



Aire and Calder Navigation Act 1992

1992 CHAPTER iv

PART II

WORKS

5 Power to make works

- (1) Subject to the provisions of this Act, the Corporation may, in the lines or situations shown on the deposited plans and within the limits of deviation and according to the levels shown on the deposited sections, make and maintain the works specified in Part I of Schedule 1 to this Act with all necessary works and conveniences connected therewith.
- (2) Notwithstanding anything to the contrary in this Act or shown on the deposited plans or the deposited sections, but without prejudice to the provisions of section 9 (Power to deviate) of this Act the Corporation may, subject to the approval of the Secretary of State, construct the whole or any part of the works within the limits of deviation in accordance with dimensions and a description other than the dimensions and descriptions shown on the deposited plans and the deposited sections or specified in Schedule 1 to this Act.
- (3) Subject to the provisions of this Act, the Corporation may within the limits of deviation from time to time alter, replace or re-lay temporarily or permanently the works.

6 Further works and powers

- (1) Subject to the provisions of this Act (and, in so far as the same are shown on the deposited plans and sections, in the lines or situations and according to the levels as shown) the Corporation may make and maintain the further works and facilities described in Part II of Schedule 1 to this Act with all necessary works and conveniences connected therewith.
- (2) With the consent in writing of the highway authority the route of any new highway to be provided in pursuance of this Act may, on the application of the Corporation, be varied to a line appearing to the highway authority to be no less commodious

Status: This is the original version (as it was originally enacted).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

and convenient to persons appearing to the highway authority to be likely to use the highway.

7 Subsidiary powers

- (1) Without prejudice to the generality of the foregoing provisions of this Part of this Act, the Corporation may within the limits of deviation and within the lines marked on the deposited plans “Limit of land to be acquired”, in connection with the works and for the purposes thereof—
- (a) make junctions and communications between any of the works and any waterways, rivers, streams and watercourses and any existing streets, roads, bridleways, ways, bridges, towing paths and footpaths;
 - (b) stop up, remove, alter or otherwise interfere with means of access between any premises and any highway which is diverted or stopped up or altered under this Act;
 - (c) make, provide, alter and maintain all necessary and convenient walls, banks, embankments, locks, piling, cofferdams, borrow pits, settling ponds, fences, facilities for watering cattle and other animals, culverts, drains, conduits, dykes, intakes, outfalls, spillways, syphons, watercourses, cuttings, aqueducts, tunnels, fish passes, weirs, sluices, valves, wharves, moorings and mooring areas, linings, mattresses, pitching, roads, bridges, towpaths, bridleways and footpaths and all such mains, pipes, cables, wires, pumps, machinery and works and appliances as may be required;
 - (d) raise, widen, lengthen, alter, reconstruct, replace or remove the bridges over the navigation or any watercourse and the approaches to such bridges and strengthen, underpin, widen and deepen the piers, arches and other supports, and the foundations of such bridges without acquiring the said bridges or any interest therein;
 - (e) carry out works to any towpath forming part of the navigation;
 - (f) stop up and discontinue so much of the watercourses shown on the deposited plans as will be rendered unnecessary by reason of the execution of the works and remove or infill any locks or other structures associated therewith;
 - (g) execute any works or abstract water for the protection of any adjoining lands, buildings or structures;
 - (h) temporarily or permanently use, strengthen, widen, improve, remove, alter, divert, stop up or otherwise interfere with any drain, sewer, outfall, intake, watercourse or other channel, providing where possible a proper substitute before interrupting the flow of sewage in any drain or sewer or water in any watercourse or other channel;
 - (i) temporarily or permanently use, strengthen, remove, alter, divert, stop up or otherwise interfere with telegraphic, telephonic, water, gas, petroleum and other pipes, lines, wires, works and apparatus;
 - (j) fell, lop or cut and remove any fence or hedge and any tree, bush, shrub or other vegetation;
 - (k) raise, lower or otherwise alter the level of any land and remove anything therefrom; and
 - (l) dispose of spoil or other material excavated in the execution of the works.
- (2) In the exercise of the powers conferred by this section the Corporation shall cause as little detriment and inconvenience to any person as the circumstances permit and shall pay compensation for any damage done in the exercise of such powers.

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

- (3) Any question of disputed compensation payable under the provisions of this section shall be determined by the tribunal.

