

Trent and Lincolnshire Water Act 1971

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ELIZABETH II



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An Act to provide for the augmentation of the water resources of the area of the Lincolnshire River Authority; to authorise the Lincolnshire River Authority, the Trent River Authority and the North Lindsey Water Board to construct water works and to acquire lands; and for other purposes.

[30th March 1971]

WHEREAS the Trent River Authority and the Lincolnshire River Authority (hereinafter in this Act referred to respectively as “the Trent Authority” and “the Lincolnshire Authority”) were constituted in pursuance of the Water Resources Act 1963 (hereinafter in this Act referred to as 1963 c. 38. “the Act of 1963”), as the authorities responsible for water conservation, land drainage, prevention of pollution and the management and improvement of salmon, trout and fresh water fisheries within adjoining areas which include (inter alia) the catchment areas of the rivers Trent, Witham and Ancholme:

And whereas as the authorities responsible for water conservation within their respective areas the Trent Authority and the Lincolnshire Authority are charged by the Act of 1963 with the duty of taking such action as they consider necessary or expedient for the purpose of conserving, redistributing or otherwise augmenting water resources in their area and of transferring water from their area to the area of another river authority:

And whereas there has been industrial development in the northern part of the area of the Lincolnshire Authority and substantial further industrial expansion is anticipated:

And whereas the demand for water within this part of the said area particularly for industrial supplies has increased and will further increase but the existing water resources of the area are insufficient to provide for the future requirements of the existing and anticipated industrial expansion and to meet the other demands generated by such expansion:

And whereas such demands can be met most economically and expeditiously by abstractions from the river Ancholme and to ensure that a sufficient quantity of water is always available in that river to enable continuous abstraction to take place the flow will have to be augmented by transferring water from the river Witham at its point of confluence with the river Barlings Eau but the quantity which can be so transferred will at times of low flow be insufficient unless the flow of the river Witham is augmented by transferring water from the tidal reaches of the river Trent and it is, therefore, expedient and in the public interest that the flow of the river Ancholme should be augmented as in this Act provided:

And whereas to ensure that the Lincolnshire Authority are in a position to fulfil their statutory function of providing sufficient supplies of water to meet the demands of the statutory water undertakers and other water users in their area and in particular those of industrial consumers it is expedient and in the public interest that the Trent Authority and the Lincolnshire Authority should be empowered to construct the works which they are by this Act authorised to construct and to abstract water from certain rivers and other watercourses by means of such works:

And whereas the North Lindsey Water Board (hereinafter in this Act referred to as "the Water Board") are by the North Lindsey Water Board Acts and Orders, 1934 to 1971, the authorised undertakers for the supply of water within part of the county of Lincoln, Parts of Lindsey:

And whereas the demand for water, particularly the demand for water from industrial consumers, within the limits of supply of the Water Board is increasing and is likely further to increase, and in order that the Water Board should be able to meet this demand, it is expedient that the Water Board should be authorised to abstract part of the augmented flow of the river Ancholme and to construct such works in connection therewith as they are by this Act authorised to construct:

And whereas it is expedient that the Trent Authority, the Lincolnshire Authority and the Water Board should be empowered to acquire lands and easements for the works which they are by this Act respectively authorised to construct:

And whereas to enable the Trent Authority and the Lincolnshire Authority to discharge their functions with greater efficiency it is expedient that they should be granted the additional powers conferred upon them by this Act:

And whereas it is expedient to make further provision with regard to the undertaking of the Water Board:

And whereas it is expedient that the other provisions in this Act should be enacted:

And whereas the objects of this Act cannot be effected without the authority of Parliament:

And whereas estimates have been prepared for the purposes hereinafter mentioned and such estimates are as follows:—

	£
For the construction of the works authorised by this Act to be constructed by the Trent Authority	332,000
For the construction of the works authorised by this Act to be constructed by the Lincolnshire Authority	2,600,000
For the construction of the works authorised by this Act to be constructed by the Water Board	2,931,000

And whereas the works included in such estimates are permanent works and it is expedient that the cost thereof should be spread over a number of years:

And whereas plans and sections showing the lines, situations and levels of the works authorised by this Act, and a book of reference to such plans containing the names of the owners, and lessees, or reputed owners and lessees, and of the occupiers, of the lands which may be acquired or used compulsorily under the powers of this Act, have been deposited in the office of the Clerk of the Parliaments and in the Private Bill Office, House of Commons, and with the clerks of the county councils of the administrative counties of Lincoln, Parts of Holland, Lincoln, Parts of Kesteven and Lincoln, Parts of Lindsey and with the town clerk of the county borough of Lincoln, which plans, sections and book of reference are in this Act respectively referred to as the deposited plans, the deposited sections and the deposited book of reference:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

PRELIMINARY

Short and collective titles.

1.—(1) This Act may be cited as the Trent and Lincolnshire Water Act 1971.

(2) So much of this Act as relates to the Water Board and the Water Board's works shall be included among the Acts and Orders which may be cited together as the North Lindsey Water Acts and Orders 1934 to 1971.

Division of Act into Parts.

2. This Act shall be divided into Parts as follows:—

Part I.—Preliminary.

Part II.—Works.

Part III.—Lands.

Part IV.—Abstractions and discharges.

Part V.—Finance.

Part VI.—Special provisions relating to the Trent and Lincolnshire Authorities.

Part VII.—Special provisions relating to the Water Board.

Part VIII.—Protective provisions.

Part IX.—Miscellaneous and general.

Interpretation.

3.—(1) In this Act, unless the subject or context otherwise requires, the several words and expressions to which meanings are assigned by the Act of 1963 have the same respective meanings and the following expressions have the meanings hereby respectively assigned to them:—

1945 c. 42.

“ the Act of 1945 ” means the Water Act 1945;

1961 c. 33.

“ the Act of 1961 ” means the Land Compensation Act 1961;

1963 c. 38.

“ the Act of 1963 ” means the Water Resources Act 1963;

1965 c. 56.

“ the Act of 1965 ” means the Compulsory Purchase Act, 1965;

“ appropriate authority ” means—

(a) in relation to the Lincolnshire works and in relation to any land in respect of which powers for compulsory acquisition are conferred upon the Lincolnshire Authority by this Act, the Lincolnshire Authority;

(b) in relation to the Trent works and in relation to any land in respect of which powers for compulsory acquisition are conferred upon the Trent Authority by this Act, the Trent Authority; and

(c) in relation to the North Lindsey works and in relation to any land in respect of which powers for compulsory acquisition are conferred upon the Water Board by this Act, the Water Board;

“ docks board ” means the British Transport Docks Board;

“ electric line ” has the same meaning as in the Electric Lighting Act 1882;

1882 c. 56.

“ enactment ” includes an enactment in this Act or in any general or local Act and any order, byelaw or regulation for the time being in force within the area of the Trent Authority or the Lincolnshire Authority or within the limits of supply of the Water Board;

“ Kesteven ” and “ Lindsey ” mean the county of Lincoln, Parts of Kesteven and the county of Lincoln, Parts of Lindsey respectively and “ the Kesteven Council ” and “ the Lindsey Council ” mean the respective county councils of those administrative counties;

“ land ” means any corporeal hereditament, including a building, and includes any interest in, or right over, land;

“ Lincolnshire Authority ” means the Lincolnshire River Authority;

“ the Lincolnshire works ” means Works Nos. 6 to 20 and any works, apparatus and conveniences connected therewith constructed or provided by the Lincolnshire Authority as part of, or in connection with, or for the purposes of, those works or any of them;

“ North Lindsey works ” means Works Nos. 21 to 32 and any works, apparatus and conveniences connected therewith, constructed or provided by the Water Board as part of, or in connection with, or for the purposes of, those works or any of them;

“ the River Authority ” means the Lincolnshire Authority or the Trent Authority and “ the River Authorities ” means both of those authorities;

“ the scheduled agreement ” means the agreement dated the 31st day of December, 1970, made between the British Waterways Board of the first part, the Trent Authority of the second part and the Lincolnshire Authority of the third part set out in Schedule 4 to this Act;

“ the Secretary of State ” in section 17 (Tidal works not to be executed without approval of Secretary of State), section 20 (Survey of tidal works), section 23 (Abatement of works abandoned or decayed), section 24 (Lights on tidal works during construction), section 62 (For protection of docks board) and section 63 (For protection

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1878 c. 76.

of British Waterways Board) of this Act means the Secretary of State for Trade and Industry and in every other case means the Secretary of State for the Environment;

“ telegraphic line ” has the same meaning as in the Telegraph Act 1878;

“ the Third Schedule ” means the Third Schedule to the Act of 1945;

“ tidal work ” means so much of any work authorised by this Act as is on, under or over tidal waters or tidal lands below the level of mean high-water springs;

“ Trent Authority ” means the Trent River Authority;

“ Trent works ” means Works Nos. 1 to 5A and any works, apparatus and conveniences connected therewith, constructed or provided by the Trent Authority as part of, or in connection with, or for the purposes of, those works or any of them;

“ the tribunal ” means the Lands Tribunal;

“ Trinity House ” means the corporation of Trinity House of Deptford Strond;

“ Water Board ” means the North Lindsey Water Board;

“ watercourse ” includes all rivers, streams, canals, ditches, drains, cuts, culverts, dykes, sewers and passages through which water flows except mains (within the meaning of the Third Schedule) and local authority sewers.

(2) References in this Act to reference points shall be construed as references to National Grid reference points.

(3) Unless the subject or context otherwise requires any reference in this Act to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Act.

(4) Unless the subject or context otherwise requires, references in this Act to any enactment shall be construed as references to that enactment as amended by any subsequent enactment, including this Act.

Application
and
modification
of enactments.

4.—(1) (a) For the purposes of this Act the provisions of the Third Schedule which are specified in column (1) of Part I of Schedule 1 to this Act shall, subject to the modifications set out in column (2) thereof, apply to the Lincolnshire Authority and the Lincolnshire works and to the Trent Authority and the Trent works and the provisions of the Third Schedule which are specified in column (1) of Part II of the said schedule shall, subject to the modifications set out in column (2) thereof, apply to the Water Board and their undertaking.

(b) Subject as aforesaid the said provisions are hereby incorporated with this Act and, as so incorporated, shall have

effect as if for references therein to undertakers there were substituted references to the appropriate authority.

PART I
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(2) Section 16 of the Railways Clauses Consolidation Act 1845 and the provisions of that Act with respect to the temporary occupation of lands near the railway during the construction thereof are hereby incorporated with this Act and, as so incorporated, shall have effect as if—

1845 c. 20.

(a) for the words “the period by the special Act limited for the completion of the railway” there were substituted the words “in the case of Works Nos. 7, 7A, 8, 8A and 9 authorised by the special Act, the period of eight years from the commencement of the construction of any of those works and in the case of any other work authorised by that Act the period of five years from the commencement of the construction of any such other work”;

(b) the expression “the company” meant the appropriate authority; and

(c) the expression “the railway” meant the works authorised by this Act and “the centre of the railway” meant the centre of any such works respectively or in the case of the reservoirs (Work No. 19 and Work No. 25) the centre line of the bank of that reservoir.

(3) (a) Part I of the Act of 1965 (except section 4, subsection (5) of section 24, section 27, and sub-paragraph (3) of paragraph 3 of Schedule 3 thereof), in so far as it is applicable for the purposes of this Act and is not inconsistent with the provisions thereof, shall apply to the compulsory acquisition of land under this Act as it applies to a compulsory purchase to which Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act, 1946, applies and as if this Act were a compulsory purchase order under the said Act of 1946.

1946 c. 49.

(b) In subsection (1) of section 11 of the Act of 1965 as so applied, for the words “fourteen days” there shall be substituted the words “three months”.

(c) The Lands Clauses Consolidation Act 1845 shall not apply to the acquisition of land under this Act.

1845 c. 18.

PART II

WORKS

5.—(1) Subject to the provisions of this Act the Trent Authority may in the lines or situations and within the limits of deviation shown on the deposited plans and according to the levels shown upon the deposited sections make and maintain in the rural district of Gainsborough in Lindsey the works hereinafter

Power to
Trent
Authority
to construct
works.

PART II
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described together with all necessary works and conveniences connected therewith, namely:—

Work No. 1 An intake and pumping station (the Torksey intake) in the parish of Fenton on the east bank of the river Trent at reference point SK 8332 7806;

Work No. 1A An access road in the said parish of Fenton commencing by a junction with the road from Lincoln to Gainsborough (classified road A156) at reference point SK 8373 7801 and terminating at Work No. 1;

Work No. 2 An aqueduct or line or lines of pipes in the said parish of Fenton commencing at the pumping station comprised in Work No. 1 and terminating at Work No. 3;

Work No. 3 A control house in the said parish of Fenton at reference point SK 8364 7797;

Work No. 3A An access road in the said parish of Fenton commencing by a junction with the road from Lincoln to Gainsborough (classified road A156) at reference point SK 8372 7796 and terminating at Work No. 3;

Work No. 4 An aqueduct or line or lines of pipes in the said parish of Fenton commencing at Work No. 3 and terminating at Work No. 5;

Work No. 5 An aerator and outfall partly in the said parish of Fenton and partly in the parish of Torksey on the south bank of the Fosdyke Navigation at reference point SK 8395 7791;

Work No. 5A An access road in the said parish of Fenton commencing by a junction with the road from Lincoln to Gainsborough (classified road A156) at reference point SK 8374 7798 and terminating at Work No. 5.

(2) The Trent Authority may from time to time renew and alter any of the works described in subsection (1) of this section.

Power to
Lincolnshire
Authority to
construct
works.

6.—(1) Subject to the provisions of this Act the Lincolnshire Authority may in the lines or situations and within the limits of deviation shown on the deposited plans and according to the levels shown upon the deposited sections make and maintain in Lindsey and Kesteven the works hereinafter described together with all necessary works and conveniences connected therewith, namely:—

In Lindsey—

Work No. 6 A reconstruction in whole or in part of Torksey Lock, partly in the parish of Fenton and partly in the parish of Torksey in the rural district of Gainsborough at reference point SK 8380 7806;

Work No. 7 An aerator (comprising an intake, pumping station, cascade and outfall) partly in the said parish of

Fenton and partly in the parish of Hardwick in the said rural district on the west bank of the Fossdyke Navigation at reference point SK 8584 7682;

Work No. 7A An access road in the said parish of Fenton commencing by a junction with the road from Lincoln to Gainsborough (classified road A156) at reference point SK 8546 7666 and terminating at Work No. 7;

Work No. 8 An aerator (comprising an intake, pumping station, cascade and outfall) in the parish of Saxilby with Ingleby in the rural district of Welton on the north bank of the Fossdyke Navigation at reference point SK 8780 7443;

Work No. 8A An access road in the said parish of Saxilby with Ingleby commencing by a junction with a private road from Green Lane to White House Farm at reference point SK 8799 7454 and terminating at Work No. 8:

In Lindsey and Kesteven—

Work No. 9 An aerator (comprising an intake, pumping station, cascade and outfall) partly in the parish of Burton in the said rural district of Welton and partly in the parish of Skellingthorpe in the rural district of North Kesteven in Kesteven, on the north bank of the Fossdyke Navigation at reference point SK 9340 7355;

Work No. 13 An improvement of the river Barlings Eau in the parishes of Fiskerton and Stainfield in the said rural district of Welton and in the parish of Branston and Mere in the said rural district of North Kesteven consisting of a widening and deepening of the bed and a reconstruction of the banks of so much of the said river as lies between reference point TF 0913 7192 and the confluence of the river with the old river Witham:

In Lindsey—

Work No. 14 An approach channel, intake and pumping station (the Short Ferry Intake) in the said parish of Fiskerton, on the west bank of the river Barlings Eau (as improved by the construction of Work No. 13) in the enclosures numbered 301 and 302 on the Ordnance Survey Plans numbered Lincolnshire Sheets LXXI.7 and LXXI.8 (County Series, Second Edition 1906);

Work No. 15 An aqueduct or line or lines of pipes commencing in the said parish of Fiskerton at the pumping station comprised in Work No. 14 passing into and through the parishes of Barlings, Sudbrooke, Scothern, Dunholme, Welton, Cold Hanworth and Faldingworth

PART II
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in the said rural district of Welton and thence into and terminating in the parish of Toft Newton in the rural district of Caistor at Work No. 17;

Work No. 16 Lines of pipes in the said parish of Toft Newton, commencing by a junction with Work No. 15 at reference point TF 0329 8738 and terminating in Work No. 19;

Work No. 17 An aerator and outfall in the said parish of Toft Newton on the east bank of the river Ancholme (as improved by the construction of Work No. 20) at reference point TF 0324 8751;

Work No. 18 A gauging weir partly in the said parish of Toft Newton and partly in the parish of Owmbly in the said rural district of Welton across the river Ancholme (as improved by the construction of Work No. 20) at reference point TF 0321 8750;

Work No. 19 A reservoir in the said parish of Toft Newton in the enclosures numbered 38, 39, 40, 41, 46 and 47 on the Ordnance Survey Plan numbered Lincolnshire Sheet XLV.13 (County Series, Second Edition 1906);

Work No. 20 An improvement of the river Ancholme in the said parish of Toft Newton and in the parish of West Rasen in the rural district of Caistor and in the said parish of Owmbly and in the parish of Normanby by Spital in the said rural district of Welton consisting of a widening and deepening of part of the bed and a reconstruction of part of the banks of so much of the said river as lies between reference points TF 0320 8748 and TF 0283 8887.

