

SCHEDULES

SCHEDULE 12

PROTECTIVE PROVISIONS

PART 3

FOR THE PROTECTION OF DRAINAGE AUTHORITIES AND THE ENVIRONMENT AGENCY

17.—(1) The following provisions of this Part of this Schedule apply for the protection of the Agency unless otherwise agreed in writing between Network Rail and the drainage authority.

(2) In this Part of this Schedule—

“the Agency” means the Environment Agency;

“a category 1 specified work” means so much of any permanent or temporary work or operation authorised by this Order (which includes, for the avoidance of doubt, any dredging and any geotechnical investigations that may be undertaken) as is likely to—

- (a) affect any drainage work which is or includes a main river or the volumetric rate of flow of water in or flowing to or from any main river;
- (b) affect the flow, purity or quality of water in any main river or other surface waters or ground water; or
- (c) affect the conservation, distribution or use of water resources;

“a category 2 specified work” means any of the following—

- (a) erecting any mill dam, weir or other like obstruction to the flow of any ordinary watercourse, or raising or otherwise altering any such obstruction;
- (b) erecting a culvert in any ordinary watercourse;
- (c) altering a culvert in a manner that would be likely to affect the flow of any ordinary watercourse; or
- (d) altering, removing or replacing a structure or feature designated by a local drainage authority under Schedule 1 (risk management: designation of features) to the Flood and Water Management Act 2010(1);

“construction” includes execution, placing, altering, replacing, relaying and removal, and “construct” and “constructed” are construed accordingly;

“the drainage authority” means—

- (a) in relation to a category 1 specified work, the Agency;

(1) 2010 c. 29. Schedule 1 was amended by S.I. 2013/755.

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- (b) in relation to a category 2 specified work, the drainage board concerned within the meaning of section 23 (prohibition on obstructions etc., in watercourses) of the Land Drainage Act 1991⁽²⁾;

“drainage work” means any watercourse and includes any land which provides or is expected to provide flood storage capacity for any watercourse and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence or tidal monitoring;

“the fishery” means any waters containing fish and the spawn, habitat or food of such fish;

“floodwater” means a significant volume of water covering land not normally covered by water in circumstances constituting a flood but does not include—

- (a) a flood from any part of a sewerage system, unless wholly or partly caused by an increase in the volume of rainwater (including snow and other precipitation) entering or otherwise affecting the system; or
- (b) a flood caused by a burst water main (within the meaning given by section 219 (general interpretation) of the Water Industry Act 1991⁽³⁾);

“main river” has the same meaning as in section 221 (general interpretation) of the Water Resources Act 1991⁽⁴⁾;

“ordinary watercourse” has the same meaning as in section 72 (interpretation) of the Land Drainage Act 1991;

“plans” includes sections, drawings, specifications and method statements;

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within 16 metres of a drainage work or is otherwise likely to—

- (a) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;
- (b) affect the flow, purity or quality of water in any watercourse or other surface waters or ground water;
- (c) cause obstruction to the free passage of fish or damage to any fishery; or
- (d) affect the conservation, distribution or use of water resources.

(2) 1991 c. 59. Section 23 was amended by section 120 of, and paragraph 192 of Schedule 22 to, the Environment Act 1995 (c. 25), paragraphs 25 and 32 of Schedule 2 to the Flood and Water Management Act 2010 (c. 29) and S.I. 2013/755.

(3) 1991 c. 56. The definition of “water main” was amended by paragraphs 2 and 50(1) and (2)(b) of Schedule 8 to the Water Act 2003 (c. 37) and paragraphs 2 and 120(1) and (2)(e) of Schedule 7 to the Water Act 2014 (c. 21).

(4) 1991 c. 57.