8 Power to improve and regulate flow of watercourses

- (1) (a) Without prejudice to the powers contained in section 7 (Subsidiary powers) of this Act but subject to the other provisions of this Act, the Corporation for the purposes of improving or regulating the flow of any of the watercourses which may require improvement or regulation consequent upon the operation or maintenance of any of the works may—
- (i) widen, dredge, cleanse and scour the watercourse;
 - (ii) reduce or remove any shoals, shelves, banks or other accumulations therein;
 - (iii) alter or remove or cause to be altered or removed any weirs, sluices or other impediments or obstructions whatsoever therein or on the banks thereof;
 - (iv) alter or reconstruct any culvert or other structure therein or on the banks thereof.
- (b) Any spoil or other material dredged or removed in the exercise of the powers of this subsection may be deposited on the banks of the watercourse.
- (2) The Corporation shall pay compensation to all persons for any damage sustained by them or liability to which they may become subject by reason of the exercise by them of the powers of this section.
- (3) Any question of disputed compensation payable under the provisions of this section shall be determined by the tribunal.
- (4) The powers conferred on the Corporation by this section shall not be exercised in relation to a watercourse under the jurisdiction of the Rivers Authority except with the consent of the Rivers Authority and any such consent may be given subject to such reasonable terms and conditions (other than a monetary payment as the consideration for the grant of the consent) as the Rivers Authority may think fit but shall not be unreasonably withheld.

9 Power to deviate

Subject to the provisions of this Act in the execution of any, or any part, of the works the Corporation may deviate from the lines or situations thereof shown on the deposited plans to the extent of the limits of deviation of those works and may deviate vertically from the levels shown on the deposited sections to any extent upwards or downwards.

10 Temporary stoppage of roads, rivers, etc

- (1) The Corporation during and for the purpose of the execution of the works may temporarily stop up and divert and interfere with all or any part of any road, bridleway, towpath, footpath, waterway, river, navigation or other right of way and may for any reasonable time divert the traffic therefrom and prevent all persons other than those bona fide going to or from any land, house or building abutting on the road, bridleway, towpath or footpath from passing along and using the same.

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

- (2) The Corporation shall provide reasonable access for persons on foot bona fide going to or from any such land, house or building.
- (3) The Corporation shall not exercise the powers of this section in relation to any road, bridleway or footpath without the consent of the highway authority but such consent shall not be unreasonably withheld and any question as to whether such consent has been unreasonably withheld shall be determined by arbitration.
- (4) The Corporation shall not exercise the powers of this section in relation to the navigation or any towpath forming part of the navigation without the consent in writing of the Board which consent shall not be unreasonably withheld and any question whether such consent has been unreasonably withheld shall be determined by arbitration.
- (5) The Corporation shall not exercise the powers of this section in relation to any waterway, river or navigation other than the navigation without the consent in writing of the Rivers Authority which consent shall not be unreasonably withheld and any question whether such consent has been unreasonably withheld shall be determined by arbitration.
- (6) The Corporation shall not exercise the powers of this section with respect to any road unless they have given not less than 21 days' notice in writing of their intention so to do to—
 - (a) the traffic commissioner in whose area the road is situate;
 - (b) the operator over that road of a local service as defined in the Transport Act 1985; and
 - (c) the highway authority for the road;
 except in case of emergency when such notice as is practicable shall be given.
- (7) The exercise by the Corporation of the powers of this section in relation to any road, bridleway or footpath shall not affect the right of telecommunications operators to maintain, inspect, repair, renew or remove telecommunication apparatus or break open that road, bridleway or footpath for any of those purposes.

11 Stopping up and diversion of highways, etc

- (1) Subject to the provisions of this section, the Corporation may stop up and discontinue the existing or alleged highways specified in column (1) of Schedule 2 to this Act and any other public or private way existing within the limits of deviation other than—
 - (a) the footpath numbered 25 on the definitive map east of point L;
 - (b) that part of the footpath numbered 76 on the definitive map between point CCC and point J; and
 - (c) that part of the un-numbered path on the definitive map between point NNN and point OOO.
- (2) Upon the stopping up of a highway or other way under this section, all rights of way over or along any such highway or other way and all obligations appertaining thereto shall be extinguished.
- (3) Where the provision of any road, bridleway or footpath specified in Schedule 1 to this Act is referred to in column (2) of Schedule 2 to this Act as in substitution for an existing or alleged highway, the stopping up of the existing or alleged highway shall not in any case take place until the highway authority is satisfied that the new

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

road, bridleway or footpath has been completed in accordance with its reasonable requirements and is open for public use or, in the case of any difference between the Corporation and the highway authority as to whether the said requirements have been complied with or as to their reasonableness, until the matter in dispute has been determined by arbitration.

- (4) Before referring a matter to arbitration under this section, the Corporation shall give to the highway authority 7 days' notice in writing of their intention to do so.
- (5) Any person who suffers loss by the extinguishment of any private right under this section shall be entitled to be paid by the Corporation compensation to be determined in case of dispute by the tribunal.

12 Appropriating sites of roads and footpaths

After a road, bridleway or footpath or portion thereof is diverted or stopped up as mentioned in section 11 (Stopping up and diversion of highways, etc.) of this Act, the Corporation may, as far as the said road, bridleway or footpath or portion thereof is bounded on both sides by lands of the Corporation, appropriate without making any payment therefor and use for the purposes of their undertaking the site thereof.

13 Repair of highways

Any road, bridleway or footpath or portion thereof made, diverted or altered under this Act shall, when completed, unless otherwise agreed, be maintained by and at the expense of the highway authority.