(2) The powers conferred by the foregoing subsection in relation to Works Nos. 13 and 20 shall include power to alter any structure or appliance in the bed or on the banks of the river Barlings Eau or the river Ancholme (as the case may be).

(3) The Lincolnshire Authority may from time to time renew and alter any of the works described in subsection (1) of this section.

Subsidiary
powers to
Trent and
Lincolnshire
Authorities.

7.—(1) Subject to the provisions of this Act and within the limits of deviation shown on the deposited plans, the Trent Authority in connection with the Trent works, and the Lincolnshire Authority in connection with the Lincolnshire works, and in either case for the purposes thereof, may—

(a) make junctions and communications between any of those works and any watercourses and any existing streets, roads, droves, ways, bridges, towing paths and footpaths;

- (b) make, provide and maintain all necessary and convenient walls, banks, embankments, piling, fences, facilities for watering cattle and other animals, culverts, drains, intakes, syphons, watercourses, weirs, sluices, wharves, mattresses, pitching, roads, droves, bridges, towing paths and footpaths, and all such mains, pipes, cables, wires, pumps, machinery, works and appliances as may be required;
- (c) raise, widen, lengthen, alter and reconstruct the bridges over any watercourses widened, deepened, strengthened, straightened or diverted under the powers of this Act and the approaches to such bridges and strengthen, underpin and deepen the piers, arches and other supports and the foundations thereof without acquiring the said bridges or any interest therein;
- (d) stop up and discontinue so much of the watercourses shown on the deposited plans as will be rendered unnecessary by reason of the execution of the works authorised by this Act;
- (e) dispose of spoil or other material excavated in the execution of the works authorised by this Act;
- (f) execute any works for the protection of any adjoining lands or buildings;
- (g) remove, alter, divert or stop up any drain, sewer or watercourse, the appropriate authority providing a proper substitute before interrupting the flow of sewage in any drain or sewer or water in any watercourse;
- (h) fell, lop or cut and remove any tree, bush, shrub or other vegetation; and
- (i) alter any mains, pipes, wires and other works and apparatus for conveying or transmitting water, gas, electricity or petroleum (as defined in the Petroleum (Consolidation) Act 1928).

1928 c. 32.

(2) In the exercise of the powers conferred by this section, the appropriate authority shall cause as little detriment and inconvenience to any person as circumstances admit and shall pay compensation to all persons for any damage sustained by them by reason of the exercise by the appropriate authority of such powers. Any question as to the amount of the compensation to be so paid shall be determined by arbitration.

(3) The powers of paragraph (c) of subsection (1) of this section shall not be exercised by the appropriate authority in relation to a bridge carrying a highway without the consent of the highway authority, which consent shall not be unreasonably withheld but may be given subject to such reasonable conditions (other than a monetary payment) as the highway authority may

PART II
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require, and any question whether such consent is unreasonably withheld or any conditions so imposed are unreasonable shall be determined by the Secretary of State.

(4) Any electrical works or equipment constructed, erected, laid down, maintained, worked or used pursuant to the powers conferred by this section shall be so constructed, erected or laid down and so maintained, worked and used as to prevent interference with any telegraphic line belonging to or used by the Post Office or with telecommunication by means of any such line.

Power to
Water Board to
construct
works.

8.—(1) Subject to the provisions of this Act, the Water Board may, in the lines or situations and within the limits of deviation shown on the deposited plans and according to the levels shown upon the deposited sections, make and maintain in Lindsey the works hereinafter described together with all necessary works and conveniences connected therewith, namely:—

Work No. 21 An intake and pumping station in the parish of Cadney in the rural district of Glanford Brigg on the east bank of the river Ancholme at reference point TA 0012 0289;

Work No. 22 A diversion of a part of the Thirty Foot Drain in the said parish of Cadney at reference point TA 0030 0296 on the north side of the unclassified public road from Cadney village to Cadney Bridge to enter the Faraway Drain at reference point TA 0038 0304;

Work No. 23A An improvement or replacement of the bridge over the Faraway Drain on the said unclassified public road in the said parish of Cadney at reference point TA 0039 0301;

Work No. 23B An improvement, filling in or replacement of the bridge over the Thirty Foot Drain on the said unclassified public road in the said parish of Cadney at reference point TA 0032 0294;

Work No. 24 An aqueduct or line or lines of pipes in the said parish of Cadney commencing at Work No. 21 and terminating at Work No. 26;

Work No. 24A An aqueduct or line or lines of pipes in the said parish of Cadney commencing by a junction with Work No. 24 at reference point TA 0116 0439 and terminating in Work No. 25;

Work No. 25 A reservoir in the said parish of Cadney in the enclosures numbered 106, 115, 122, 132 and 135 and part of enclosure numbered 121 on the Ordnance Survey Plans numbered Lincolnshire Sheets XXVII. 4 and 8 and XXVIII. 1 and 5 (County Series, Second Edition 1907);

- Work No. 25A An access road in the said parish of Cadney commencing by a junction with the road from Cadney to Brigg at reference point TA 0127 0417 and terminating at Work No. 26;
- Work No. 25B An aqueduct or line or lines of pipes in the said parish of Cadney commencing at Work No. 25 and terminating on the south bank of the Kettleby Beck at reference point TA 0086 0572;
- Work No. 26 A pumping station in the said parish of Cadney in the enclosures numbered 132 and 135 on the Ordnance Survey Plan numbered Lincolnshire Sheet XXVII. 4 (County Series, Second Edition 1907);
- Work No. 27 An aqueduct or line or lines of pipes commencing in the said parish of Cadney at the pumping station comprised in Work No. 26 passing into and through the parish of Bigby in the rural district of Caistor and into and through the urban district of Brigg and into and through the parish of Wrawby and into and terminating in the parish of Elsham in the last-mentioned rural district at reference point TA 0298 1301 at a junction with work to be carried out under other powers;
- Work No. 29 An aqueduct or line or lines of pipes commencing at a junction with work to be carried out under other powers at reference point TA 0494 1402 in the said parish of Elsham passing into and through the parishes of Wootton and Ulceby in the rural district of Glanford Brigg and into and terminating in the parish of North Killingholme in the said rural district at reference point TA 1332 1647;
- Work No. 30 A line or lines of pipes commencing at a junction with work to be carried out under other powers at reference point TA 0494 1402 in the said parish of Elsham passing into and through the said parishes of Wootton, Ulceby and North Killingholme and the parish of East Halton in the rural district of Glanford Brigg and repassing into and terminating in the said parish of North Killingholme at Work No. 31;
- Work No. 31 A sludge storage tank or tanks and pumping station in the said parish of North Killingholme at reference point TA 1733 1905;
- Work No. 32 A line or lines of pipes commencing in the said parish of North Killingholme at the pumping station comprised in Work No. 31 and terminating below the low-water mark of ordinary tides in the river Humber at reference point TA 1753 1918.

PART II
—cont.

(2) The Water Board may from time to time renew and alter any of the works described in subsection (1) of this section, except Work No. 22 and Works Nos. 23A and 23B after they have vested in the Ancholme Internal Drainage Board or the Lindsey Council, as the case may be, under section 9 (Vesting and maintenance of Works Nos. 22, 23A and 23B) of this Act.

Vesting and maintenance of Works Nos. 22, 23A and 23B.

9.—(1) The diverted part of the Thirty Foot Drain (Work No. 22) shall when completed be maintained by and at the expense of the Water Board for a period of one year from the completion thereof and at the end of that period it shall vest in and be maintained by the Ancholme Internal Drainage Board.

(2) The improved, filled in or replaced bridges (Works Nos. 23A and 23B) shall when completed be maintained by and at the expense of the Water Board for a period of one year from the completion and opening thereof for public use and at the expiration of that period the said bridge or bridges shall vest in and be maintained at the public expense by the Lindsey Council.

Works to form part of undertaking.

10. The North Lindsey works shall for all purposes form part of the undertaking of the Water Board:

Provided that—

- (1) the diverted part of the Thirty Foot Drain (Work No. 22) shall cease to form part of the undertaking as from the date on which it vests in the Ancholme Internal Drainage Board; and
- (2) each of the bridges (Works Nos. 23A and 23B) shall cease to form part of the undertaking as from the date on which it vests in the Lindsey Council.

Temporary stoppage of watercourses, roads, footpaths and bridleways.

11.—(1) The Trent Authority during and for the purpose of the execution of any of the Trent works, the Lincolnshire Authority during and for the purposes of the execution of any of the Lincolnshire works and the Water Board during and for the purposes of the execution of any of the Water Board's works may temporarily stop up and divert and interfere with any watercourse or any road, bridleway or footpath and may for any reasonable time divert the traffic from any such road, bridleway or footpath and prevent all persons other than those bona fide going to or from any land, house or building abutting on the road, bridleway or footpath from passing along and using the same.

(2) Reasonable access shall be provided for foot passengers, with or without animals bona fide going to or from any such land, house or building.

(3) The powers of this section shall not be exercised with reference to any road without the consent of the highway authority having powers in relation thereto and, in the case of a road which is vested in any person other than the highway authority, that

person, and any such consent may be given subject to such reasonable conditions (other than a monetary payment) as the highway authority or other person may think fit to impose but shall not be unreasonably withheld, and any question whether any such consent is or is not unreasonably withheld or whether any conditions are or are not reasonable shall be determined by the Secretary of State.

PART II
—cont.

(4) (a) The powers of this section shall not be exercised with reference to any watercourse in relation to which functions are exercisable by a navigation or harbour authority or which is under the jurisdiction of an internal drainage board without the consent of the responsible authority and any such consent may be given subject to such reasonable conditions (other than a monetary payment) as the responsible authority may think fit to impose but shall not be unreasonably withheld, and any question whether any such consent is or is not unreasonably withheld or whether any conditions are or are not reasonable shall be determined by the appropriate Minister.

(b) In this subsection—

“the responsible authority” means in relation to any watercourse in relation to which functions are exercisable by a navigation or harbour authority, the authority having powers in relation thereto and in relation to a watercourse under the jurisdiction of an internal drainage board, the board concerned;

“the appropriate Minister” means in relation to any watercourse in relation to which functions are exercisable by a navigation or harbour authority, the Secretary of State, and in relation to any watercourse under the jurisdiction of an internal drainage board, the Minister of Agriculture, Fisheries and Food.

(5) The exercise of the powers conferred by this section in relation to a highway shall not affect the powers of the Post Office under the Telegraph Acts (as defined in section 21 of the Post Office Act 1969) to maintain, inspect, repair, renew or remove telegraphic lines or to open or break up that highway for any of those purposes. 1969 c. 48.

12.—(1) (a) Subject to the provisions of this Act the Lincolnshire Authority for the purposes of improving or regulating the flow of any of the watercourses in Lindsey in the rural districts and parish or parishes mentioned in column (1) of Schedule 2 to this Act between the points specified in column (2) thereof may—

Power to
Lincolnshire
Authority
to improve
and regulate
flow of certain
watercourses.

(i) widen, dredge, cleanse and scour the watercourse;

PART II
—cont.

- (ii) reduce or remove any shoals, shelves, banks or other accumulations therein;
- (iii) alter or remove or cause to be altered or removed any weirs, sluices or other impediments or obstructions whatsoever therein or on the banks thereof;
- (iv) alter or reconstruct any culvert or other structure therein or on the banks thereof.

(b) Any spoil or other material dredged or removed in the exercise of the powers of this subsection may be deposited on the banks of the watercourse.

(2) The Lincolnshire Authority shall pay compensation to all persons for any damage sustained by them or liability to which they may become subject by reason of the exercise by them of the powers of this section. Any question as to the amount of the compensation to be so paid shall be determined by arbitration.

Power to
Water Board
to improve
and regulate
flow of
certain
watercourses.

13.—(1) (a) Subject to the provisions of this Act the Water Board for the purposes of improving or regulating the flow of any of the watercourses which may require improvement or regulation consequent upon the operation or maintenance of any of the North Lindsey works may—

- (i) widen, dredge, cleanse and scour the watercourse;
- (ii) reduce or remove any shoals, shelves, banks or other accumulations therein;
- (iii) alter or remove or cause to be altered or removed any weirs, sluices or other impediments or obstructions whatsoever therein or on the banks thereof;
- (iv) alter or reconstruct any culvert or other structure therein or on the banks thereof.

(b) Any spoil or other material dredged or removed in the exercise of the powers of this subsection may be deposited on the banks of the watercourse.

(2) The Water Board shall pay compensation to all persons for any damage sustained by them or liability to which they may become subject by reason of the exercise by them of the powers of this section. Any question as to the amount of the compensation to be so paid shall be determined by arbitration.

(3) The powers conferred on the Water Board by this section shall not be exercised—

- (a) in the case of a watercourse under the jurisdiction of an internal drainage board except with the consent of the board concerned;

(b) in the case of any other watercourse (except the river Humber) except with the consent of the Lincolnshire Authority; and

(c) in the river Humber except with the consent of the Lincolnshire Authority and of the docks board;

and any such consent may be given subject to such reasonable terms and conditions as the board or authority (as the case may be) may think fit.

14. The Lincolnshire Authority may regulate the opening, shutting and management of any lock or sluice specified in Schedule 3 to this Act for any of the purposes of this Act:

Operation by
Lincolnshire
Authority of
certain locks
and sluices.

Provided that nothing in this section shall authorise the Lincolnshire Authority to regulate—

(a) any of the locks specified in the said schedule in such a way as to interfere with the reasonable use of the lock for navigational purposes;

(b) any of the locks specified in Part I of the said schedule without the prior approval of the British Waterways Board.

15. The appropriate authority may enter into and carry into effect agreements or arrangements with the drainage board of any drainage district or the owners of or other persons interested in any land in or through which the works of that authority are or may be constructed or the drainage of which may be affected by the construction of those works for or with respect to the execution of any works or the doing of anything which may be rendered necessary or convenient by reason or in consequence of the exercise of the powers of this Act. Any such agreement may provide for the payment by the appropriate authority of or the making of contributions by them towards the cost incurred or to be incurred by any such drainage board, owners or other persons in or in connection with the execution of such last-mentioned works or the doing of any such thing or the payment by the appropriate authority of compensation for any injury suffered by such drainage board owners or other persons by reason or in consequence of the execution by the appropriate authority of the works of that authority.

Agreements
with owners of
land and
others for
execution of
works.

16.—(1) The appropriate authority may for the purposes of their works enter upon and use so much of the bed or banks of any watercourse as is within the limits of deviation of any of the said works shown on the deposited plans and as may be required for those purposes, and they may also for the purposes of executing and placing temporary works and conveniences in connection

Power to use
bed and banks
of
watercourses.

PART II
—cont.

with such works occupy and use temporarily so much of such bed and banks within the said limits as may be required for those purposes or any of them.

(2) The River Authority shall pay compensation to all persons for any damage sustained by them or liability to which they may become subject by reason of the exercise by the River Authority of the powers conferred by this section, and any question as to the amount of the compensation to be so paid shall be determined by the tribunal.

Tidal works not to be executed without approval of Secretary of State.

17.—(1) A tidal work shall not be constructed or altered except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of State before the work is begun.

(2) If a tidal work is constructed or altered in contravention of this section or of any condition or restriction imposed under this section—

(a) the Secretary of State may by notice in writing require the appropriate authority at their own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition; and if, on the expiration of thirty days from the date when the notice is served upon the appropriate authority, they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; or

(b) if it appears to the Secretary of State urgently necessary so to do, he may himself remove the tidal work or part of it and restore the site to its former condition;

and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the appropriate authority as a simple contract debt.

Provision against danger to navigation of river Trent.

18.—(1) In case of injury to or destruction or decay of a Trent tidal work or any part thereof the Trent Authority shall forthwith notify Trinity House and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House shall from time to time direct.

(2) If the Trent Authority fail to notify Trinity House as required by this section or to comply in any respect with a direction given under this section they shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

(3) In this section “Trent tidal work” means so much of Work No. 1 as is a tidal work.

19. The provisions of the last foregoing section shall apply to so much of Work No. 32 as is a tidal work as it applies to so much of Work No. 1 as is a tidal work, subject to the following modifications:—

PART II
—cont.

Provision
against
danger to
navigation of
river Humber.

- (a) for references to a Trent tidal work there shall be substituted references to a Humber tidal work;
- (b) for references to the Trent Authority there shall be substituted references to the Water Board;
- (c) for references to Trinity House there shall be substituted references to the docks board;
- (d) in subsection (1) after the word “ lights ” there shall be inserted the words “ sound such fog signals ”;
- (e) for subsection (3) there shall be substituted the following subsection:—

“ (3) In this section ‘ Humber tidal work ’ means so much of Work No. 32 as is a tidal work.”.

