

SCHEDULE 2

PROTECTIVE PROVISIONS

PART I

For the protection of the Environment Agency

1. For the protection of the Environment Agency (in this part of this Schedule referred to as “the Agency”) the following provisions shall, unless otherwise agreed in writing between the undertaker and the Agency, apply and have effect.

2. Nothing in this Order or in any enactment incorporated with or applied by this Order shall prejudice or affect the operation of section 109 of the Water Resources Act 1991(1) or any byelaws made under that Act or the Land Drainage Act 1991(2) in relation to anything done under or in pursuance of this Order.

3.—(1) Before carrying out any works involving the erection of any obstruction to the flow of any watercourse which is not part of a main river within the meaning of section 113 of the Water Resources Act 1991 or the construction, alteration or replacement of any culvert or any structure designed to contain or divert the flow of any such watercourse in, under or through any land held for the purposes of or in connection with the railway, the undertaker shall furnish to the Agency proper and sufficient plans thereof for the approval of the Agency and shall not carry out the said works until the said plans have been approved in writing by the Agency.

(2) The approval of plans furnished under this paragraph shall not be unreasonably withheld and if, within 2 months after such plans have been supplied to the Agency, the Agency shall not have intimated its disapproval and the grounds of its disapproval it shall be deemed to have approved the plans as supplied.

(3) For the purposes of this paragraph, “plans” includes sections, drawings, specifications, calculations and descriptions.

4.—(1) Any culvert or any structure designed to contain or divert the flow of any watercourse situated within any land held for the purposes of or in connection with the railway, whether constructed under the powers of this Order or in existence prior to the making hereof, shall be maintained by the undertaker in good repair and condition and free from obstruction.

(2) Nothing in this paragraph shall have the effect of requiring the undertaker to carry out works of maintenance in respect of any culvert or structure which the Agency or any other person is liable to maintain.

5. If any obstruction is erected or any culvert is constructed, altered or replaced in contravention of the provisions of this part of this Schedule the undertaker shall, upon receiving notice from the Agency, take such action as may be necessary to remedy the effect of the contravention to the Agency’s satisfaction; and in default the Agency may itself take such action as may be necessary and recover the expenses reasonably incurred by it in doing so from the undertaker as a debt due from it to the Agency.

6. Any dispute or difference which may arise between the Agency and the undertaker under this part of this Schedule shall be determined by arbitration.

7. The provisions of the 1845 Act applied by this Order shall be subject to the provisions of this part of this Schedule.

(1) 1991 c. 57.

(2) 1991 c. 59.

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