonable compensation to the sewerage authority for any loss sustained by them; and
  - (ii) indemnify the sewerage authority against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from, or incurred by, the sewerage authority;
- by reason or in consequence of any such damage;
- (b) Nothing in sub-paragraph (a) above shall impose any liability on the Executive with respect to any damage to the extent that such damage is attributable to the act, neglect or default of the sewerage authority, their officers, servants, contractors or agents;
  - (c) The sewerage authority shall give to the Executive reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Executive:
- (18) Where, in consequence of this Act, any part of any road in which any sewer is situate ceases to be part of the road, the sewerage authority may exercise the same rights of access to such sewer as they enjoyed immediately before the passing of this Act, but nothing in this paragraph shall prejudice or affect any right of the Executive or of the sewerage authority to require alteration of such sewer under this section:

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- (19) Notwithstanding the temporary stopping up or diversion of any highway under the powers of section 18 (Temporary stoppage of roads) of this Act, the sewerage authority 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:
- (20) The Executive shall, so far as is reasonably practicable, so exercise the powers conferred by section 21 (Underpinning of houses near works) of this Act as not to obstruct or render less convenient the access to any sewer:
- (21) Any difference arising between the Executive and the sewerage authority under this section (other than a difference as to its meaning or construction) shall be determined by arbitration.