20. The Secretary of State may at any time if he deems it expedient order a survey and examination of a tidal work constructed by the appropriate authority or of the site upon which it is proposed to construct the work, and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable from the appropriate authority as a simple contract debt.

Survey of
tidal works.

21.—(1) After the completion of Work No. 32, the Water Board shall, as required, take such steps for the prevention of danger to navigation by indicating the presence of that work as the docks board shall from time to time direct.

Protection of
navigation.

(2) If the Water Board fail to comply in any respect with the provisions of this section, they shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

22. Nothing in section 18 (Provision against danger to navigation of river Trent) as applied by section 19 (Provision against danger to navigation of river Humber) or in section 21 (Protection of navigation) of this Act shall prejudice or derogate from any of the rights or privileges or the jurisdiction or authority of Trinity House.

Saving for
Trinity House.

23.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the appropriate authority at their own expense either to repair and restore the work or any part thereof, or to remove the work

Abatement
of works
abandoned or
decayed.

PART II
—cont.

and restore the site thereof to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.

(2) Where a work, authorised by this Act and consisting partly of a tidal work and partly of works on or over land above the level of mean high-water springs, is abandoned or suffered to fall into decay and that part of the work on or over land above the level of mean high-water springs is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Secretary of State may include that part of the work, or any portion thereof, in any notice under this section.

(3) If, on the expiration of thirty days from the date when a notice under this section is served upon the appropriate authority they have failed to comply with the requirements of the notice the Secretary of State may execute the works specified in the notice and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the appropriate authority as a simple contract debt.

Lights on
tidal works
during
construction.

24.—(1) The appropriate authority shall at or near a tidal work during the whole time of the construction or alteration thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Secretary of State shall from time to time direct.

(2) If the appropriate authority fail to comply in any respect with a direction given under this section they shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

PART III

LANDS

Power to
acquire land.

25.—(1) Subject to the provisions of this Act—

(a) the Trent Authority may enter upon, take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as they may require for the purposes of the Trent works or for the purposes of obtaining access thereto, obtaining materials for the construction thereof, or depositing spoil or other material excavated during the construction thereof or otherwise for the purposes of this Act or other purposes connected therewith;

- (b) the Lincolnshire Authority may enter upon, take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as they may require for the purposes of the Lincolnshire works, or for the purposes of obtaining access thereto, obtaining materials for the construction thereof, or depositing spoil or other material excavated during the construction thereof, or otherwise for the purposes of this Act or other purposes connected therewith;
- (c) the Water Board may enter upon, take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as they may require for the purposes of the North Lindsey works, or for the purposes of obtaining access thereto, or obtaining materials for the construction thereof, depositing spoil or other material excavated during the construction thereof or otherwise for the purposes of this Act or other purposes connected therewith.

PART III
—cont.

(2) Without prejudice to the generality of the powers conferred on the Lincolnshire Authority by paragraph (b) of subsection (1) of this section the Lincolnshire Authority may, subject to the provisions of this Act, enter upon, take and use for the purpose of constructing, maintaining and operating a station for controlling the level of the water in the river Witham the following lands in the rural district of East Kesteven in Kesteven (that is to say):—

the lands numbered 1, 2A, 2B and 3 on the deposited plans in the parish of Walcot near Billingham and the lands numbered 1, 2A, 2B and 3 on the deposited plans in the parish of Timberland.

(3) (a) The powers of the Trent Authority, the Lincolnshire Authority and the Water Board for the compulsory acquisition of lands under this section shall not be exercised after 31st December, 1973.

(b) The power to acquire compulsorily any land shall for the purposes of this subsection be deemed to have been exercised if before 31st December, 1973, notice to treat has been served in respect of that land.

26.—(1) If the deposited plans or the deposited book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the appropriate authority after giving not less than ten days' notice to the owner, lessee and occupier of the land in question may apply to two justices having jurisdiction in the place where the land is situated for the correction thereof.

Correction of
errors in
deposited
plans and
book of
reference.

PART III
—cont.

(2) If on any such application it appears to the justices that the misstatement or wrong description arose from mistake, the justices shall certify the fact accordingly and shall in their certificate state in what respect any matter is misstated or wrongly described.

(3) The certificate shall be deposited in the office of the Clerk of the Parliaments, and a copy thereof in the Private Bill Office, House of Commons, and with the clerk of the Kesteven Council or the Lindsey Council (as the case may require), and a copy thereof shall be deposited with every clerk of a local authority and chairman of a parish council or parish meeting with whom a copy of the deposited plans (or so much thereof as includes the land to which the certificate relates) has been deposited in accordance with the standing orders of the Houses of Parliament or who has the custody of any copy so deposited, and thereupon the deposited plans and the deposited book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the appropriate authority to take the land and execute the works in accordance with the certificate.

(4) A person with whom a copy of the certificate is deposited under this section shall keep it with the other documents to which it relates.

Acquisition
of part only
of certain
properties.

27.—(1) Where a copy of this section is endorsed on, or annexed to, a notice to treat served under the Act of 1965, as applied by this Act, the following provisions of this section shall apply to the land subject to the notice instead of subsection (1) of section 8 of that Act.

(2) Where the land subject to the notice is part only of a house, building or factory, or part only of land consisting of a house, together with any park or garden belonging thereto or part only of an agricultural unit, then, if the person on whom the notice is served, within twenty-one days after the day on which the notice is served on him, serves on the appropriate authority a counter-notice objecting to the sale of the part and stating that he is willing and able to sell the whole (hereinafter in this section referred to as “the land subject to the counter-notice”), the question whether he shall be required to sell the part shall, unless the appropriate authority agree to take the land subject to the counter-notice, be referred to the tribunal.

(3) If the said person does not serve such a counter-notice as aforesaid within twenty-one days after the day on which the notice to treat is served on him, or if on such a reference to the tribunal the tribunal determine that the part subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice, or, in the case of part of

land consisting of a house together with a park or garden belonging thereto, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the said person shall be required to sell the part.

PART III
—cont.

(4) If on such a reference to the tribunal the tribunal determine that part only of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice, or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the notice to treat shall be deemed to be a notice to treat for that part.

(5) If on such a reference to the tribunal the tribunal determine that the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice but that the material detriment is confined to a part of the land subject to the counter-notice, the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the appropriate authority are authorised to acquire compulsorily under this Act.

(6) If the appropriate authority agree to take the land subject to the counter-notice, or if the tribunal determine that—

(a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and

(b) the material detriment is not confined to a part of the land subject to the counter-notice;

the notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the appropriate authority are authorised to acquire compulsorily under this Act.

(7) In any case where, by virtue of a determination by the tribunal under subsection (4), (5) or (6) of this section, a notice to treat is deemed to be a notice to treat for part of the land specified in the notice or for more land than is specified in the notice, the appropriate authority may, within six weeks after the tribunal make their determination, withdraw the notice to treat, and if they do so shall pay to the said person compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice, to be determined in default of agreement by the tribunal.

PART III
—cont.

(8) Where a person is under this section required to sell part only of a house, building or factory, or of land consisting of a house together with any park or garden belonging thereto, the appropriate authority shall pay him compensation for any loss sustained by him due to the severance of that part in addition to the value of his interest therein.

1947 c. 48.

(9) In this section “agricultural unit” has the meaning assigned to that expression by section 109 of the Agriculture Act 1947.

Power to
acquire
easements
only.

28.—(1) The appropriate authority may, instead of acquiring any land which they are authorised to acquire compulsorily under this Act, acquire compulsorily such easements and rights over or in the land as they may require for the purpose of constructing, using, maintaining, renewing or removing the Trent works, the Lincolnshire works or the North Lindsey works (as the case may be) or for the purpose of obtaining access to those works or for the purpose of doing any other thing necessary in connection with those works.

(2) Accordingly the appropriate authority may give notice to treat in respect of any such easement or right describing the nature thereof and “land” in Part I of the Act of 1965, as applied by this Act, includes such easements and rights as aforesaid.

(3) Where the appropriate authority have acquired an easement or right only over or in any land under this section—

- (a) they shall not be required or, except by agreement or during the execution of the works authorised by this Act, entitled to fence off or sever that land from the adjoining land;
- (b) the owner or occupier of the land for the time being shall, subject to the easement or right, have the same right to use the land as if this section had not been enacted.

(4) If in his particulars of claim the owner of any land in respect of which notice to treat for an easement or right is given under this section requires the appropriate authority to acquire the land, the appropriate authority shall not be entitled under this section to acquire the easement or right unless the tribunal determines that the easement or right can be granted without material detriment to the land or, in the case of a park or garden belonging to a house, without seriously affecting the amenity or convenience of the house; and, if the tribunal does not so determine, the appropriate authority may acquire the land compulsorily notwithstanding that the period mentioned in subsection (3) of section 25 (Power to acquire land) of this Act has expired, but not later than one year after the determination of the tribunal:

Provided that nothing in this subsection shall apply to land forming part of a street.

PART III
—cont.

(5) A notice to treat given under this section shall be endorsed with notice of the effect of subsection (4) of this section.

29.—(1) Notwithstanding anything in section 25 (Power to acquire land) or section 28 (Power to acquire easements only) of this Act the appropriate authority shall not purchase compulsorily any land for the construction of any of the works to which this section applies (other than any works to be constructed on or over the surface of the ground forming part of, or connected with, any of those works) if the owners thereof are able and willing to grant or sell to the appropriate authority such easements or rights in that land as may be sufficient for the purpose of constructing and maintaining any such work as aforesaid at a price to be agreed or, failing agreement, to be determined by arbitration in accordance with the provisions of the Act of 1961.

Easements only to be acquired for underground works.

(2) This section applies to Works Nos. 2, 4, 15, 24, 24A, 25B, 27, 29, 30 and 32.

30. In determining a question with respect to compensation claimed in consequence of the compulsory acquisition of land under this Act, the tribunal shall not take into account any interest in land, or any enhancement of the value of any interest in land, by reason of any building erected, works executed, or improvement or alteration made, whether on the land acquired or on any other land with which the claimant is, or was, at the time of the erecting, executing or making of the building, works, improvement, or alteration, directly or indirectly concerned if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration (as the case may be) was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

Disregard of recent improvements and interests.

31.—(1) All private rights of way over any land which may be acquired compulsorily under this Act shall be extinguished on the acquisition of the land, whether compulsorily or by agreement, or on the entry on the land in pursuance of subsection (1) of section 11 of the Act of 1965, as applied by this Act, whichever is the sooner.

Extinction of private rights of way.

(2) Any person who suffers loss by the extinguishment of any right under this section shall be entitled to be paid by the appropriate authority compensation, to be determined, in case of dispute, in accordance with the provisions of the Act of 1961.

32.—(1) Any person empowered by the Act of 1965, as applied by this Act, to sell and convey or release lands may, if he thinks fit, subject to the provisions of the Act of 1965, grant to the

Grant of easements by persons under disability.

PART III
—cont.

appropriate authority any easement or right required for the purposes of this Act over or in the lands, not being an easement or right of water in which some person other than the grantor has an interest.

(2) The provisions of the Act of 1965 with respect to lands and rentcharges, so far as they are applicable, shall extend and apply to any such grant and to any such easement or right as aforesaid.

Provision of substituted sites.

33. The powers of the Trent Authority, the Lincolnshire Authority and the Water Board to purchase land by agreement shall include power to purchase land by agreement for the purpose of providing substituted sites or facilities for the owners and occupiers of land which may be acquired under this Act.

Agreements with adjoining owners.

34.—(1) The appropriate authority may enter into and carry into effect agreements with any person being the owner of, or interested in, any land adjoining any portion of the Trent works, the Lincolnshire works or the North Lindsey works (as the case may be), or of land which may be acquired by the appropriate authority under this Act, with respect to the sale by the appropriate authority to him (subject to such reservations, restrictions or other provisions as to the appropriate authority seem fit) of any land not required for the said works.

(2) The appropriate authority may accept as satisfaction for the whole or any part of the consideration for any such sale the grant by the purchaser of any land required by the appropriate authority for the purposes of this Act or any easement or right so required.

Power to reinstate owners or occupiers of property.

35.—(1) The Trent Authority, the Lincolnshire Authority or the Water Board may enter into, and carry into effect, an agreement or arrangement with the owner or occupier of any land acquired or to be acquired under this Act by that authority with respect to his reinstatement.

(2) Any such agreement may provide for the exchange of land; and for that purpose the Trent Authority, the Lincolnshire Authority or the Water Board may pay or receive money for equality of exchange.

PART IV

ABSTRACTIONS AND DISCHARGES

Interpretation for purposes of Part IV.

36. In this Part of this Act—

“ approved ” means approved by the Water Resources Board;

“ day ” means a period of twenty-four hours reckoned from nine o'clock in the morning;

“gauge” includes a gauge, weir or other apparatus for measuring the flow or level of water.

PART IV
—cont.

37.—(1) The Trent Authority may from the date of completion of Work No. 1 by means of the intake forming part of that work abstract from the river Trent a quantity of water not exceeding—

Abstraction
by Trent
Authority
from
river Trent.

(a) twelve thousand million gallons in any period of thirty-six months commencing on the first day of April in any year; or

(b) forty million gallons in any day:

Provided that—

(i) water shall not be so abstracted during the period between ninety minutes before and ninety minutes after high tide at the said work;

(ii) for the purposes of the Trent Authority's charging scheme for the time being in force the quantity licensed to be abstracted in any year shall be deemed to be four thousand million gallons.

(2) The quantity of water so abstracted shall be measured at Work No. 3 by an approved gauge.

38.—(1) The Lincolnshire Authority may from the date of completion of Work No. 14, by means of the intake forming part of that work, abstract from the river Barlings Eau a quantity of water not exceeding—

Abstraction
by
Lincolnshire
Authority
from river
Barlings Eau.

(a) eighteen thousand million gallons in any period of thirty-six months commencing on the first day of April in any year; or

(b) thirty-four million gallons in any day :

Provided that for the purposes of the Lincolnshire Authority's charging scheme for the time being in force the quantity licensed to be abstracted in any year shall be deemed to be six thousand million gallons.

(2) The quantity of water so abstracted shall be measured at Work No. 14 by an approved gauge.

39.—(1) The Water Board may from the date of completion of Work No. 14, by means of the intake forming part of Work No. 21, abstract for the purposes of their undertaking from the river Ancholme a quantity of water not exceeding—

Abstraction
by Water
Board from
river
Ancholme.

(a) four thousand seven hundred and fifty-eight million gallons in any period of twelve months; or

(b) twenty million gallons in any one day:

Provided that the Water Board shall not so abstract at any time when the level of water in the said river is below Ordnance Datum (Newlyn).

PART IV
—cont.

(2) The quantity of water so abstracted and the level of the said river shall be measured by gauges in such positions as may be agreed between the Lincolnshire Authority and the Water Board or in default of agreement as may be approved.

Abstractions to be licensed under Act of 1963.

40.—(1) (a) The provisions of section 37 (Abstraction by Trent Authority from river Trent) and those of section 38 (Abstraction by Lincolnshire Authority from river Barlings Eau) of this Act shall be deemed to be included in licences under the Act of 1963 granted by the Secretary of State in the case of the first-mentioned provisions to the Trent Authority, and in the case of the second-mentioned provisions to the Lincolnshire Authority.

(b) The provisions of section 39 (Abstraction by Water Board from river Ancholme) of this Act shall be deemed to be included in such a licence granted by the Lincolnshire Authority to the Water Board.

(2) The licences referred to in the foregoing subsection shall be deemed to have been granted as from the following dates:—

(a) in the case of the licence granted to the Trent Authority the date of completion of Work No. 1;

(b) in the case of the licences granted to the Lincolnshire Authority and the Water Board the date of completion of Work No. 14;

and each such licence shall remain in force until revoked under the Act of 1963.

(3) Except as may be otherwise provided by this Act the provisions of the Act of 1963 shall apply to a licence deemed by the foregoing provisions of this section to have been granted under the Act of 1963 as they apply to a licence granted under that Act but no action shall be brought against the Lincolnshire Authority under subsection (1) of section 50 of the Act of 1963 for breach of statutory duty by granting the licence deemed to have been granted as including the provisions of the said section 39.

Lincolnshire Authority to be exempt from charges under Act of 1963.

41. The Lincolnshire Authority shall not be liable to pay any charge levied under the charging scheme for the time being in force within their area in respect of the licence to abstract water from the river Barlings Eau deemed by the last foregoing section of this Act to be granted to them under the Act of 1963.

Exemption for abstractions for aeration.

42. The restriction imposed by subsection (1) of section 23 of the Act of 1963 shall not apply to the abstraction of water for the purposes of aeration by means of the intakes comprised in Works Nos. 7, 8 and 9.

Works Nos. 6 and 18 deemed to be constructed under impounding licence.

43. Works Nos. 6 and 18 shall be deemed to have been constructed under licences under section 36 of the Act of 1963 granted by the Secretary of State to the Lincolnshire Authority

and, except as may be otherwise provided by this Act, the provisions of the Act of 1963 relating to licences granted under section 36 of that Act shall apply to the licences deemed by this section to have been granted under that section as they apply to those so granted.

PART IV
—cont.

