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STATUTORY INSTRUMENTS

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**2013 No. 1933**

**The Leeds Railway Station (Southern Entrance) Order 2013**

**PART 2**

**WORKS PROVISIONS**

*Navigation*

**Temporary closure of, and works in the Aire and Calder Navigation**

**16.**—(1) The promoter may, in connection with the construction of the authorised works—

- (a) temporarily interfere with the relevant part of the waterway by constructing or maintaining caissons, cofferdams or other temporary works at any point within the relevant part of the waterway as the promoter considers necessary or expedient;
- (b) temporarily moor or anchor barges or other vessels or craft in the relevant part of the waterway;
- (c) load or unload into and from such barges, other vessels or craft as are referred to in subparagraph (b) equipment, machinery, soil and any other materials;
- (d) temporarily close to navigation the relevant part of the waterway; and
- (e) temporarily remove the water from the relevant part of the waterway that is so interfered with or closed.

(2) During the period of any closure referred to in paragraph (1)(d), all rights of navigation and other rights relating to, and any obligations of the Trust to manage, the relevant part of the waterway so closed are to be suspended and unenforceable against the Trust.

(3) The power conferred by paragraph (1) must be exercised in a way which secures—

- (a) that no more of the relevant part of the waterway 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 waterway becomes necessary, 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) Any person who suffers loss or damage as a result of the suspension or interruption of any right under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

**Extinguishment of navigation rights etc. in the Aire and Calder Navigation**

**17.**—(1) Without limitation on the scope of section 105(5) and (6) of the Transport Act 1968<sup>(1)</sup> any rights of navigation over the relevant part of the waterway whether public or private and

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(1) 1968 c. 73.

however arising are extinguished to the extent that such rights are adversely affected by reason of the construction, use and maintenance of the authorised works.

(2) The promoter must pay compensation to any person who suffers damage or loss by reason of the extinguishment of rights of navigation by virtue of paragraph (1) and any question as to the amount of compensation so paid is to be determined by the tribunal.

#### **Navigation etc. in vicinity of scheduled works**

- 18.**—(1) Any person who, other than in an emergency or with some other reasonable cause—
- (a) moors a vessel to any part of the scheduled works without the consent of the promoter;
  - (b) allows any vessel to drift in the vicinity of the scheduled works, except for the purpose of passing through the lock gates or waiting to do so; or
  - (c) moors a vessel in the vicinity of the scheduled works so as to cause an obstruction to the access to any part of the scheduled works,

is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) In this article—

“in the vicinity of the scheduled works” means on or in that part of the relevant waterway within the limits of deviation; and

“lock gates” means the lock gates to the entrance to the Leeds and Liverpool Canal and shown marked by the point “X” on the deposited plans.

#### **Removal of vessels**

**19.**—(1) Subject to paragraphs (2) and (3), whenever any vessel—

- (a) is sunk, stranded or abandoned within the relevant part of the waterway; or
- (b) left or moored within the relevant part of the waterway without lawful authority,

the promoter may raise, remove, store or otherwise dispose of a vessel to which this paragraph applies where (except in an emergency) it has given not less than 21 days’ written notice to the owner of the vessel, unless it is not practicable after reasonable inquiry to ascertain the name and address of the owner.

(2) Where the promoter proposes to raise, remove, store or otherwise dispose of a vessel to which paragraph (1) applies, the promoter must first give the Trust not less than 28 days’ written notice of its intention to do so.

(3) Where the promoter has given such notice as referred to in paragraph (2) and where—

- (a) it is within the powers of the Trust to deal with the vessel; and
- (b) the promoter having given not less than 28 days’ written notice to the Trust, is informed by the Trust within that time that the Trust intends to itself raise, remove, store or otherwise dispose of a vessel to which paragraph (1) applies; and
- (c) the Trust does raise, remove, store or otherwise dispose of a vessel to which paragraph (1) applies within a reasonable time afterwards,

then the promoter, may not raise, remove, store or otherwise dispose of a vessel to which paragraph (1) applies except in a case of an emergency, in which case the promoter is not required to give the Trust the notice in paragraph (2) provided that the Trust is informed of the action as soon as possible afterwards.

(4) Any notice given by the promoter under paragraph (1) must—

- (a) identify the vessel in respect of which the notice is served and its approximate location;
- (b) state that if the owner fails to raise and remove the vessel before the expiry of the period specified in the notice, the promoter may raise and remove the vessel and recover all expenses reasonably incurred in doing so; and
- (c) indicate that there is a right to refer the matter to arbitration under article 20 (arbitration in respect of removal of vessels).

(5) The promoter may recover from the owner of any such vessel all expenses reasonably incurred by the promoter in respect of the raising, removal, storage or disposal of the vessel or in raising, removing, storing or disposing of any goods raised or removed from the vessel.

(6) In any proceedings by the promoter against a person served with a notice under paragraph (1) for the recovery of any expenses which the promoter is entitled to recover from that person under paragraph (5), it is not open to that person to raise any question which could have been raised on a referral to arbitration under article 51 (arbitration).

(7) Subject to paragraph (8), if any vessel to which paragraph (1) applies is not, within 6 weeks of its removal by the promoter, proved to the promoter's satisfaction to belong to any claimant, the vessel, together with any such goods, is to vest in the promoter.

(8) If within 12 months of its removal a claim is made to the vessel by a person who subsequently proves to the satisfaction of the promoter that the person was the owner of the vessel, or has become the owner since the vessel was sunk, stranded, abandoned, left or moored as mentioned in paragraph (1), then the promoter must—

- (a) if the vessel is unsold, permit that person to retake it with any goods on the vessel upon payment of the expenses referred to in paragraph (5); or
- (b) if the vessel and the goods on the vessel have been sold, pay to that person the amount of the proceeds of such sale after deducting the said expenses, and in case such proceeds are insufficient to reimburse the promoter those expenses the deficiency may be recovered from that person by the promoter.

(9) In this article—

- (a) “goods” means articles and property of every description found on any vessel to which paragraph (1) applies; and
- (b) an “owner”, in relation to any vessel sunk, stranded, abandoned, left or moored as mentioned in paragraph (1), means as the case may be, either—
  - (i) the owner of the vessel at the time of its sinking, stranding, abandonment, leaving or mooring; or
  - (ii) a person who has become the owner of a vessel since the sinking, stranding abandonment, leaving or mooring of the vessel referred to in paragraph (1).

### **Arbitration in respect of removal of vessels**

**20.—**(1) Any person served with a notice by the promoter under article 19 (removal of vessels) may, within 21 days of service of the notice, serve a counter-notice on the promoter disputing the notice and stating that—

- (a) the vessel is not sunk, stranded or abandoned in the relevant part of the waterway; or
- (b) there has been some informality, defect or error in, or in connection with, the notice,

and any dispute under this article must be determined in accordance with article 51 (arbitration).

(2) If and so far as a dispute under this article is based on the ground of some informality, defect or error in, or in connection with, the notice, the arbitrator must dismiss the dispute if the arbitrator is satisfied that the informality, defect or error was not a material one.

(3) On the hearing of the dispute the arbitrator may confirm or set aside the notice.