
STATUTORY INSTRUMENTS

1995 No. 1236

The Foxfield Light Railway Order 1995

For the protection of sewerage and water undertakers

11.—(1) For the protection of sewerage and water undertakers (in this article referred to as “the undertakers”) the provisions of this article shall, unless otherwise agreed in writing between the Society and the undertakers concerned, apply and have effect.

(2) In this article, “relevant pipe” in relation to any of the undertakers has the meaning given in section 179(7) of the Water Industry Act 1991⁽¹⁾ but does not include any apparatus in respect of which the relations between the undertakers and the Society are regulated by the provisions of Part III of the New Roads and Street Works Act 1991⁽²⁾.

(3) Nothing contained or incorporated in this Order shall authorise the Society to raise, sink or otherwise alter the position of, or in any way interfere with, any relevant pipe without the consent in writing of the undertakers concerned, such consent not to be unreasonably withheld.

- (a) (4) (a) Where any relevant pipe is situated in or under any land owned or held for the purpose of the railways the Society shall at their own expense maintain all culverts over such relevant pipe which are in existence at the coming into force of this Order so as to leave the relevant pipe accessible for the purpose of repairs;
- (b) Nothing in this paragraph shall have the effect of requiring the Society to carry out works of maintenance in respect of any culvert which the undertakers or any other person are liable to maintain.

(5) The Society shall afford reasonable facilities to the undertakers for the execution and doing of all such works and things as may be reasonably necessary to enable them to inspect, repair, maintain, renew, replace, remove, alter or use any relevant pipe.

(6) The Society shall compensate the undertakers—

- (a) for any damage done or disturbance caused to any relevant pipe; 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 of the works authorised by this Order or otherwise by reason or in consequence of the exercise by the Society of the powers of this Order.

(7) Nothing in the foregoing paragraph shall entitle the undertakers to any payment in respect of damage attributable to the neglect or default of the undertakers, their servants or agents.

(8) Nothing in this Order shall prejudice or affect the rights of the undertakers in respect of any relevant pipe or the provisions of any agreement regulating the relationship between the Society and the undertakers with regard to any relevant pipe and whether made before or after this Order comes into force.

(9) The provision of the Railways Clauses Consolidation Act 1845 applied by this Order shall be subject to the provisions of this article.

(1) 1991 c. 56.
(2) 1991 c. 22.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(10) Any difference arising between the Society and the undertakers under this article shall be determined by arbitration.