44.—(1) The Trent Authority may from or by means of any of the Trent works and the Lincolnshire Authority may from or by means of any of the Lincolnshire works discharge water either directly or indirectly into any watercourse (whether or not it is the watercourse from which the water so discharged has been abstracted) or may by means of any such works transfer water from one watercourse to another: Discharge and transfer of water.

Provided that nothing in this section shall authorise the Trent Authority or the Lincolnshire Authority to discharge water into the Fossdyke Navigation or to transfer water from the river Trent to the river Witham by means of the Fossdyke Navigation otherwise than in accordance with the scheduled agreement or in accordance with that agreement as altered or varied in pursuance of section 70 (Confirmation of scheduled agreement) of this Act.

(2) The River Authority shall pay compensation to all persons for any damage sustained by them or liability to which they may become subject by reason of the exercise by the River Authority of the powers conferred by this section and subsections (5) to (7) of section 46 of the Act of 1963 shall have effect in relation to compensation payable by virtue of this subsection as they have effect in relation to compensation payable under that section.

45.—(1) It shall be lawful for the appropriate authority to divert and alter the course or the flow of water in, into or out of any watercourse (other than the Fossdyke Navigation and the river Humber) on any lands acquired or appropriated by them for the purposes of the works of that authority and the existing bed, banks and channel of the diverted portion of such watercourse shall by virtue of this Act vest in the appropriate authority and may be appropriated and used by the appropriate authority for the purposes of or in connection with those works. Power to divert watercourses.

(2) It shall be lawful for the Water Board with the consent of the docks board temporarily to divert and alter the course or flow of water in or into the river Humber for the purpose of renewal of Work No. 32.

(3) In the exercise of the powers conferred by this section the appropriate authority shall do as little damage as may be.

PART V

FINANCE

Power to
Trent and
Lincolnshire
Authorities
to borrow.

46.—(1) The River Authorities may borrow, without the consent of any sanctioning authority, for any of the purposes specified in the first column of the following table, the sum specified in relation thereto in the second column of that table.

(1) Purposes for which money may be borrowed	(2) Amount	(3) Maximum period for repayment of loan
(a) The purchase of lands, easements and rights for the Trent works or the Lincolnshire works and payment of compensation	The sum required	Sixty years.
(b) The construction of the Trent works and the Lincolnshire works, except pumping and electrical plant forming part of Works Nos. 1, 3, 7, 8, 9 and 14	£2,720,000	Fifty years.
(c) The provision of pumping and electrical plant	£212,000	Twenty years.
(d) The payment out of capital of interest on moneys borrowed for, or in respect of, the foregoing purposes	The sum required	In relation to each of the following purposes, within the period specified opposite thereto:— purpose (a) sixty years „ (b) fifty years „ (c) twenty years.
(e) The payment of the sums payable by the Trent Authority and the Lincolnshire Authority under section 77 (Costs of Act) of this Act	The sum required	Ten years.

(2) Every sum borrowed under subsection (1) of this section shall be repaid within such period from the date of borrowing as the River Authorities without the consent of any sanctioning authority may determine, not exceeding the period specified in relation thereto in the third column of the said table.

(3) The River Authorities may also with the sanction of the Secretary of State borrow such further sums as may be necessary

for any of the purposes of this Act, and any sum borrowed under the powers of this subsection shall be repaid within such period, not exceeding sixty years, from the date of borrowing as the River Authorities with the consent of the Secretary of State may determine.

PART V
—cont.

(4) Any sum borrowed by the River Authorities under this section shall for the purposes of subsection (5) of section 92 of the Act of 1963 be deemed to have been borrowed under subsection (2) of that section.

47.—(1) The Water Board may borrow, without the consent of any sanctioning authority, for any of the purposes specified in the first column of the following table, the sum specified in relation thereto in the second column of that table. Power to Water Board to borrow.

(1) Purposes for which money may be borrowed	(2) Amount	(3) Maximum period for repayment of loan
(a) The purchase of lands, easements and rights and payment of compensation for the North Lindsey works	The sum required	Sixty years.
(b) The construction of the North Lindsey works, except pumping plant and machinery forming part of Works Nos. 21, 25, 26 and 31	£2,547,000	Fifty years.
(c) The provision of pumping plant and machinery	£384,000	Twenty years.
(d) The payment out of capital of interest on moneys borrowed for, or in respect of, the foregoing purposes	The sum required	In relation to each of the following purposes, the period specified opposite thereto:— purpose (a) sixty years „ (b) fifty years „ (c) twenty years.
(e) The payment of the sums payable by the Water Board under section 77 (Costs of Act) of this Act	The sum required	Ten years.

(2) Every sum borrowed under subsection (1) of this section shall be repaid within such period from the date of borrowing as

PART V
--cont.

the Water Board without the consent of any sanctioning authority may determine, not exceeding the period specified in relation thereto in the third column of the said table.

(3) The Water Board may also with the sanction of the Secretary of State borrow such further sums as may be necessary for any of the purposes of this Act, and any sum borrowed under the powers of this subsection shall be repaid within such period, not exceeding sixty years, from the date of borrowing as the Water Board with the consent of the Secretary of State may determine.

1933 c. 51. (4) Subject to the provisions of this section, Part IX of the Local Government Act, 1933, shall have effect as if money borrowed under this section were borrowed under that Part.

Power to
River
Authority
to borrow
by issue of
stock or
bonds.

48. The means by which the River Authority may raise money which they are authorised to borrow shall include the issue of stock and the issue of bonds and accordingly subsection (5) of section 92 of the Act of 1963 shall have effect as if—

(a) paragraph (b) of subsection (1) of section 196 and section 204 of the Local Government Act 1933 were included among the provisions of that Act applicable to the borrowing of money under subsection (2) of the said section 92 and the said subsection (2) shall be construed accordingly;

1963 c. 46.

(b) section 7 of and Schedule 1 to the Local Government (Financial Provisions) Act 1963 were applicable to the borrowing of money under the said subsection (2).

Consolidated
loans fund.
1958 c. 55.

49. The provisions of section 55 of the Local Government Act 1958 shall apply to the River Authority as if they were the council of a county.

Application
of provisions
of Local
Government
(Financial
Provisions)
Act 1963 to
River
Authority.

50.—(1) The River Authority shall in relation to the borrowing of money for the purposes of this Act have the powers and be subject to the restrictions and duties conferred or imposed on local authorities by the provisions of the Local Government (Financial Provisions) Act 1963 mentioned in subsection (2) of this section and those provisions shall apply to the River Authority with any necessary modifications as if they were a local authority other than a parish council.

(2) The provisions of the Local Government (Financial Provisions) Act 1963 referred to in subsection (1) of this section are subsections (1), (3), (4) and (7) of section 8 and subsections (1) to (4) of section 10.

(3) Subsection (6) of section 92 of the Act of 1963 shall not apply to money borrowed by the River Authority for the purposes of this Act.

51.—(1) The Water Board shall in relation to the borrowing of money for the purposes of this Act have the powers and be subject to the restrictions and duties conferred or imposed on local authorities by the provisions of the Local Government (Financial Provisions) Act 1963 mentioned in subsection (2) of this section and those provisions shall apply to the Water Board with any necessary modifications as if they were a local authority other than a parish council.

PART V
—cont.

Application of provisions of Local Government (Financial Provisions) Act 1963 to Water Board.

(2) The provisions of the Local Government (Financial Provisions) Act 1963 referred to in subsection (1) of this section are subsections (1) and (2) of section 7 and subsections (1), (3), (4) and (7) of section 8 except the definition of local authority in the latter subsection and Schedule 1.

1963 c. 46.

52. The Lincolnshire Authority may incur such expenditure as is required for or in connection with providing the factory of John Morrell and Company Limited at Bardney in Lindsey with a supply of water in substitution for the supply that company are at the passing of this Act obtaining by direct abstraction from the river Witham under the licence numbered 4/30/7/S/3.

Alternative supply to John Morrell and Company Limited at Bardney.

PART VI

SPECIAL PROVISIONS RELATING TO THE TRENT AND LINCOLNSHIRE AUTHORITIES

53.—(1) For the purpose of constructing, altering, enlarging, repairing, cleaning or examining any works carried out in the performance of their new functions the River Authority may cause the water in any such work to be discharged into any available watercourse and for that purpose may lay and maintain all necessary discharge pipes and apparatus.

Discharge of water into streams.

(2) In the exercise of the powers conferred by this section the River Authority shall do as little damage as may be and shall pay compensation to all persons for any damage sustained by them or liability to which they may become subject by reason of the exercise of those powers and, for the purposes of this subsection, any extra expenditure which it becomes reasonably necessary for any public authority (including a statutory undertaker) to incur for the purpose of properly discharging their statutory functions shall be deemed to be damage sustained by them. Any question as to the amount of the compensation to be so paid shall be determined by arbitration.

(3) (a) The River Authority shall take all necessary steps to secure that any water discharged by them under this section shall be as free as may be reasonably practicable from mud and silt,

PART VI
—cont.

from solid, polluting, offensive or injurious matters and from any matter prejudicial to fish or spawn, or to spawning beds or food of fish, and, if they fail to do so, shall be guilty of an offence.

(b) Sections 46 and 47 of the Act of 1945 shall apply to any such offence as if it were an offence against that Act.

(4) Except in a case of emergency the River Authority shall not less than seven days before commencing to discharge any water into a watercourse within the area of some other river authority give notice of their intention to the other river authority, accompanied by such particulars as it is reasonably practicable for them to give and shall not make any such discharge except in accordance with such terms and conditions as may be agreed with the other river authority:

Provided that whenever the River Authority propose to discharge water on a number of occasions during a period they may give a general notice to that effect, and the provisions of this subsection shall apply to such a notice as if it were a notice of intention to discharge water on a particular occasion.

(5) Except in a case of emergency, and except in so far as may be otherwise agreed in writing between the River Authority and the navigation authority concerned, where the water is to be discharged into any watercourse in respect of which a navigation authority exercise functions, the River Authority shall not discharge the water without the approval of the navigation authority, or except at such times as that authority may approve and in a manner approved by them as not likely to injure the watercourse or the banks thereof, or interfere with traffic thereon:

Provided that—

- (a) this subsection shall not apply if the point of discharge into the watercourse is more than three miles above the limits within which the navigation authority exercise jurisdiction;
- (b) an approval required for the purposes of this subsection shall not be withheld unreasonably, and any question whether it is withheld unreasonably or not shall be settled by arbitration; and
- (c) any approval for which application is made under this subsection shall be deemed to have been given unless notice of disapproval is given to the River Authority within seven days after the making of the application.

(6) Except in so far as may be otherwise agreed in writing, where the River Authority discharge water during an emergency, they shall forthwith give to the authorities concerned notice thereof and such further particulars relating to the discharge as may reasonably be required.

54.—(1) Where the River Authority have under consideration a proposal that they should acquire any land for any purpose in connection with the performance of their new functions the Secretary of State may on the application of the River Authority authorise them to carry out on such land experimental borings or other works for the purpose of ascertaining the nature of the underground strata or the presence of water therein or the quantity or quality of such water and to reinstate the land after carrying out any such works:

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—cont.

Power to
Trent and
Lincolnshire
Authorities
to carry out
trial borings,
etc.

Provided that notice of any such application shall be given by the River Authority to—

- (a) the owner and occupier of the land;
- (b) the National Coal Board in any case where their interests are likely to be affected by any such borings or other works;
- (c) the British Railways Board in any case where it is proposed to carry out any such borings or other works on operational land of the board;
- (d) any other statutory undertakers within whose limits of supply it is proposed to carry out such borings or other works specifying the situation of the land.

(2) Before giving his authority the Secretary of State shall consider any representations made to him by the owner or occupier of the land within twenty-eight days after the receipt of the notice given to him under paragraph (a) of the proviso to the foregoing subsection and unless the representations are disposed of by agreement between the River Authority and the owner or occupier shall either—

- (a) cause a local inquiry to be held; or
- (b) afford to the owner or occupier and to the River Authority an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(3) The National Coal Board or any statutory undertakers on whom notice is required to be served in accordance with subsection (1) of this section may object to the carrying out of any such borings or other works on the ground that it would be seriously detrimental to the carrying on of their undertaking, and in that event the borings or other works shall not be carried out except with the authority of the appropriate Minister.

(4) (a) Paragraph (b) of subsection (1) of section 111 of the Act of 1963 in its application to the River Authority shall have effect as if the power thereby conferred to enter upon and survey land included a power to exercise the powers conferred by subsection (1) of this section.

PART VI
—cont.

(b) Section 112 of the Act of 1963 in its application to the River Authority shall have effect as if references therein to section 111 of that Act were references to that section as extended by paragraph (a) of this subsection.

(5) In this section—

“appropriate Minister” means—

(a) in relation to the National Coal Board or to statutory undertakers carrying on an undertaking for the supply of electricity, gas or hydraulic power, the Secretary of State for Trade and Industry;

(b) in relation to any other statutory undertakers, the Secretary of State for the Environment;

“operational land” and “statutory undertakers” have the same respective meanings as in the Town and Country Planning Act, 1962.

1962 c. 38.

Power to
Trent and
Lincolnshire
Authorities to
require
information
as to
ownership of
land.

55.—(1) The River Authority may for the purpose of enabling them to perform any of their functions require—

(a) the occupier and any person having an interest in any land within or without their area, and any person who either directly or indirectly receives rent in respect of such land, to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest in that land, whether as freeholder, mortgagee, lessee or otherwise, or the name and address of any person known to him to receive either directly or indirectly the rent in respect of that land; and

(b) any person who has sold or otherwise disposed of, leased or let any land within or without their area to state in writing the name and address of the person to whom he has sold or otherwise disposed of, leased or let that land.

(2) Any person who, having been required by the River Authority in pursuance of this section to give to them any information, fails to give that information or knowingly makes any misstatement in respect thereof shall be liable to a fine not exceeding ten pounds.

(3) For the purposes of this section “interest” includes any legal estate or interest in land or in any rentcharge issuing out of land.

Power to
Trent and
Lincolnshire
Authorities to
take action in
case of
pollution of
underground
water.

56.—(1) Where it appears to the River Authority that water in any underground strata in their area has been or is likely to be polluted they may carry out such operations as they consider necessary or expedient—

(a) for removing the matter causing or likely to cause the pollution and for disposing of it in such manner as the River Authority consider appropriate; and

(b) for preventing, remedying or mitigating the pollution of such water.

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—cont.

(2) Subsection (5) of section 3 of the Act of 1963 shall apply in relation to the powers conferred on the River Authority by this section as if they had been included among the functions of the Trent River Board, in the case of the Trent Authority, and of the Lincolnshire River Board in the case of the Lincolnshire Authority transferred to the River Authority in question by section 5 of that Act; and those powers shall be included among the transferred functions of the River Authority accordingly.

(3) In paragraph (a) of subsection (2) of section 135 of the Act of 1963 the reference to functions relating to river pollution includes in relation to the River Authority the powers conferred on them by this section.

(4) In the exercise of the powers conferred by this section the River Authority shall not—

(a) without the consent of the National Coal Board enter upon any premises used by that board for colliery production activities (as defined in paragraph 2 of Part I of the First Schedule to the Coal Industry Nationalisation Act, 1946, but disregarding sub-paragraph (2) of paragraph 22 of that schedule);

(b) without the consent of the owner (as defined in section 181 of the Mines and Quarries Act, 1954), enter upon any tip (within the meaning of subsection (1) of section 2 of the Mines and Quarries (Tips) Act, 1969), to which Part I of that Act applies.

(5) Nothing in this section shall be construed as derogating from any duty of the River Authority to enforce the provisions of the Rivers (Prevention of Pollution) Acts, 1951 to 1961, in their area.

57.—(1) The provisions of sections 79, 80 and 83 of the Act of 1963 hereinafter in this section referred to shall in their application to the Trent Authority have effect subject to the amendments specified therein.

Extended powers to Trent Authority with regard to water recreation.

(2) Subsection (4) of section 79 shall have effect as if—

(a) paragraph (c) were omitted; and

(b) in paragraph (d) the words “not falling within the said section 2 (3)” were omitted.

(3) (a) Subsection (1) of section 80 shall have effect as if—

(i) in paragraph (a) after the word “reservoir” there were inserted the words “or inland water falling within section 2 (3) of this Act” and at the end of the said

PART VI
—cont.

paragraph there were inserted the words “ or any land held by the river authority in connection with any such reservoir ”;

(ii) in paragraph (b) after the word “ reservoir ” there were inserted the words “ inland water or land ”.

(b) Subsection (2) of the said section shall have effect as if—

(i) the words “ subject to subsection (6) of this section ” were omitted;

(ii) after the word “ applies ” there were inserted the words “ an inland water falling within section 2 (3) of this Act or any land held in connection with such reservoir or inland water ”;

(iii) after the words “ inland water ” in the second place where they occur there were inserted the words “ or any land held by the river authority in connection with such inland water ”.

(c) After subsection (2) of the said section there were inserted the following new subsection:—

“ (2A) For the purposes of subsection (1) or subsection (2) of this section a river authority may set apart any land held by them and may provide, improve, alter, renew and maintain such buildings and other works and do such other things as may be necessary or expedient; and subsections (1) and (2) of section 271 of the Public Health Act 1936 shall apply for the construction of the foregoing provisions of this section as if all river authorities were councils and as if this section formed part of that Act”.

