

## SCHEDULES

### SCHEDULE 7

#### PROTECTIVE PROVISIONS

##### PART VII

##### PROTECTION OF LAND DRAINAGE

- 1 (1) The following provisions of this Part of this Schedule shall, unless otherwise agreed in writing between the appropriate authority and the drainage authority concerned, have effect for the further protection of the drainage authority.
- (2) In this Part of this Schedule—
- "appropriate authority" does not include the Secretary of State in respect of the A20 improvement works;
- "drainage authority" means the Southern Water Authority or, within the area of the River Stour (Kent) Internal Drainage Board, that board except in relation to a drainage work forming part of a main river as defined in the Land Drainage Act 1976;
- "drainage work" means any watercourse as defined in that Act and any structure or appliance under the control of the drainage authority constructed or used for defence against water (including sea water);
- "plans" includes sections, drawings and specifications;
- "specified work" means so much of any work authorised by this Act as will affect any drainage work in the drainage authority's area or the flow of water in, to or from any such drainage work.
- 2 (1) Not less than 56 days before beginning to construct any specified work, the appropriate authority shall submit to the drainage authority plans of the work and the work shall not be constructed except in accordance with plans approved by the drainage authority or settled by arbitration and in accordance with any reasonable requirements made by the drainage authority for the protection of any drainage work and for the prevention of flooding.
- (2) The requirements which the drainage authority may make under sub-paragraph (1) above include conditions requiring the construction of such protective works by, and at the expense of, the appropriate authority during the construction of the specified work as are reasonably necessary to safeguard a drainage work against damage or to secure that the efficiency of a drainage work for land drainage purposes is not impaired.
- (3) If within a period of 28 days after the submission of any plans under sub-paragraph (1) above the drainage authority do not inform the appropriate authority in writing that they disapprove of those plans, stating the grounds of their disapproval, they shall be treated for the purposes of this paragraph as having approved them.

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*Status: This is the original version (as it was originally enacted).*

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- 3 Any specified work, and all protective works required by the drainage authority under paragraph 2 above, shall be constructed to the reasonable satisfaction of the drainage authority and the drainage authority shall be entitled by their officer to watch and inspect the construction of such works.
- 4 If by reason of the construction of any specified work the efficiency of any drainage work for land drainage purposes is impaired or that work is otherwise damaged, such damage shall be made good by the appropriate authority to the reasonable satisfaction of the drainage authority and, if the appropriate authority fail to do so, the drainage authority may make good the same and recover from the appropriate authority the expense reasonably incurred by them in so doing.
- 5 (1) The appropriate authority shall indemnify the drainage authority from all claims, demands, proceedings, costs, damages and expenses which may be made or taken against, or recovered from or incurred by, the drainage authority by reason or in consequence of—
- (a) any damage to any drainage work so as to impair its efficiency for the purposes of land drainage; or
  - (b) any raising of the water table in lands adjoining the works authorised by this Act or any sewers, drains or watercourses; or
  - (c) any flooding or increased flooding of any such lands;
- which may be caused by or result from the construction of any work authorised by this Act or any act or omission of the appropriate authority, their contractors, agents, workmen or servants whilst engaged upon the work.
- (2) The drainage authority shall give to the appropriate authority reasonable notice of any such claim or demand and no settlement or compromise thereof shall be made without the agreement of the appropriate authority.
- 6 The fact that any work or thing has been executed or done in accordance with a plan approved or deemed to be approved by the drainage authority or to their satisfaction or in accordance with any directions or award of an arbitrator shall not relieve the appropriate authority from any liability under the provisions of this Part of this Schedule.
- 7 Any difference arising between the appropriate authority and the drainage authority under this Part of this Schedule shall be determined by arbitration.