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STATUTORY INSTRUMENTS

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**1997 No. 102**

**The Yorkshire Dales Light Railway Order 1997**

**For protection of water and sewerage undertakers**

**12.**—(1) For the protection of water and sewerage undertakers (in this article referred to as “the undertakers”) the following provisions shall apply unless otherwise agreed in writing between the Company and the undertakers concerned.

(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<sup>(1)</sup>; and

“the signed plan” means the plan of which three copies have been signed by David Barlow, the Chairman of the Company, on behalf of the Company and by John Layfield, Director of Production and Technology, Yorkshire Water Plc, on behalf of Yorkshire Water Plc, and deposited respectively in the Department of Transport, the principal office of the Company and the principal office of Yorkshire Water Plc.

(3) Nothing in section 18 of the Railways Clauses Consolidation Act 1845 in its application to the railway shall authorise the Company 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 undertaker concerned, such consent not to be unreasonably withheld.

(a) (4) (a) In this paragraph “the main” means the raw water mains forming part of the Hambleton Beck section of the Barden to Gilstead aqueduct, the approximate position of which is indicated by red lines on the signed plan.

(b) The Company shall not within the boundaries of the lands comprised in the railway and without the consent of the undertakers concerned—

(i) place or deposit any materials or erect any structure or works; or

(ii) make any excavation to a depth of more than 300 millimetres below the surface of the ground,

insofar as the same is or would be carried out or situated within 15 metres (measured in any direction) of any part of the main.

(c) The undertakers concerned shall not unreasonably withhold their consent under this paragraph to the construction of a single or double line of rails and shall not otherwise unreasonably withhold their consent under this paragraph but may grant their consent subject to reasonable conditions for the protection of the main.

(a) (5) (a) Where any relevant pipe is situated in or under any land owned or held for the purpose of the railway the Company 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 Company to carry out works of maintenance in respect of any culvert which the undertakers or any other person are liable to maintain.

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(1) 1991 c. 56.

(6) The Company 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.

(7) The Company 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 Company of the powers of this Order.

(8) 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.

(9) 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 Company and the undertakers with regard to any relevant pipe and whether made before or after this Order comes into force.

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

(11) Any difference arising between the Company and the undertakers under this article 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 for the time being of the Institution of Civil Engineers.