1936 c. 49.

(d) Subsection (4) of the said section shall have effect as if the word “ or ” were omitted and after the words “ subsection (2) ” there were inserted the words “ or subsection (2A) ”:

(e) Subsection (5) of the said section shall have effect as if—

(i) after the words “ subsection (1) ” there were inserted the words “ or subsection (2) ”;

(ii) after the word “ reservoir ” in both places where it occurs there were inserted the words “ or an inland water falling within section 2 (3) of this Act ”.

(f) Subsection (6) of the said section were omitted.

(4) Section 83 shall have effect as if after subsection (4) there were inserted the following new subsection:—

“ (5) Reference in this section to the new functions of a river authority shall be deemed not to include the exercise of the powers conferred on a river authority by subsection (2) of section 80 of this Act.”

PART VII

SPECIAL PROVISIONS RELATING TO THE WATER BOARD

58.—(1) The Water Board may, for the purpose of enabling them to perform any of their functions under any enactment in force at the passing of this Act under which the Water Board are, or may be, authorised to acquire land compulsorily or to lay mains or execute other works on land, require—

Power to Water Board to require information as to ownership of land.

(a) the occupier, and any person having an interest in any land and any person who, either directly or indirectly, receives rent in respect of any land, to state in writing the nature of his interest therein and the name and address of any other person known to him as having an interest in that land, whether as freeholder, mortgagee, lessee or otherwise, or the name and address of any person known to him to receive either directly or indirectly the rent in respect of that land; and

(b) any person who has sold or otherwise disposed of, leased or let any land to state in writing the name and address of the person to whom he has sold or otherwise disposed of, leased or let that land.

(2) Any person who, having been required by the Water Board in pursuance of this section to give to them any information, fails to give that information, or knowingly makes any misstatement in respect thereof, shall be liable to a fine not exceeding ten pounds.

(3) For the purposes of this section “interest” includes any legal estate or interest in land or in any rentcharge issuing out of land.

59. For the purposes of section 19 of the Third Schedule as applied to the Water Board there shall be substituted for the definition of “main” in section 1 of the Third Schedule, the following definition, that is to say:—

Definition of “main”.

“main” means a pipe laid by the undertakers for the purpose of giving a general supply of water, or a supply to a category of consumers, as distinct from a supply to individual consumers and includes any apparatus used in connection with such a pipe.

60.—(1) Where under any enactment the Water Board have power to lay a main they shall be deemed to have a like power to lay means of electric or electronic communication and any power of the Water Board to inspect, repair, alter or renew a main shall be deemed to include a power to inspect, repair, alter or renew such means of communication.

Power to Water Board to lay cables.

(2) Without prejudice to the operation of section 4 of the Electric Lighting Act 1888, those provisions of the Electricity 1888 c. 12.

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—cont.

1947 c. 54.

1899 c. 19.

1969 c. 48.

(Supply) Acts, 1882 to 1936, as amended by the Electricity Act 1947, and in the schedule to the Electric Lighting (Clauses) Act 1899, which, as applied by the Post Office Act 1969, afford protection to the Post Office and its telegraphic lines, shall so far as applicable extend and apply to any means of communication laid by virtue of this section, and references in those provisions to the electricity board or the undertakers shall be construed as references to the Water Board.

(3) Subsection (4) of section 5 of the Third Schedule shall extend and apply to any means of communication laid by virtue of this section as it applies to any wires, posts, conductors or other apparatus laid by virtue of the said section 5.

PART VIII

PROTECTIVE PROVISIONS

For protection
of British
Railways
Board.

61. For the protection of the British Railways Board (in this section referred to as “the board”) the following provisions shall, unless in any case it is otherwise agreed between the appropriate authority and the board, apply and have effect:—

(1) In this section—

“the railways” means any railway of the board and any works connected therewith, and includes any lands held or used by the board for the purposes of such railway or works;

“the works” means so much of any of the works authorised by this Act, as may be situate upon, across, under or over any railway of the board or may in any way affect the same, and includes the construction, maintenance, repair and renewal of such works;

“the engineer” means an engineer to be appointed by the board:

(2) The appropriate authority shall not under the powers of this Act acquire compulsorily any lands of the board, but they may acquire, and the board shall, if so required by them, grant to the appropriate authority, such easements and rights in the lands of the board shown on the deposited plans as the appropriate authority may reasonably require for the purposes of the works:

(3) The appropriate authority shall, before commencing the works (other than works of maintenance and repair), furnish to the board proper and sufficient plans, sections, drawings and particulars thereof for the approval of the engineer, and shall not commence the works until such plans, sections, drawings and particulars shall have been approved by the engineer or, in the case of difference between the engineer and the appropriate authority, until they shall have been settled by arbitration:

Provided that—

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—cont.

(a) the approval of the engineer shall not be unreasonably withheld;

(b) if within twenty-eight days after such plans, sections, drawings and particulars have been furnished to the board the engineer shall not have intimated his approval or disapproval thereof, he shall be deemed to have approved them:

- (4) If within twenty-eight days after such plans, sections, drawings and particulars have been furnished to the board, the board shall give notice to the appropriate authority that in consequence of the nature of the works it is reasonably necessary that the board should construct any part of the works themselves, then if the appropriate authority desire that part of the works to be constructed, the board shall construct it with all reasonable dispatch on behalf of, and to the reasonable satisfaction of, the appropriate authority in accordance with the plans, sections, drawings and particulars, approved or deemed to be approved or settled, as aforesaid (hereinafter in this section called “the approved plans”) and under the supervision (if given) of the appropriate authority and may recover the reasonable cost of so doing from the appropriate authority:
- (5) Upon signifying his approval or disapproval of the plans, sections, drawings and particulars the engineer may specify any temporary or permanent works which should be carried out before the commencement or during the construction of the works in order to ensure the stability of any railway of the board affected by the works or to protect it from injury from the works, and such temporary or permanent works as may be necessary for those purposes shall be constructed by the appropriate authority or by the board, if the board so elect, with all reasonable dispatch, and the cost of constructing such protective works shall be paid by the appropriate authority, and the appropriate authority shall not commence or (as the case may be) continue the construction of the works until the engineer shall have notified the appropriate authority that such temporary or permanent works have been completed to his satisfaction. The appropriate authority shall pay to the board a reasonable capitalised sum representing the cost of maintaining and renewing any such permanent protective works:
- (6) The appropriate authority shall give to the engineer twenty-eight days’ notice of their intention to commence

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—cont.

the construction of any of the works and except in emergency (when they shall give such notice as may be reasonably practicable to the station master of the board's nearest station) also of their intention to carry out any works for the repair or maintenance of the works:

- (7) The works shall, when commenced, be carried out with all reasonable dispatch in accordance with the approved plans and under the supervision (if given) and to the reasonable satisfaction of the engineer, and in such manner as to cause as little damage to the railway and as little interference with or delay or interruption to, the conduct of traffic on the railway, as may be; and if as a result of the works any damage to the railway, or any such interference, delay or interruption shall be caused or take place, the appropriate authority shall, notwithstanding any such approval as aforesaid, forthwith make good such damage and pay to the board the reasonable cost and expenses to which they may be put and reasonable compensation for any loss which they may sustain by reason of any such damage, interference, delay or interruption:
- (8) The appropriate authority shall at all times afford reasonable facilities to the engineer for access to the works during their construction and shall supply him with all such information as he may reasonably require with regard to the works or the method of construction thereof:
- (9) The board shall at all times afford reasonable facilities to the appropriate authority for access to any works carried out by the board under this section during their construction and supply the appropriate authority with all such information as they may reasonably require with regard to such works or the method of construction thereof:
- (10) If any alterations or additions, either permanent or temporary, to the railway are necessary during the construction of the works or during a period of twelve months after the completion thereof in consequence of the works, such alterations and additions may be effected by the board after notice has been given to the appropriate authority and the appropriate authority shall repay to the board the reasonable cost thereof, including a capitalised sum representing the increased or additional cost of maintaining, working and, when necessary, renewing any such alterations or additions:

(11) The appropriate authority shall repay to the board all costs, charges and expenses reasonably incurred by the board in connection with the works or the failure thereof—

(a) in respect of the employment of any inspectors, signalmen, watchmen and other persons whom it may be reasonably necessary to appoint for inspecting, signalling, watching and lighting the railway, and for preventing as far as may be reasonably practicable any interference, obstruction, danger or accident arising from the works or the failure thereof;

(b) in respect of any special traffic working resulting from any speed restrictions which may, in the opinion of the engineer, require to be imposed or from the substitution or diversion of services;

(c) in lighting the railway in the vicinity of the works; and

(d) in respect of the supervision by the engineer of the works:

(12) The appropriate authority shall at all times after the construction of the works maintain them watertight, in substantial repair, and good order and condition, and when necessary renew them to the reasonable satisfaction and under the supervision (if given) of the engineer, and if and whenever the appropriate authority fail to do so after reasonable notice in that behalf, the board may make and do in and upon the lands of the board or of the appropriate authority all such works and things as shall be requisite in that behalf, and the reasonable costs and expenses incurred by the board in so doing shall be repaid to them by the appropriate authority:

(13) Before providing any illumination or illuminated sign on or in connection with the works in the vicinity of the railway, the appropriate authority shall consult with the board and comply with any reasonable requirements of the board in regard thereto with a view to ensuring that such illumination or illuminated sign could not be confused with any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway:

(14) Any additional expense which the board may reasonably incur after giving twenty-eight days' notice to the appropriate authority in widening, altering, reconstructing or maintaining the railway in pursuance of any powers existing at the passing of this Act by reason of the existence of the works shall be repaid by the appropriate authority to the board:

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—cont.

(15) The appropriate authority shall be responsible for and make good to the board, all costs, charges, damages and expenses not otherwise provided for in this section which may be occasioned to the board—

(a) by reason of the construction of the works or the leakage, bursting or failure thereof, unless it is due to the wilful or negligent acts or omissions of the board or of any persons in their employ, or of their contractors or other persons who have entered on land of the board with their permission; or

(b) by reason of any act or omission of the appropriate authority or of any persons in their employ or of their contractors or others whilst engaged upon the works;

and the appropriate authority shall effectively indemnify and hold harmless the board from and against all claims or demands arising out of, or in connection with, the works or any such leakage, bursting or failure or act or omission as aforesaid, and the fact that any work or thing may have been done by the board on behalf of the appropriate authority or in accordance with any plan, section, drawings or particulars approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not (if it was done without negligence on the part of the board or of any person in their employ or of their contractors or others whilst engaged upon the works) excuse the appropriate authority from any liability under the provisions of this section:

Provided that the board shall give to the appropriate authority reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the appropriate authority:

(16) Any difference arising between the appropriate authority and the board under this section shall be referred to a single arbitrator to be agreed between the parties, or, failing agreement, to be appointed, on the application of either party, by the President of the Institution of Civil Engineers.

For protection
of docks
board.

62. For the protection of the docks board the following provisions shall, unless otherwise agreed in writing between the Water Board and the docks board, apply and have effect:—

(1) Before commencing the construction of any part of the Humber tidal work plans and sections showing the

general mode of construction thereof shall be delivered by the Water Board to the docks board for their reasonable approval, and such work shall not be constructed otherwise than in accordance with such plans and sections as may be approved by the docks board or as may be settled by arbitration and shall be executed to the reasonable satisfaction of the docks board:

- (2) All temporary structures in the river Humber which may be necessary to enable the Humber tidal work to be constructed shall be constructed to the reasonable satisfaction in all respects of the docks board in accordance with plans and sections to be previously submitted to and approved by the docks board or settled by arbitration and so as not to interfere more than may be necessary with the navigation of, or the traffic on, the river Humber, and after the purpose for which such temporary structures were constructed has been accomplished the Water Board shall with all reasonable dispatch, and in any event within fourteen days of the service of notice in writing from the docks board requiring them so to do, remove any such temporary structures or any materials for the same which may have been placed in the river Humber by the Water Board and on their failing so to do the docks board may remove the same, charging the Water Board with the reasonable expense of so doing, and the Water Board shall repay to the docks board all such expense:
- (3) In the event of the docks board omitting to express their disapproval of any plans or sections within two months after the same shall have been delivered to them in pursuance of this section they shall be deemed to have approved the same:
- (4) (a) If, during the construction of the Humber tidal work or of any temporary structures in connection therewith respectively or within fifteen years after the completion of the Humber tidal work or after the removal of such temporary structures any accumulation of silt or other material shall be created in the navigable channels of the river Humber in the vicinity of the Humber tidal work or in the vicinity of the bellmouth opening to Immingham Docks which shall cause an impediment to the free navigation of the river Humber or of the bellmouth opening to Immingham Docks in consequence of the construction or execution of the Humber tidal work or temporary structures or of the discharge through the Humber tidal work or such temporary structures of any sludge, effluent or other material then

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so far as that accumulation is created in the navigable channels of the river Humber, the Water Board, if so requested by the docks board within the period of fifteen years after such completion, shall remove the accumulation and if they fail to do so the docks board may themselves cause the work to be done and may recover from the Water Board the reasonable cost thereof and so far as the accumulation is created in the vicinity of the bellmouth opening to Immingham Docks, the docks board may within the period of fifteen years after such completion remove the accumulation and shall be entitled to recover from the Water Board the reasonable cost of removing the same;

(b) Should any such accumulation arise within the said period of fifteen years and be removed in accordance with the provisions of sub-paragraph (a) of this paragraph, then any recurrence of such accumulation shall from time to time be removed as aforesaid during a period of twenty-five years after the completion of the Humber tidal work or the removal of such temporary structures, as the case may be:

(5) In relation to the Humber tidal work, the provisions of section 20 (Survey of tidal works), section 23 (Abatement of works abandoned or decayed) and section 24 (Lights on tidal works during construction) of this Act shall, with the necessary modifications, apply to the docks board as if the docks board were named therein in addition to the Secretary of State and any expenses incurred by the docks board in pursuance of any of the said sections shall be a debt due to them from the Water Board and may be recoverable summarily as a civil debt where the amount recoverable does not exceed twenty pounds, or in any civil court:

Provided that in the event of any inconsistency between any requirement or direction of the Secretary of State and of the docks board, the Water Board shall be deemed to have complied with the provisions of those sections if it has complied with the requirement or direction of the Secretary of State:

(6) If there shall be any inconsistency between any plans or sections approved by the docks board or settled by arbitration under this section and the plans and sections approved by the Secretary of State under section 17 (Tidal works not to be executed without approval of Secretary of State) of this Act the tidal work shall be executed in accordance with the plans and sections so approved by the Secretary of State:

- (7) (a) The Water Board shall not under the powers of this Act acquire in respect of Work No. 32 any greater right or interest in the land numbered on the deposited plans 45 in the parish of North Killingholme than an easement or right of constructing, maintaining, renewing and using Work No. 32, which easement or right the docks board and the Crown Estate Commissioners are hereby empowered to grant;
- (b) The compensation for such easement or right shall be a rentcharge to be determined (unless otherwise agreed with the docks board with the approval of the Crown Estate Commissioners), in case of dispute, under and in accordance with the Act of 1961, and such grant shall be subject in other respects to the Humber Conservancy Act, 1868, as applied to the docks board by the Humber Harbour Reorganisation Scheme, 1966, Confirmation Order, 1967; 1868 c. lviii.
- (c) The docks board with the consent of the Crown Estate Commissioners are hereby empowered to sell or surrender the rentcharge mentioned in this paragraph:
- (8) If the docks board require at any time that the position of any part of Work No. 32 shall be altered in connection with any improvement of the river Humber or the navigation thereof under the existing powers of the docks board, the Water Board shall, subject to the necessary consents being granted, carry out such alteration to the reasonable satisfaction of the docks board:
- Provided that the Water Board shall bear the cost of only the first such alteration:
- (9) Notwithstanding anything shown on the deposited plans no part of Work No. 31 shall be constructed on any part of the lands numbered on the deposited plans 44 in the parish of North Killingholme:
- (10) In this section “the Humber tidal work” means so much of Work No. 32 as is a tidal work and “the Humber tidal work” and “Work No. 32” include all necessary works and conveniences connected therewith and any renewal and alteration thereof authorised by section 8 (Power to Water Board to construct works) of this Act:
- (11) Any difference arising between the Water Board and the docks board under this section (other than a difference as to the construction of this section) shall be settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

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—cont.
For protection
of British
Waterways
Board.

