
STATUTORY INSTRUMENTS

2009 No. 1300

The Nottingham Express Transit System Order 2009

PART 2

WORKS PROVISIONS

Supplemental powers

Temporary closure of, and works in, waterways

- 20.**—(1) The promoter may, in connection with the construction of Work No.7 or Work No.12—
- (a) temporarily interfere with the relevant part of the canal or, as the case may be, the relevant part of the river by constructing or maintaining caissons, cofferdams or other temporary works at any point within that part of the canal or river as the promoter considers necessary or expedient;
 - (b) temporarily moor or anchor barges or other vessels or craft in the relevant part of the canal or, as the case may be, the relevant part of the river, and may load or unload into and from such barges, other vessels or craft equipment, machinery, soil and any other materials in connection with the construction of Work No.7 or Work No.12;
 - (c) on grounds of health and safety only, temporarily close to navigation the relevant part of the canal or, as the case may be, the relevant part of the river; and
 - (d) temporarily remove the water from the relevant part of the canal or, as the case may be, the relevant part of the river that is so interfered with or closed.
- (2) During the period of any closure referred to in paragraph (1)(c), all rights of navigation and other rights relating to, and any obligations of the British Waterways Board to manage, the relevant part of the river or the relevant part of the canal so closed shall be suspended and unenforceable against the British Waterways Board.
- (3) The power conferred by paragraph (1) shall be exercised in a way which secures—
- (a) that no more of the relevant part of the river or the relevant part of the canal is closed to navigation at any time than is necessary in the circumstances; and
 - (b) that, if complete closure to navigation of the relevant part of the river or the relevant part of the canal becomes necessary, all reasonable steps are taken to secure that the period of closure is kept to a minimum and that the minimum obstruction, delay or interference is caused to vessels or craft which may be using or intending to use the part so closed.
- (4) In exercising the powers conferred by paragraph (1) in relation to the relevant part of the canal the promoter shall—
- (a) take such reasonable steps as are necessary to ensure that—
 - (i) the flow of water in the canal is maintained unaltered; and
 - (ii) the functioning of any intake or discharge along the canal is unaffected; and

(b) without affecting sub-paragraph (a), keep any interference with water levels or flows to the minimum reasonably necessary to construct the works.

(5) Any person who suffers loss or damage as the result of—

(a) the suspension of any private right of navigation under this article; or

(b) any effect of the exercise of the powers conferred by paragraph (1) on the functioning of any intake or discharge along the canal,

shall be entitled to be paid compensation for such loss or damage by the promoter, to be determined, in case of dispute, under Part 1 of the 1961 Act.