14 Agreements between Corporation and highway authorities

- (1) When a bridge, road, bridleway or footpath or portion thereof will be altered or stopped up or interfered with under this Act, the Corporation may enter into and carry into effect agreements with the highway authority in reference to the construction or contribution towards the costs of such alteration or of any new bridge, road, bridleway or footpath to be made under this Act and in reference to any other matters relating thereto.
- (2) The Corporation may by agreement delegate to the highway authority the power of constructing and maintaining all or any of such alterations or new bridge, road, bridleway or footpath in which they may be interested including the structure of any bridge over or under any waterway.
- (3) The purposes of this section shall be deemed to be purposes for which a highway authority may incur expenditure and borrow money.

15 Alterations to main river

- (1) Upon completion of Work No. 1, the new channel comprised in that work shall be treated as part of a main river within the meaning given in Part IV of the Act of 1991, the former channels of the river diverted by the works shall cease to be treated as part of a main river and the main river map for the area shall be varied to give effect to this subsection.

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

- (2) For the purposes of subsection (1) above, the Rivers Authority shall apply for and the Minister of Agriculture, Fisheries and Food shall make any necessary variation of a main river map.
- (3) Section 194 (5) of the Act of 1991 shall not apply to any variation of a main river map made under this section.

16 Certain of works deemed to be constructed under impounding licence

- (1) Works Nos. 1, 2 and 7 shall be deemed to have been constructed under licences under Part II of the Act of 1991 granted by the Secretary of State to the Corporation and, except as may be otherwise provided by this Act, the provisions of that Act relating to licences granted for the purposes of section 25 of that Act shall apply to the licences deemed by this section to have been granted as they apply to those so granted.
- (2) Nothing in this Act shall exempt the Corporation from the provisions of sections 9 to 14 of the Salmon and Freshwater Fisheries Act 1975.

17 Diversion of flow of water

- (1) Subject to the provisions of this Act, the Corporation may by means of the works divert, abstract, intercept, stop up or otherwise interfere with the waters or the flow of water in the river or the navigation or in any other watercourse which may be intercepted by the said works or any of them.
- (2) The restriction imposed by subsection (1) of section 24 of the Act of 1991 shall not apply to abstraction of water under subsection (1) above.

18 Discharges for works purposes

- (1) In this section “relevant authority” means a sewerage undertaker, an internal drainage board, the Rivers Authority or the Leeds City Council.
- (2) The Corporation may use for the discharge of any water pumped or found by them during the construction of the works any available stream or watercourse, or any sewer or drain of a relevant authority, and for that purpose may lay down, take up and alter conduits, pipes and other works and may make any convenient connections with any such stream, watercourse, sewer or drain within the limits of deviation.
- (3) The Corporation shall not—
 - (a) directly or indirectly discharge any water into any sewer or drain vested in or under the control of a relevant authority except with the consent of the relevant authority which consent shall not be unreasonably withheld and subject to such terms and conditions as the relevant authority may reasonably impose; or
 - (b) make any opening into any such sewer or drain save in accordance with plans approved by, and under the superintendence (if given) of, the relevant authority in whom the sewer or drain is vested, but approval of those plans by the relevant authority shall not be unreasonably withheld.
- (4) (a) Section 85 of the Act of 1991 shall apply to, or to the consequence of, a discharge under the powers of this section into any controlled waters within the meaning given by section 104 of that Act as if this section were not a local statutory provision for the purposes of section 88 (1) (f) of that Act.

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

- (b) In the exercise of their powers under this section the Corporation shall not damage or interfere with the bed of any watercourse forming part of a main river or the banks thereof, within the meaning of section 113 of the Act of 1991.
- (5) The Corporation shall take all such steps as may reasonably be required to secure that any water discharged by them under this section shall be as free as may be reasonably practicable from any gravel, soil or other solid substance or matter in suspension.
- (6) Any difference arising between the Corporation and a relevant authority under this section shall be determined by arbitration.
- (7) The powers of this section shall not be exercised so as to damage or injuriously affect the railway or works of the railways board or so as to interfere with or obstruct the free, uninterrupted and safe user of the railway or the traffic thereon and, if the railway or any works of the railways board is or are damaged or injuriously affected or any interference or obstruction shall be caused or take place, the Corporation shall pay to the railways board all expenses incurred by them and compensation for any loss which they may sustain by reason of that damage, injurious affection, interference or obstruction.

19 Discharges following completion of works

- (1) Following the completion of Works Nos. 1 and 2, the Corporation may for the purpose of draining the opencast site cause any water to be found therein to be discharged into the river as modified by Work No. 1 and for that purpose the Corporation may lay down, take up and alter conduits, pipes and other works, provide settling ponds and make any convenient connections with the river and any other stream or watercourse and any sewer or drain within the limits of deviation.
- (2) Subsections (3) to (7) of section 18 (Discharges for works purposes) of this Act shall apply to the exercise of the powers of this section.