63. For the protection of the British Waterways Board (in this section referred to as “the board”) the following provisions shall, unless in any case it is otherwise agreed between the appropriate authority and the board, apply and have effect:—

(1) In this section—

“authorised work” means Works Nos. 1, 5, 7, 8 or 9 authorised by this Act together with all necessary works and conveniences connected therewith and includes the construction, maintenance, repair and renewal of such works;

“the engineer” means an engineer to be appointed by the board;

“navigation” means any river, canal or navigation owned or managed by the board and any works connected therewith and includes any lands held or used by the board for the purposes of such river, canal or navigation or works;

“plans” includes sections, drawings and particulars:

- (2) The appropriate authority shall not under the powers of this Act acquire compulsorily any lands of the board, but they may acquire, and the board shall, if so required by them, grant to the appropriate authority such easements and rights in the lands of the board, shown on the deposited plans, as the appropriate authority may reasonably require for the purposes of the authorised work:
- (3) The appropriate authority shall, before commencing an authorised work (other than works of maintenance and repair), furnish to the board proper and sufficient plans thereof for the approval of the engineer, and shall not commence that authorised work until such plans shall have been approved by the engineer or, in the case of difference between the engineer and the appropriate authority, until they shall have been settled by arbitration:

Provided that—

(a) the approval of the engineer shall not be unreasonably withheld;

(b) if within twenty-eight days after such plans have been furnished to the board the engineer shall not have intimated his approval or disapproval thereof, he shall be deemed to have approved them;

(c) if there shall be any inconsistency between the plans of Work No. 1 approved by the engineer or settled by arbitration under this paragraph and

the plans and sections approved by the Secretary of State under section 17 (Tidal works not to be executed without approval of Secretary of State) of this Act the said work shall be executed in accordance with the plans and sections so approved by the Secretary of State:

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- (4) Upon signifying his approval or disapproval of the plans the engineer may specify any temporary or permanent works which should be carried out before the commencement or during the construction of the authorised work in order to ensure the stability of any navigation affected by the authorised work or to protect it from injury from the authorised work, and such temporary or permanent works as may be reasonably necessary for those purposes shall be constructed by the appropriate authority or by the board if the board so elect, with all reasonable dispatch, and the cost of constructing such protective works shall be paid by the appropriate authority and the appropriate authority shall not commence or (as the case may be) continue the construction of the authorised work until the engineer shall have notified the appropriate authority that such temporary or permanent works have been completed to his satisfaction. The appropriate authority shall pay to the board a capitalised sum representing the reasonable cost of maintaining and renewing any such permanent protective works:

Provided that in the event of any inconsistency between any requirement or direction of the Secretary of State and of the engineer, the appropriate authority shall be deemed to have complied with the provisions of this paragraph if it has complied with the requirement or direction of the Secretary of State:

- (5) The appropriate authority shall give to the engineer twenty-eight days' notice of their intention to commence the construction of any of the authorised works and except in emergency (when they shall give such notice as may be reasonably practicable) also of their intention to carry out any works for the repair or maintenance of the authorised works:
- (6) An authorised work shall, when commenced, be carried out with all reasonable dispatch in accordance with the approved plans and under the supervision (if given) and to the reasonable satisfaction of the engineer, and in such manner as to cause as little damage to the navigation and as little interference with or delay or interruption to traffic on the navigation, as may be:

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- (7) The appropriate authority shall at all times afford reasonable facilities to the engineer for access to an authorised work during its construction and shall supply him with all such information as he may reasonably require with regard to the authorised work or the method of construction thereof:
- (8) The board shall at all times afford reasonable facilities to the appropriate authority for access to any protective works carried out by the board under paragraph (4) of this section during their construction, and supply the appropriate authority with all such information as they may reasonably require with regard to such works or the method of construction thereof:
- (9) The appropriate authority shall at all times after the construction of an authorised work maintain it water-tight, in substantial repair, and good order and condition, and when necessary renew it to the reasonable satisfaction and under the supervision (if given) of the engineer, and if and whenever the appropriate authority fail to do so after reasonable notice in that behalf, the board may make and do in and upon the lands of the board or of the appropriate authority all such works and things as shall be requisite in that behalf, and the reasonable costs and expenses incurred by the board in so doing shall be repaid to them by the appropriate authority:
- (10) The appropriate authority shall effectively indemnify and hold harmless the board from and against all actions, claims, suits and demands and all losses, costs, damages and expenses which they may sustain, incur or be put to at the suit of a third party as a result of the construction, operation, presence or failure of an authorised work (whether caused by the act, neglect or default of the appropriate authority or not) and the fact that any work or thing may have been done by the board on behalf of the appropriate authority or in accordance with any plan approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not (if it was done without negligence on the part of the board or of any person in their employ or of their contractors or others whilst engaged upon the works) excuse the appropriate authority from any liability under the provisions of this section:

Provided that the board shall give to the appropriate authority reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the appropriate authority:

- (11) Any difference arising between the appropriate authority and the board under this section shall be referred to a single arbitrator to be agreed between the parties, or, failing agreement, to be appointed, on the application of either party, by the President of the Institution of Civil Engineers.

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64. For the protection of the company the provisions of this section shall, unless otherwise agreed in writing between the Water Board and the company, apply and have effect:—

For protection
of Conoco
Limited.

- (1) In this section unless the subject or context otherwise requires—

“the company” means Conoco Limited;

“in” in a context referring to the pipe line, includes under, over, across, along or upon;

“the pipe line” means so much of the 10-inch diameter pipe line or any part thereof of the company as lies within the limits of deviation of the works and includes any apparatus used in connection therewith and any structure for the lodging therein of the pipe line;

“plan” includes a section detailed drawings and specifications;

“the works” means the line or lines of pipes (Work No. 30) and the sludge storage tank or tanks and pumping station (Work No. 31) and any work or thing done under the powers of this Act in relation to or connected therewith but does not include any other work described in section 8 (Power to Water Board to construct works) of this Act:

- (2) Notwithstanding anything in this Act or shown on the deposited plans, the Water Board shall not, under the powers of this Act, acquire the pipe line otherwise than by agreement:
- (3) If the Water Board in the exercise of the powers of this Act acquire any interest in the land in which the pipe line is placed, they shall not extinguish or impair otherwise than by agreement any right of the company to use, maintain, repair, renew or inspect the pipe line:
- (4) (a) Not less than twenty-eight days before commencing to execute any part of the works which is near to, or is likely to affect, the pipe line, the Water Board shall submit to the company a plan of the works to be executed;
- (b) Such works shall be executed only in accordance with the plan submitted as aforesaid and in accordance with

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—cont.

such reasonable requirements as may be made by the company for the alteration or otherwise for the protection of the pipe line, or for securing access thereto, and the company shall be entitled by their officer to watch and inspect the execution of such works:

Provided that nothing in this sub-paragraph shall preclude the Water Board from submitting prior to the commencement of the works at any time, or from time to time, but in no case less than fourteen days before commencing the execution of any such work, a new plan in lieu of the plan previously submitted, and thereupon the provisions of this paragraph shall apply to and in respect of such new plan:

- (5) If in consequence of the exercise of the powers of this Act the access to the pipe line or any property of the company is materially and permanently obstructed, the Water Board shall forthwith provide an alternative means of access to the pipe line or such property, as the case may be:
- (6) If by reason or in consequence of the execution, user or failure of the works, or any subsidence resulting from the works, any damage to the pipe line or property of the company except their anode beds or any interruption in the supply of petroleum products by the company shall be caused, the Water Board shall bear and pay the cost reasonably incurred by the company in making good such damage, and shall—
- (a) make reasonable compensation to the company for any loss sustained by them; and
 - (b) indemnify the company against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the company;

by reason or in consequence of any such damage or interruption:

Provided that—

(i) nothing in this paragraph shall impose any liability on the Water Board with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of the company or their contractors or workmen;

(ii) the company shall give to the Water Board reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Water Board:

- (7) (a) Any difference which may arise between the Water Board and the company under this section shall be determined by arbitration;
- (b) In settling any difference under this section the arbitrator may, if he thinks fit, require the Water Board to execute any temporary or other works so as to avoid, so far as may be reasonably possible, interference with the use of the pipe line.

65. For the protection of the drainage boards the following provisions shall, unless otherwise agreed in writing between the drainage board concerned and the appropriate authority, apply and have effect:—

For protection
of drainage
boards.

(1) In this section—

“ apparatus ” includes any structure or appliance for controlling or regulating the flow of water in, into or out of a protected watercourse and any machinery under the control of a drainage board;

“ authorised work ” means so much of any of the works authorised by Part II of this Act and any works, apparatus and conveniences connected therewith constructed by the appropriate authority as part of, or in connection with, or for the purposes of such work carried out by the appropriate authority as may affect a protected watercourse or apparatus;

“ construction ” includes execution and placing and “ construct ” and “ constructed ” have corresponding meanings;

“ drainage board ” means any of the following:—
the Ancholme Internal Drainage Board;
the Upper Witham Internal Drainage Board;
the Witham First District Internal Drainage Board;
the Witham Third District Internal Drainage Board;
the North East Lindsey Drainage Board; and
the Newark Area Internal Drainage Board;

“ plans ” includes sections and such particulars and specifications as may reasonably be required by the drainage board concerned;

“ protected watercourse ” means any watercourse which is under the jurisdiction of a drainage board:

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—cont.

- (2) Except with the consent of the drainage board concerned, which shall not be unreasonably withheld, the appropriate authority shall not construct or alter any authorised work which affects a protected watercourse otherwise than—
- (a) in such manner as not to obstruct or interfere with the free flow of water in, into or out of such watercourse;
 - (b) in such manner—
 - either—
 - (i) as to allow the free passage of flood waters under the authorised works; or
 - (ii) that the top or upper surface of the authorised work shall be situate at such reasonable depth below such watercourse as to allow of the proper cleansing and scouring of such watercourse and of the deepening of the bed thereof to such extent as may be reasonably necessary for the improvement of such watercourse;
 - (c) in such manner as to allow of the widening of such watercourse to such extent as may be reasonably necessary for the improvement of such watercourse:
- (3) Before commencing an authorised work the appropriate authority shall submit plans of the work to the drainage board concerned for their reasonable approval and the authority shall not commence the work until such plans have been approved by the drainage board or, in case of difference, settled by arbitration:
- Provided that if the drainage board do not within twenty-eight days after the receipt of such plans signify to the appropriate authority their disapproval thereof and the grounds for their disapproval they shall be deemed to have approved them:
- (4) The fact that any work or thing has been constructed or done in accordance with plans approved or deemed to be approved by a drainage board or to their satisfaction or in accordance with any directions or award of an arbitrator shall not relieve the appropriate authority from any liability under the provisions of this section:
- (5) (a) Upon signifying their approval or disapproval of such plans the drainage board concerned may specify any temporary or permanent protective works which in their opinion should be carried out by the appropriate authority during the construction of the authorised

work and such of the works so specified as may be reasonably necessary shall be carried out by the appropriate authority at their own expense and under the supervision (if given) and to the reasonable satisfaction of the drainage board;

(b) Any approval given by a drainage board under this section in respect of an authorised work shall also be deemed to be an approval given by the drainage board under the Land Drainage Acts, 1930 and 1961, and any byelaws made thereunder:

(6) Not less than fourteen days before commencing—

(a) any discharge or transfer of water pursuant to section 44 (Discharge and transfer of water) of this Act into a protected watercourse; or

(b) any diversion or alteration of the course or the flow of water under section 45 (Power to divert watercourses) of this Act in, into or out of a protected watercourse;

the appropriate authority shall, except in a case of emergency, submit to the drainage board concerned a notice of intention to commence the work and a description of the work and (except as aforesaid) shall not carry out any such work, discharge, transfer, diversion or alteration otherwise than in accordance with such terms and conditions as may be agreed with the drainage board or, in case of difference, settled by arbitration:

(7) Subject to the provisions of this section an authorised work shall not be constructed except in accordance with such plans as may be approved or deemed to be approved by the drainage board concerned as aforesaid and shall be constructed to the reasonable satisfaction of the engineer of the drainage board who shall be given reasonable notice of the date on which the authorised work is to be commenced:

Provided that if there shall be any conflict between the plans of Work No. 19 or Work No. 25 as so approved, deemed to be approved or settled by arbitration or any requirements under paragraph (5) of this section by the drainage board concerned as to protective works to be carried out or undertaken during the construction of the work in question and any requirement by a civil engineer to ensure the safety of that work in accordance with the Reservoirs (Safety Provisions) Act, 1930, the latter 1930 c. 51. shall prevail:

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—cont.

- (8) The appropriate authority shall at all times keep a drainage board concerned indemnified against all damages, losses, costs and expenses which they may sustain or be liable for or reasonably and properly incur by reason or in consequence of any injury or damage which may be caused or result to a protected watercourse or apparatus or any obstruction which may be caused or result in such a watercourse by or in consequence of or in connection with the construction or alteration of any authorised work or the exercise of the powers of this Act:

Provided that the drainage board shall give to the appropriate authority reasonable notice of any claim or demand for such damages, losses, costs or expenses as aforesaid and no settlement or compromise thereof shall be made without the agreement of that authority:

- (9) Any additional expense which may be reasonably incurred by a drainage board in maintaining, altering or replacing any outfall or maintaining or altering a protected watercourse as the result of the construction or use or intended use of an authorised work shall be repaid to the drainage board concerned by the appropriate authority:

Provided that if the cost of maintaining any watercourse is reduced in consequence of any protective work done in accordance with paragraph (5) of this section a capitalised sum representing such saving may be set off against any sum payable to the drainage board by the appropriate authority under this section:

- (10) The provisions of the Railways Clauses Consolidation Act, 1845, incorporated with this Act by subsection (2) of section 4 (Application and modification of enactments) of this Act shall not have effect so as to authorise the occupation by the appropriate authority without the consent of the drainage board of a protected watercourse other than such temporary occupation as is authorised by section 16 (Power to use bed and banks of watercourses) of this Act:

- (11) The appropriate authority shall not—

(a) exercise the powers of section 16 (Power to use bed and banks of watercourses) of this Act in relation to a protected watercourse; or

(b) obtain materials or deposit spoil or material under section 25 (Power to acquire land) of this Act so as to affect prejudicially a protected watercourse or any apparatus;

except with the prior written consent of the drainage board concerned, but such consent shall not be unreasonably withheld:

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—cont.

- (12) Any difference arising between the drainage board and the appropriate authority under this section (other than a difference as to the construction of this section) shall be referred to and settled by an arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

66. For the protection of the undertakers the provisions of this section shall, unless otherwise agreed in writing between the appropriate authority and the undertakers, apply and have effect:—

For protection
of statutory
undertakers.

- (1) In this section unless the subject or context otherwise requires—

“adequate alternative apparatus” means alternative apparatus adequate to enable the undertakers to fulfil their statutory functions in a manner not less efficient than previously;

“apparatus” means—

(a) in the case of electricity undertakers, electric lines or works (as respectively defined in the Electric Lighting Act, 1882) belonging to or maintained by or lawfully laid or erected by such undertakers; or

1882 c. 56.

(b) in the case of gas or water undertakers, any apparatus belonging to such undertakers or for the maintenance of which they are responsible;

and includes any structure for the lodging therein of apparatus;

“in” in a context referring to apparatus includes under, over, across, along or upon;

“operational land” means any land which is used by the undertakers for the purpose of the carrying on of their undertaking and land in which an interest is held for that purpose, not being land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of the carrying on of statutory undertakings;

“plan” includes a section and description;

“position” includes depth;

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—cont.

“ specified gas apparatus ” means—

(a) the 6-inch diameter high pressure gas main from Killingholme to Immingham; and

(b) the 24-inch diameter gas main from Easington to Topley of the Gas Council; and

(c) the 30-inch diameter gas main from Killingholme to Scawby of the East Midlands Gas Board; and

(d) the 24-inch diameter gas main from Scawby to Topley of the East Midlands Gas Board; and

(e) the 24-inch diameter gas main from Scawby to Leicester of the East Midlands Gas Board;

“ specified work ” means any work or thing done under the powers conferred by Part II and section 45 (Power to divert watercourses) of this Act;

“ the undertakers ” means the Central Electricity Generating Board, the Yorkshire Electricity Board, the East Midlands Electricity Board, the Gas Council, the East Midlands Gas Board and the Lincoln and District Water Board:

- (2) Notwithstanding anything in this Act or shown on the deposited plans, the appropriate authority shall not, under the powers of this Act, acquire any apparatus or operational land otherwise than by agreement:
- (3) The powers conferred on the River Authority by paragraph (i) of subsection (1) of section 7 (Subsidiary powers to Trent and Lincolnshire Authorities) of this Act to alter apparatus shall not be exercised in respect of the specified gas apparatus nor, as respects any other apparatus, otherwise than in accordance with the provisions of this section:
- (4) If the appropriate authority in the exercise of the powers of this Act acquire any interest in any land in which any apparatus is placed, that apparatus shall not be removed nor shall any right of the undertakers to use, maintain, repair, renew or inspect any apparatus in that land be extinguished until adequate alternative apparatus has been laid or constructed and is in operation to the reasonable satisfaction of the undertakers:
- (5) (a) If the appropriate authority, for the purpose of the execution of any specified work, require the removal of any apparatus other than the specified gas apparatus, they shall give to the undertakers written notice of such requirement with a plan of the proposed work, and if it is agreed between the appropriate authority and the undertakers or, in default of agreement, determined by

arbitration that the removal of the apparatus is reasonably required and that it should be removed the following provisions of this paragraph shall have effect;

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—cont.

