

SCHEDULES

SCHEDULE 12

PROTECTIVE PROVISIONS

PART 3

FOR THE PROTECTION OF DRAINAGE AUTHORITIES AND THE ENVIRONMENT AGENCY

16.—(1) The following provisions of this Part of this Schedule apply for the protection of the drainage authority unless otherwise agreed in writing between Network Rail and the drainage authority.

(2) In this Part of this Schedule—

“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 Order (which includes any dredging and any geotechnical investigations that may be undertaken) as consists of—

- (a) erecting any structure (whether temporary or permanent) in, over or under a main river if the work is likely to 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) the carrying out of any work or alteration or repair of any structure (whether temporary or permanent) in, over or under a main river if the work is likely to affect the flow of water in the main river or to affect any drainage work; or
- (c) any work or operation that is in, on, under, over or within 16 metres of a drainage work which is or includes a main river or is otherwise likely to affect any such drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;

“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 any ordinary watercourse;
- (c) altering a culvert in a manner that would be likely to affect the flow of any 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(1);

“construction” includes execution, placing, altering, replacing, relaying, removal and carrying out excavations in relation to a work, and “construct” and “constructed” are construed accordingly;

“the drainage authority” means—

(1) 2010 c. 29.

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- (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⁽²⁾;

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

“the fishery” means any waters containing fish and fish in, such waters and the spawn, habitat or food of such fish;

“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; and

“specified work” means a category 1 specified work or a category 2 specified work.

(2) 1991 c. 59.