

SCHEDULES

SCHEDULE 33

PROTECTIVE PROVISIONS

PART 5

LAND DRAINAGE, FLOOD DEFENCE, WATER RESOURCES AND FISHERIES

- 51 (1) The following provisions of this Part have effect, unless otherwise agreed in writing between the nominated undertaker and the drainage authority concerned.

- (2) In this Part—

“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 Act (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 an ordinary watercourse,
- (c) altering a culvert in a manner that would be likely to affect the flow of an ordinary watercourse, or
- (d) altering, removing or replacing a structure or feature designated by a local drainage authority under Schedule 1 to the Flood and Water Management Act 2010;

“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;
- (b) in relation to a category 2 specified work, the drainage board concerned within the meaning of section 23 of the Land Drainage Act 1991;

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

Status: This is the original version (as it was originally enacted).

“fishery” means any waters containing fish and fish in, or migrating to or from such waters and the spawn, spawning grounds or food of such fish;

“local drainage authority” means a drainage authority other than the Agency;

“a main river” and “ordinary watercourse” have the meanings given by respectively the Water Resources Act 1991 and the Land Drainage Act 1991;

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

“watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer as defined by the Water Industry Act 1991.

- (3) Where any approval is required under this Part from a local drainage authority, that authority must—
- (a) have regard, in imposing any conditions or requirements, to any model conditions issued by the Agency (following consultation with the other drainage authorities and the nominated undertaker);
 - (b) consult the Agency in any case where it proposes to impose conditions or requirements, or to refuse approval, and must specifically seek the Agency’s advice concerning any proposal to depart from the model conditions;
 - (c) provide the nominated undertaker with reasons and supporting evidence in any case where it gives a decision which does not accord with the view or advice of the Agency given in response to consultation under paragraph (b).