- (b) If it is agreed or determined by arbitration in accordance with sub-paragraph (a) of this paragraph that any apparatus should be removed or if in consequence of the execution of any specified work the undertakers shall reasonably require to remove any apparatus other than the specified gas apparatus, the appropriate authority shall, if practicable, afford to the undertakers the necessary facilities and rights for the laying or construction of adequate alternative apparatus in other lands of the appropriate authority and thereafter for the maintenance, repair, renewal and inspection of such apparatus:

Provided that if the alternative apparatus or any part thereof is to be laid or constructed elsewhere than in other lands of the appropriate authority and the appropriate authority are unable to afford such facilities and rights as aforesaid the undertakers shall, on receipt of a written notice to that effect from the appropriate authority, forthwith use their best endeavours to obtain the necessary facilities and rights:

- (6) (a) Any alternative apparatus to be laid or constructed in lands of the appropriate authority in pursuance of paragraph (5) of this section shall be laid or constructed in such manner and in such line or situation as may be agreed between the undertakers and the appropriate authority, or, in default of agreement, settled by arbitration;
- (b) The undertakers shall, after the manner of laying or construction and the line and situation of any alternative apparatus has been agreed, or settled by arbitration as aforesaid, and after the grant to the undertakers of any such facilities and rights as are referred to in paragraph (5) of this section, proceed with all reasonable dispatch to lay or construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required to be removed under the provisions of this section and, in default, the appropriate authority may remove the apparatus:
- (7) Notwithstanding anything in paragraph (6) of this section, if the appropriate authority give notice in writing to the undertakers that they desire themselves to execute any part of so much of the work necessary in connection with the laying or construction of the alternative apparatus or the removal of the apparatus

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—cont.

required to be removed as will be situate in any lands of the appropriate authority, such work, instead of being executed by the undertakers, shall be executed by the appropriate authority with all reasonable dispatch under the superintendence, if given, and to the reasonable satisfaction of the undertakers:

Provided that nothing in this paragraph shall authorise the appropriate authority to execute the actual placing, erection, installation, bedding, packing, removal, connection or disconnection of any apparatus or any filling around the apparatus (where the apparatus is laid in a trench) within 12 inches above the apparatus:

- (8) Where in accordance with the provisions of this section the appropriate authority afford to the undertakers facilities and rights for the laying or construction, maintenance, repair, renewal and inspection in lands of the appropriate authority of alternative apparatus in substitution for apparatus to be removed as aforesaid, those facilities and rights shall be granted upon such terms and conditions as may be agreed between the appropriate authority and the undertakers, or, in default of agreement, determined by arbitration:

Provided that—

(a) in determining such terms and conditions as aforesaid in respect of alternative apparatus to be constructed across or through a specified work the arbitrator shall—

(i) give effect to all reasonable requirements of the appropriate authority for ensuring the safety and efficient operation of the specified work and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any such work; and

(ii) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to any terms and conditions applicable to the apparatus laid or constructed through the lands of the appropriate authority for which the alternative apparatus is to be substituted;

(b) if the facilities and rights to be afforded by the appropriate authority in respect of any alternative apparatus, and the terms and conditions subject to which the same are to be granted, are, in the opinion of the arbitrator, more or less favourable on the whole to the undertakers than the facilities, rights, terms and conditions applying to the apparatus to be

removed, the arbitrator shall make such provision for the payment of compensation to or by the appropriate authority by or to the undertakers in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the case:

PART VIII
—cont.

- (9) (a) Not less than twenty-eight days before commencing to execute any specified work which is near to, or is likely to affect, the specified gas apparatus or any apparatus the removal of which has not been required by the appropriate authority under paragraph (5) of this section, the appropriate authority shall submit to the undertakers a plan of the work to be executed;
- (b) Such work shall be executed only in accordance with the plan submitted as aforesaid and in accordance with such reasonable requirements as may be made by the undertakers for the alteration or otherwise for the protection of the apparatus, or for securing access thereto, and the undertakers shall be entitled by their officer to watch and inspect the execution of such work:

Provided that—

(i) if the undertakers, within fourteen days after the submission to them of any such plan, shall, in consequence of the work proposed by the appropriate authority, reasonably require the removal of any apparatus other than the specified gas apparatus and give written notice to the appropriate authority of such requirement, the foregoing provisions of this section shall apply and have effect as if the removal of such apparatus had been required by the appropriate authority under paragraph (5) thereof; and

(ii) nothing in this sub-paragraph shall preclude the appropriate authority from submitting at any time, or from time to time, but in no case less than twenty-eight days before commencing the execution of any such work, a new plan in lieu of the plan previously submitted, and thereupon the provisions of this paragraph shall apply to and in respect of such new plan;

- (c) The appropriate authority shall not be required to comply with sub-paragraph (a) of this paragraph in a case of emergency but, in such a case, they shall give to the undertakers notice as soon as reasonably practicable and a plan of the work as soon as reasonably practicable thereafter and shall comply with sub-paragraph (b) of this paragraph so far as reasonably practicable in the circumstances:

PART VIII
—cont.

- (10) If in consequence of the exercise of the powers of this Act the access to any apparatus is materially obstructed, the appropriate authority shall provide an alternative means of access to such apparatus:
- (11) The appropriate authority shall repay to the undertakers the reasonable costs, charges and expenses incurred by the undertakers in or in connection with—
- (a) the removal and relaying or replacing, alteration or protection of any apparatus or the provision and construction of any new apparatus under any of the provisions of this section;
 - (b) the cutting off of any apparatus from any other apparatus; and
 - (c) any other work or thing reasonably necessary in consequence of the exercise by the appropriate authority of any of the powers of this Act:

1950 c. 39.

Provided that subsections (3) and (4) of section 23 of the Public Utilities Street Works Act, 1950, shall so far as applicable extend and apply to any payment to be made by the appropriate authority under this paragraph as if the appropriate authority were the promoting authority and works hereinbefore in this paragraph mentioned were such undertakers' works as are referred to in the said subsection (3), and as if in that subsection for the words "specified as so necessary in a specification of the works settled under Part I of the Fourth Schedule to this Act or agreed so to be by the promoting authority" there were substituted the words "agreed or settled by arbitration under section 66 (For protection of statutory undertakers) of the Trent and Lincolnshire Water Act, 1971":

- (12) If by reason or in consequence of the execution, user or failure of any of the specified works, or any subsidence resulting from any of those works, any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of the undertakers or any interruption in the supply of electricity, gas or water (as the case may be) by the undertakers shall be caused, the appropriate authority shall bear and pay the cost reasonably incurred by the undertakers in making good such damage, or in restoring the supply of gas, water or electricity (as the case may be) and shall—
- (a) make reasonable compensation to the undertakers for any loss sustained by them; and

(b) indemnify the undertakers against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the undertakers;

by reason or in consequence of any such damage or interruption:

Provided that—

(i) nothing in this paragraph shall impose any liability on the appropriate authority with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of the undertakers or their contractors or workmen;

(ii) the undertakers shall give to the appropriate authority reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the appropriate authority:

(13) The temporary stopping up or diversion of any road, footpath or bridleway under the powers of section 11 (Temporary stoppage of watercourses, roads, footpaths and bridleways) of this Act shall not prevent the undertakers from obtaining access to any apparatus nor prejudice or affect any right of the undertakers—

(a) to maintain, inspect, repair, renew or remove any apparatus in the road, footpath or bridleway; or

(b) for the purpose of such maintenance, inspection, repair, renewal or removal to enter upon or break open that road, footpath or bridleway:

(14) Before either the appropriate authority or the undertakers instal equipment for providing cathodic protection for or in connection with any specified work or any apparatus in the vicinity of any specified work, and thereafter from time to time as may be required by notice given by either party to the other of them, they shall consult together as to the equipment and measures necessary for the protection of the specified work and apparatus:

(15) The foregoing provisions of this section shall have effect in lieu of the provisions of section 26 of the Public Utilities Street Works Act, 1950, in so far as such provisions would otherwise have effect as regards any specified work in relation to apparatus: 1950 c. 39.

PART VIII
—cont.

- (16) (a) Any difference which may arise between the appropriate authority and the undertakers under this section shall be determined by a single arbitrator to be appointed by agreement between the parties or, in default of agreement, to be appointed on the application of either party (after notice in writing to the other party) by the President of the Institution of Civil Engineers;
- (b) In settling any difference under this section the arbitrator shall have regard to any duty or obligation which the undertakers may be under in respect of any apparatus and may, if he thinks fit, require the appropriate authority to execute any temporary or other works so as to avoid, so far as may be reasonably possible, interference with any purposes for which the apparatus is used.

For further protection of Central Electricity Generating Board.

67. For the further protection of the Central Electricity Generating Board (hereinafter in this section referred to as “ the generating board ”) the following provisions shall, unless otherwise agreed in writing between the Water Board and the generating board, apply and have effect:—

- (1) In this section “ the signed plan ” means the plan signed in duplicate by Thomas Metcalfe Lister on behalf of the Water Board and by Edward Jack Turner on behalf of the generating board, one copy of which has been deposited at the respective offices of the clerk to the Water Board and the secretary to the generating board:
- (2) Notwithstanding anything in this Act or shown on the deposited plans, the Water Board shall not acquire compulsorily from the generating board any part of the lands delineated on the deposited plans and thereon numbered 23 to 33 (inclusive), 35 to 42 (inclusive) and 44 under the powers of this Act nor shall they acquire any easements or rights therein or thereover under the powers of section 28 (Power to acquire easements only) or section 29 (Easements only to be acquired for underground works) of this Act:
- (3) If the Water Board proceed with their proposals to discharge sludge into the river Humber—
- (a) the generating board shall lease to the Water Board the lands shown coloured pink on the signed plan for the purposes of the construction and maintenance of a sludge storage tank or tanks and pumping station in substitution for Work No. 31 together with such easements and rights over the lands shown coloured green on the signed plan for the purposes of the construction, maintenance, renewal and alteration of a line or lines of pipes in substitution for the part

of Works Nos. 30 and 32 as aforesaid as shall be agreed between the Water Board and the generating board to be necessary for such purposes or, in default of agreement, determined by arbitration;

(b) any such lease as aforesaid shall be granted for a term of 999 years, subject to the right of the generating board to determine the said lease if the Water Board cease to require to use the said pumping station and line of pipes and to such other terms and conditions as may be agreed between the generating board and the Water Board, or in default of agreement determined by arbitration, to be necessary for such purposes as aforesaid, having regard to any obligation to any other person or persons which the generating board may be under in respect of the said land;

(c) without prejudice to the generality of the foregoing, any such lease as aforesaid shall include any provision which the generating board may reasonably require reserving to the generating board the right to provide access across the said land shown coloured green;

(d) the generating board shall grant to the Water Board such temporary easements and rights over lands of the generating board during and for the purposes of the construction of so much of Work No. 30, as aforesaid, and the line or lines of pipes substituted for the parts of Works Nos. 30 and 32, as aforesaid, as shall be agreed between the Water Board and the generating board to be necessary for such purposes or, in default of agreement, determined by arbitration:

- (4) If at any time after the said line of pipes is constructed the generating board shall desire to carry out any development of their lands and the position of the line of pipes on those lands, or any part thereof, shall be found to prevent or impede such development and the generating board are prepared to grant to the Water Board easements and rights over other lands of the generating board for the diversion of the said line of pipes, or part thereof, the Water Board shall divert the said line of pipes, or part thereof, on being given twelve months' notice in writing by the generating board:

Provided that the Water Board shall bear the cost of the first diversion of the line of pipes, or part thereof, and the generating board shall bear the cost of any subsequent diversion:

PART VIII
—cont.

And provided further that the Water Board shall not be required under this paragraph to divert so much of the line of pipes as passes through the sea wall:

- (5) After the construction of any generating station on the lands belonging to the generating board in the parish of North Killingholme, the Water Board shall take all such steps as the generating board may reasonably require to prevent interference with the operation of the generating station or additional expense in the operation or maintenance thereof by reason or in consequence of the discharge of sludge into the river Humber:
- (6) Any question or difference arising between the Water Board and the generating board under this section shall be determined by a single arbitrator to be appointed by agreement between the parties or, in default of agreement, by the President of the Institution of Civil Engineers on the application of either party, after giving notice in writing to the other party.

PART IX

MISCELLANEOUS AND GENERAL

Application
and extension
of Act of
1963.

68.—(1) It is hereby declared that the Trent works and the Lincolnshire works being works to be constructed in the case of the Trent works by the Trent Authority and in the case of the Lincolnshire works by the Lincolnshire Authority in the performance of their new functions, are engineering or building operations and that in constructing those works and in the exercise of the other powers of this Act the River Authority in question shall have, in addition to the powers of this Act, all such powers as are conferred on them by the Act of 1963 in relation to engineering or building operations.

(2) The following provisions of the Act of 1963 so far as they are applicable for the purpose shall extend and apply to the exercise by the River Authority of the powers of this Act as if references in those provisions to the Act of 1963 were references to this Act:—

Section 101 (Preservation of amenity and public rights of access);

Section 120 (Service of documents);

Section 130 (Provisions as to telegraphic lines).

(3) Sections 19, 20 and 22 of the Third Schedule as applied generally to the River Authority by subsection (3) of section 69 of the Act of 1963 shall have effect as if the expression “ main ” included—

(a) any pipe used by the River Authority in question in the performance of any of their new functions; and

(b) discharge pipes or drains.

PART IX
—cont.

69.—(1) The River Authorities may enter into agreements with respect to the construction, maintenance or operation of the Trent works or any part of those works.

Arrangements
between River
Authorities as
to Trent works
and
abstraction
from river
Trent.

(2) (a) The Lincolnshire Authority shall make such a contribution towards the cost of constructing the Trent works and of acquiring any land required for the purposes of those works as may be agreed between the Trent Authority and the Lincolnshire Authority or in default of agreement determined by arbitration.

(b) The Lincolnshire Authority may without the sanction of any sanctioning authority borrow such sum as may be requisite to pay the contribution which they are required to make under this subsection and subsection (2) of section 46 (Power to Trent and Lincolnshire Authorities to borrow) of this Act shall apply to the borrowing of the sum as if it had been borrowed for the purpose of constructing the Trent works.

(3) The Lincolnshire Authority shall pay to the Trent Authority the amount of any charge for which the Trent Authority are liable under the charging scheme (as defined in the Act of 1963) for the time being in force within their area in respect of the licence to abstract from the river Trent deemed to have been granted by section 40 (Abstractions to be licensed under Act of 1963) of this Act.

70.—(1) The scheduled agreement is hereby confirmed and sanctioned and effect shall be given thereto accordingly subject, however, to any alterations or variations which may be subsequently agreed by the parties thereto.

Confirmation
of scheduled
agreement.

(2) Except as is otherwise expressly provided by the said agreement nothing therein shall prejudice or affect the exercise by the River Authority of the powers conferred upon them for the purpose of carrying out any of their functions.

71. No person shall be entitled to demand to be afforded a supply of water from the aqueduct (Work No. 29) authorised by this Act.

Board not
required to
give supplies
from
aqueduct.

72. Any person may, for the purposes of making or maintaining the North Lindsey works, drive a vehicle along the sea wall on the south-west side of the river Humber between the point marked F on the deposited plans and the point shown on the deposited plans where the south-easterly limits of deviation cross the said sea wall.

Vehicular
access along
sea wall.

PART IX
—cont.

Saving for
jurisdiction of
Lincolnshire
Authority.
1930 c. 44.
1961 c. 48.

73. Except as may be expressly provided by this Act, nothing in this Act shall—

- (a) prejudice or affect any right, power or jurisdiction of the Lincolnshire Authority under the Land Drainage Act, 1930, and the Land Drainage Act, 1961, in relation to the exercise by the Water Board of the powers conferred upon them by this Act;
- (b) prejudice or affect the operation of—
 - (i) the Rivers (Prevention of Pollution) Acts, 1951 to 1961, or the Salmon and Freshwater Fisheries Acts, 1923 to 1965, or any byelaws made under any of those Acts;
 - (ii) sections 72 and 74 of the Act of 1963; or
- (c) permit the doing by the Water Board of any act in exercise of the powers conferred upon the Water Board by this Act which by virtue of the enactments or byelaws hereinbefore referred to would have been unlawful if this Act had not been passed.

Crown rights.

74.—(1) Nothing in this Act shall authorise the appropriate authority to take, use or in any manner interfere with any land or hereditament or any rights of whatsoever description belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those commissioners on behalf of Her Majesty first had and obtained for that purpose.

(2) Nothing in this Act shall authorise the appropriate authority to take, use or in any manner interfere with any land or hereditaments or any rights of whatsoever description belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department and the appropriate authority shall comply with such conditions as the government department may prescribe in giving such consent.

1950 c. 39.

(3) Nothing in this section shall prejudice or affect any statutory powers of the appropriate authority to carry out code-regulated works within the meaning of the Public Utilities Street Works Act 1950 in any highway vested in, or maintained by, the Minister of Transport.

Saving for
Borrowing
(Control and
Guarantees)
Act, 1946.
1946 c. 58.

75. Nothing in this Act shall be construed as authorising the borrowing of money in contravention of any order made under section 1 of the Borrowing (Control and Guarantees) Act, 1946, which is for the time being in force.

76.—(1) Section 220 of the Town and Country Planning Act, 1962, shall apply to this Act as if it had been passed during the Session of the 10 & 11 Geo. 6; and accordingly the Town and Country Planning Acts, 1962 to 1968, and orders, regulations, rules, schemes and directions made or given thereunder shall apply to development authorised by this Act.

PART IX
—cont.
Saving for
Town and
Country
Planning Acts.
1962 c. 38.

(2) (a) In their application to development authorised by this Act, article 3 of, and Class XII in Schedule 1 to, the Town and Country Planning General Development Order, 1963, shall have effect as if the authority to develop given by this Act to the Trent Authority in respect of Work No. 1, the Lincolnshire Authority in respect of Work No. 14 and the Water Board in respect of Work No. 21 were limited in each case to such development begun within seven years after the passing of this Act.

(b) In this section the reference to article 3 of and Class XII in Schedule 1 to the Town and Country Planning General Development Order, 1963, includes a reference to corresponding provisions of any general order superseding that order made under section 14 of the Town and Country Planning Act, 1962, or any corresponding provision of an Act repealing that section.

(3) Such of the works authorised by subsection (1) of section 7 (Subsidiary powers to Trent and Lincolnshire Authorities) of this Act as are not carried out within twelve months of the completion of the Trent works or the Lincolnshire works (as the case may be) shall not be deemed for the purposes of any development order made under section 14 of the said Act of 1962, to be development authorised by any local or private Act of Parliament which designates specifically both the nature of the development thereby authorised and the land upon which it may be carried out.

77.—(1) The costs, charges and expenses preliminary to, and of and incidental to, the applying for and the preparing, obtaining and passing of this Act shall be paid by the Trent Authority, the Lincolnshire Authority and the Water Board in such proportions as may be agreed between them.

Costs of Act.

(2) The amount so payable by the Trent Authority, the Lincolnshire Authority or the Water Board shall be paid out of moneys to be borrowed for that purpose or out of any moneys in their hands.

SCHEDULES

Section 4.

SCHEDULE 1

PART I

PROVISIONS OF THIRD SCHEDULE APPLIED TO LINCOLNSHIRE AUTHORITY
AND TRENT AUTHORITY

Provisions applied (1)	Modifications (2)
Section 2 (Permissible limits of deviation)	For the words "the plans submitted to the Minister" there shall be substituted the words "the deposited plans" and for the words "the said plans" wherever they occur there shall be substituted the words "the deposited sections".
Section 5 (Power of undertakers to lay or erect telephone wires &c.)	For the words "their works" there shall be substituted the words "the Lincolnshire works or the Trent works (as the case may be)" and for the words "the provisions of the special Act relating to the breaking open of streets by the undertakers" there shall be substituted the words "Section 22 of the Third Schedule as applied to the River Authority by subsection (3) of section 69 of the Act of 1963".
Section 6 (Penalty for obstruction of Works)	—
Section 83 (Penalty for obstructing execution of special Act)	—
Section 85 (Summary proceedings for offences)	—
Section 91 (Mode of reference to arbitration)	—
Section 94 (Copies of special Act to be kept by undertakers in their office, and deposited with certain officers)	The words "supply or propose to supply water or" shall be omitted.

PART II

SCH. 1
—cont.

PROVISIONS OF THIRD SCHEDULE APPLIED TO WATER BOARD

Provisions applied (1)	Modifications (2)
Part II (Works and Lands) except section 9	<p>In section 2 for the words "the plans submitted to the Minister" there shall be substituted the words "the deposited plans" and for the words "the said plans" wherever they occur there shall be substituted the words "the deposited sections".</p> <p>In section 4 for the words "any land for the time being held by them in connection with their water undertaking" there shall be substituted the words "the lands delineated on the deposited plans", after the word "cisterns" there shall be inserted the word "lagoons", after the word "culverts" there shall be inserted the words "measuring gauges", after the word "buildings" there shall be inserted the words "roads, means of access, embankments, fences, piers, bridges" and after the words "supply of water" there shall be inserted the words "(including works for the disposal of sludge resulting from the operation of the authorised works)".</p>
Part IV (Minerals Underlying Waterworks)	<p>In section 11 after the word "slate" there shall be added the words "chalk, limestone".</p> <p>In section 12 for the words "after this section is incorporated with their enactments" there shall be substituted the words "under the special Act", for the words "all existing pipes or other conduits for the collection, passage, or distribution of water and underground works belonging to them" there shall be substituted the words "all such pipes or other conduits or underground works"; and the words "for the time being belonging to them" shall be omitted.</p> <p>In section 13 for the words "lessee or occupier" there shall be substituted the words "or lessee"; the words "mines of" shall be omitted; after the word "slate" there shall be added the words "chalk, limestone"; for the words from "the prescribed distance" to the words "yards therefrom" there shall be substituted the words "an imaginary line drawn</p>

SCH. 1
—cont.

Provisions applied (1)	Modifications (2)
<p>Section 83 (Penalty for obstructing execution of special Act)</p> <p>Section 85 (Summary proceedings for offences)</p> <p>Section 91 (Mode of reference to arbitration)</p> <p>Section 92 (Liability of undertakers to pay compensation)</p> <p>Section 94 (Copies of special Act to be kept by undertakers in their office, and deposited with certain officers)</p>	<p>round them at such a distance as would encompass (a) any land within 40 yards thereof and (b) any land beyond 40 yards therefrom and bounded by an imaginary plane drawn downwards away therefrom at an angle of 60 degrees to the horizontal plane from an imaginary line drawn at a distance of 40 yards from such reservoirs, buildings, pipes, conduits or underground works"; and the words "mines or" shall be omitted.</p> <p>In section 14 in subsection (1) the words "mines or", in both places where they occur, shall be omitted; for the words in subsections (1), (2) and (3) "lessee or occupier" there shall be substituted the words "or lessee"; in subsection (2) the words "mines and", in both places where they occur, shall be omitted; the words "and to drain them by means of pumps or otherwise" shall be omitted; and in subsection (3) the words "mines or" in both places where they occur shall be omitted.</p> <p>Section 15 shall be omitted.</p> <p>In section 16 for the words "lessee or occupier" there shall be substituted the words "or lessee"; the words "mines of" and "mines or" in each place where they occur shall be omitted; and after the word "ironstone" there shall be added the words "chalk, limestone".</p> <p>In section 17 the words "mines or" where they first occur shall be omitted; and the word "such", in the second occasion where it occurs, shall be omitted.</p> <p>—</p> <p>—</p> <p>—</p> <p>—</p> <p>—</p>

SCHEDULE 2

Section 12.

WATERCOURSES TO BE IMPROVED

Rural district and parish or parishes (1)	Letters on deposited plans showing extent of improvement (2)
Rural District of Welton—	
Parishes of Barlings and Fiskerton ...	A1 to A2
Parish of Scothern	B1 to B2
Parishes of Dunholme and Welton	C1 to C2
Parish of Spridlington	
Rural District of Caistor—	D1 to D2
Parish of Toft Newton	
Parish of Toft Newton	E1 to E2

SCHEDULE 3

Section 14.

LOCKS AND SLUICES TO BE REGULATED

PART I

LOCKS NOT TO BE REGULATED WITHOUT PRIOR APPROVAL
OF THE BRITISH WATERWAYS BOARD

Antons Gowt Lock.
Bardney Lock.
Grand Sluice Lock.
Stamp End Lock.
Torksey Lock.

PART II

LOCKS AND SLUICES TO BE REGULATED WITHOUT REQUIRING
SUCH APPROVAL

Ferriby Lock.
Harlem Hill Lock.
Bargate Weir Sluice.
Ferriby Sluice.
Fiskerton Sluice.
Grand Sluice.
Great Gowt Sluice.
Little Gowt Sluice.
Stamp End Sluice.

Section 70.

SCHEDULE 4

AGREEMENT BETWEEN THE BRITISH WATERWAYS BOARD, THE TRENT RIVER AUTHORITY AND THE LINCOLNSHIRE RIVER AUTHORITY

This AGREEMENT is made the Thirty first day of December One thousand nine hundred and seventy BETWEEN the BRITISH WATERWAYS BOARD (hereinafter called "the Board") of the first part the TRENT RIVER AUTHORITY (hereinafter referred to as "the Trent Authority") of the second part and the LINCOLNSHIRE RIVER AUTHORITY (hereinafter called "the Lincolnshire Authority") of the third part

WHEREAS:—

(1) The Board are lessees of the tolls navigational works and channel of the Fossdyke Navigation extending from Torksey in the rural district of Gainsborough in the County of Lincoln Parts of Lindsey to the Brayford Pool in the City of Lincoln by virtue of the Lease short particulars of which appear in the Schedule hereto.

(2) The Lincolnshire Authority the Trent Authority and the North Lindsey Water Board have jointly promoted a Bill entitled the Trent and Lincolnshire Water Bill (hereinafter referred to as "the Bill") the purposes of which are:—

- (a) to enable the Trent Authority in conjunction with the Lincolnshire Authority to transfer water from the River Trent to the Fossdyke Navigation
- (b) to enable the Lincolnshire Authority to transfer water from the Fossdyke Navigation and from the River Witham by way of the Barlings Eau and a pipeline to augment the supply of water in the River Ancholme.

(3) The Board lodged a Petition against the Bill and appeared on their Petition before the Committee of the House of Lords to whom the Bill was referred. In the course of the proceedings a settlement between the Promoters of the Bill and the Board was reached on all but one of the issues raised in the Petition and this Agreement is in part implementation of such settlement.

NOW THIS AGREEMENT WITNESSETH AND IT IS HEREBY AGREED AND DECLARED as follows:—

1. IN this Agreement the following words and expressions shall have the meanings hereby respectively assigned to them unless the subject or context otherwise requires:

"The Engineer" means the engineer of the Lincolnshire Authority

"The lock works" means the works necessary in respect of the Board's locks at Torksey Stamp End Bardney and Grand Sluice Boston referred to in Part I of Schedule 3 to the said Bill to bring or as the case may be to maintain them to such standard as will keep the loss of water within a quantity acceptable to the Engineer

“ Plans ” includes sections drawings and particulars including details of the method of construction

SCH. 4
—cont.

“ The commencing date ” means the First day of January One thousand nine hundred and seventy four.

2.—(1) THE Board shall construct the lock works with all reasonable dispatch on behalf of and to the reasonable satisfaction of the Lincolnshire Authority in accordance with the plans approved or deemed to be approved or settled in accordance with the provisions of Clause 4 hereof and under the supervision (if given) of the Lincolnshire Authority.

(2) The Board shall pay for the construction of the lock works but may recover from the Lincolnshire Authority the reasonable cost of carrying out so much of the lock works as affect Torksey Lock.

3.—(1) THE Board shall maintain to the reasonable satisfaction of the Lincolnshire Authority the lock works.

(2) If and whenever the Board fail so to maintain the lock works the Lincolnshire Authority may after reasonable notice in that behalf do all such works and things as shall be requisite in that behalf and the reasonable costs and expenses incurred by the Lincolnshire Authority in so doing shall be repaid to them by the Board.

4. THE Board shall before commencing the lock works furnish to the Lincolnshire Authority proper and sufficient plans for the approval of the Engineer and shall not commence the construction of the lock works until such plans shall have been approved by the Engineer or in the case of difference between the Engineer and the Board until they shall have been settled by arbitration PROVIDED that:—

(a) the approval of the Engineer shall not be unreasonably withheld

(b) if within twenty-eight days after such plans have been furnished to the Lincolnshire Authority the Engineer shall not have intimated his approval or disapproval thereof he shall be deemed to have approved them.

5. THE Board shall at all times afford reasonable facilities to the Lincolnshire Authority for access to the lock works and supply the Lincolnshire Authority with all such information as they may reasonably require with regard to such works the method of construction and the maintenance thereof.

6. THE Board shall not refuse to give prior approval to the opening shutting and management of any lock specified in Part I of Schedule 3 to the Bill for any of the purposes described in the Bill except on the grounds that it is likely to prejudice the proper discharge of the Board's navigational and other statutory functions.

7.—(1) SUBJECT to the Acts relating to the Drainage and Navigation of the River Witham and of the Lincolnshire River Board (River

SCH. 4
—cont.

Witham) Transfer Order 1962 the Lincolnshire Authority shall not reduce the level of the surface of the River Witham immediately upstream of Stamp End Sluice Lincoln below 14.00 feet Ordnance Datum (Newlyn) (which said level shall represent the Gauged Mark fixed or formerly fixed upon St. Mary's bridge standing over the Sincil Dyke Lincoln and being five feet six inches below the springing of the arch of such bridge).

(2) The Lincolnshire Authority shall maintain the depth of the Witham Navigation in accordance with such Acts and Order from the High Bridge at Lincoln to the Grand Sluice at Boston.

8. THE Board agrees under Clause 44 (Discharge and transfer of water) of the Bill to the discharge of water into the Fossdyke Navigation by means of the works to be authorised by the Bill and to the transfer of water from the River Trent to the River Witham by means of the Fossdyke Navigation.

9.—(1) THE Lincolnshire Authority shall pay to the Board as a contribution towards the expense to the Board of maintaining the Fossdyke Navigation the annual sum of SEVEN THOUSAND FIVE HUNDRED POUNDS by equal half-yearly payments in advance on the First day of January and the First day of July in every year the first of such payments to be made on the commencing date PROVIDED that if there shall be any increase or decrease in the minimum hourly wage rate of the labourer as agreed nationally by the National Joint Council for the Inland Waterways Industry above or below the rate in force on the first of January One thousand nine hundred and seventy three such half yearly payments as to one third thereof shall be increased or decreased by the same proportion as the proportion of any such increase or decrease in the said minimum hourly wage rate with effect from the First day of January next following the date of such increase or decrease.

(2) The payments to be made by the Lincolnshire Authority under this clause are accepted by the Board in full discharge of any liability that may attach to the Trent Authority or the Lincolnshire Authority in respect of damage to or increased cost of maintaining the Fossdyke Navigation as a result of the exercise of the powers contained in the said Bill.

10.—(1) THE Lincolnshire Authority HEREBY COVENANTS with the Board that they the Lincolnshire Authority will pay to the Board on the days hereinbefore appointed for payment thereof the said half yearly payments of the said annual sum of Seven Thousand Five Hundred Pounds as so increased or decreased from time to time in accordance with the provisions hereinbefore contained.

(2) If any of the said payments are not paid within twenty eight days of the date on which such payment was due interest shall be paid thereon at the rate of One per centum per annum above the rate equivalent to bank rate from time to time prevailing (less income tax) from the date on which it was due until the date on which it shall be paid.

11. SUBJECT as hereinafter provided this Agreement shall continue in force from the commencing date for the residue of a term of Eight hundred and ninety-four years from the Twenty sixth day of June One thousand eight hundred and forty-six (less one day).

SCH. 4
—cont.

12. IF the Lincolnshire Authority give notice in writing to the Board that as from such date as may be specified in the notice (being a date not less than twelve months after the date of the notice) no water will in future be transferred from the River Trent to the Fossdyke Navigation by means of the works to be authorised by the Bill this Agreement shall be terminated as from the date so specified but such termination shall not prejudice or affect any rights or liabilities which may have accrued before the date on which the Agreement is terminated.

13. IF the Bill fails to receive the Royal Assent then this Agreement shall be void and of no effect and neither party shall have any claim against the other in respect of costs fees and expenses or otherwise.

14. NOTHING herein contained shall be or be deemed to be an admission by the Lincolnshire Authority that the channel and banks of the Fossdyke Navigation other than Torksey Lock are vested in or belong to the Board as lessees thereof.

15. IF any difference shall arise between the Board on the one hand and the Trent Authority or the Lincolnshire Authority on the other hand in relation to the terms of this Agreement the same shall be referred to and determined by an arbitrator to be agreed upon between the parties or failing such agreement to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Act 1950 or any statutory modification thereof 1950 c. 27, shall apply to any such reference and determination.

IN WITNESS whereof the Board the Trent Authority and the Lincolnshire Authority have caused their respective Common Seals to be hereunto affixed the day and year first before written.

THE SCHEDULE before referred to

<i>Date</i>	<i>Parties</i>	<i>Term</i>	<i>Rent</i>
21st December 1846	Richard Ellison (1) The Great Northern Railway Company (2)	894 years from 26th June 1846	£9,570 5s. 3d.

The application hereto of the
COMMON SEAL of the BRITISH
WATERWAYS BOARD was
authenticated by:

(L.S.)

T. LUCKCUCK,
Secretary.

SCH. 4
—cont.

THE COMMON SEAL of the
TRENT RIVER AUTHORITY
was hereunto affixed in
the presence of:

(L.S.)

WILLIAM DUGDALE,
Chairman of the Authority.

IAN DRUMMOND,
Clerk of the Authority.

THE COMMON SEAL of
the LINCOLNSHIRE RIVER
AUTHORITY was hereunto
affixed in the presence of:

(L.S.)

J. L. ROUGHTON,
Chairman.

G. E. PHILLIPPO,
Clerk of the Authority.

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FOR C. H. BAYLIS, C.B.

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament