

ELIZABETH II



1972 CHAPTER xxviii

An Act to confer further powers on the Cornwall River Authority in relation to the acquisition of lands, and for other purposes. [27th July 1972]

WHEREAS—

(1) The Cornwall River Authority (hereinafter referred to as “the Authority”) was constituted in pursuance of the Water Resources Act 1963 (hereinafter referred to as “the Act of 1963”) as the authority responsible for water conservation, land drainage, prevention of pollution and the management and improvement of salmon, trout and freshwater fisheries within an area which comprises the county of Cornwall and part of the county of Devon (hereinafter referred to as “the Cornwall area”):

(2) As the authority responsible for water conservation within the Cornwall area the 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 the water resources in the Cornwall area, of securing the proper use of water resources in its area, or of transferring any such resources to the area of another river authority:

(3) The demand for water in the Cornwall area has increased and will further increase but the existing water resources are insufficient and it is the intention of the Authority to augment those resources by regulating rivers in the Cornwall area by means of one or more regulating reservoirs to be constructed in the catchment areas of those rivers:

(4) The construction of such reservoir or reservoirs will involve the acquisition of substantial areas of land within the Cornwall area and the displacement of the occupiers and it is expedient and in the public interest to confer on the Authority powers to alleviate the resulting hardship as in this Act provided:

(5) It is expedient that the other provisions in this Act should be enacted:

(6) The purposes of this Act cannot be effected without the authority of Parliament:

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:—

Short title. 1. This Act may be cited as the Cornwall River Authority Act 1972.

Interpretation. 2.—(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 shall have the same respective meanings and the following expressions shall have the meanings hereby respectively assigned to them:—

1963 c. 38. “ the Act of 1963 ” means the Water Resources Act 1963;
 “ the Authority ” means the Cornwall River Authority;
 “ the clerk ” means the clerk of the Authority;
 “ 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 Cornwall area;
 “ land ” includes any interest in or right over land and land covered with water;
 “ the Cornwall area ” means the area of the Authority.

(2) 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.

3. The power of the Authority 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, lessees and occupiers of land that may be acquired by the Authority under any enactment. Provision of substituted sites.

4.—(1) The Authority may enter into and carry into effect an agreement or arrangement with the occupier of any land acquired or to be acquired by the Authority under any enactment with respect to his reinstatement. Power to reinstate occupiers of property.

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

5.—(1) Every undertaking given to the Authority by the owner of a legal estate in land, and every agreement made between the Authority and any such owner, being an undertaking or agreement— Undertakings and agreements binding successive owners.

(a) given or made in connection with the land; and

(b) expressed to be given or made in pursuance of this section;

shall, if registered in the local land charges register, be enforceable by the Authority against the person or persons who entered into, or joined as a party to, such undertaking or agreement and all persons deriving title by, through or under him or them.

(2) Any person against whom such an undertaking or agreement is enforceable shall be entitled to require from the Authority a copy thereof.

6.—(1) If the Authority—

(a) acquire land by agreement; or

(b) enter into an agreement to acquire land; or

(c) have acquired land by agreement before the passing of this Act;

for a purpose for which they are for the time being or could under any enactment for the time being in force be authorised to acquire the land compulsorily and the land is affected by any restriction arising under covenant or otherwise (other than a restriction imposed by or under any enactment) as to the user thereof or the building thereon the Authority may, subject to the provisions of this section, by resolution suspend the operation of such restriction. Suspension of restrictive covenants.

(2) The resolution shall describe by reference to a map the land to which it applies.

(3) The Authority shall—

(a) in three successive weeks publish in one or more local newspapers circulating in the locality in which the land referred to in the resolution is situated a notice stating that the resolution has been passed, describing the land and naming a place within the locality where a copy of the resolution and map may be inspected and specifying the time, not being less than three months from the date of the first publication of the notice, within which and the manner in which objections to the suspension of the restriction can be made;

(b) on or before the date of the first publication of the said notice—

(i) serve a copy of that notice by registered post or the recorded delivery service on every person who appears to them, after diligent inquiry, to be entitled to the benefit of the restriction to which the resolution relates; and

(ii) affix a copy or copies of that notice to some conspicuous object or objects on the land.

(4) Any person claiming to be entitled to the benefit of the restriction may object to the suspension of the restriction by sending notice of his objection and of the grounds thereof to the appropriate Minister and a copy thereof to the Authority within the period specified in the notice.

(5) If any objection is duly made as aforesaid and is not withdrawn the resolution shall be of no effect unless and until it is confirmed by the appropriate Minister and before confirming the resolution the appropriate Minister shall cause a public local inquiry to be held into the proposed suspension of the restriction and after considering the report of the person who held the inquiry may confirm the resolution.

(6) (a) If no objection is duly made under subsection (4) of this section or if all objections so made are withdrawn the restriction shall be suspended on and after the date of the expiration of the period specified in the notice or the date of the withdrawal of the objection or, if more than one, the last objection or the date on which the Authority acquire the land, whichever is the latest.

(b) If objection is duly made as aforesaid and the appropriate Minister confirms the resolution the restriction shall be suspended on and after such date as the appropriate Minister shall determine not being earlier than the date on which the Authority acquire the land.

(7) If in the opinion of the Authority there is doubt whether any such land as is mentioned in subsection (1) of this section is affected by any restriction to which that subsection relates or whether any such restriction is enforceable the Authority may—

(a) in three successive weeks publish in one or more local newspapers circulating in the locality in which the land is situated a notice describing the land and stating generally the effect of this subsection and of subsections (8) and (9) of this section and specifying the time not being less than three months from the date of the first publication of the notice within which and the manner in which any person claiming to be entitled to enforce a restriction against the use of the land may intimate such claim to the Authority and shall produce to them his documents of title in support of his claim;

(b) on or before the date of the first publication of the notice referred to in paragraph (a) of this subsection—

(i) serve a copy of that notice by registered post or the recorded delivery service on every person who they consider after reasonable inquiry may reasonably be expected to claim to be entitled to the benefit of a restriction against the land; and

(ii) affix a copy or copies of that notice to some conspicuous object or objects on the land.

(8) If any person is entitled to the benefit of a restriction against the land but fails to comply with the requirements of such notice, the restriction shall, so far as concerns such person and his successors in title, be deemed to have been suspended under the foregoing provisions of this section, but without prejudice to any claim for compensation under subsection (9) of this section.

(9) The Authority shall pay compensation in accordance with the provisions of section 10 of the Compulsory Purchase Act 1965 in respect of any entitlement to the benefit of a restriction suspended under the powers of this section and loss suffered in consequence thereof and the amount of such compensation shall be determined in case of dispute in accordance with the Land Compensation Act 1961. 1965 c. 56. 1961 c. 33.

(10) If the Authority dispose of any land affected by a restriction suspended under the powers of this section they shall in two successive weeks publish notice thereof in one or more local newspapers circulating in the locality in which the land is situated.

(11) Nothing in this section shall apply to any restriction imposed by covenant or otherwise restricting the development or use of land or imposing on the owner thereof any obligation or

duty contained in any deed, wayleave, agreement or other instrument and imposed by or enuring for the benefit of the National Coal Board for the purpose of safety.

(12) Nothing in this section shall apply to—

(a) any restriction arising under a covenant granted to the National Trust for Places of Historic Interest or Natural Beauty restricting the development or use of land;

(b) any restriction for—

(i) the protection of or for preventing interference with the use of or for securing access to operational land or apparatus of any statutory undertakers;

(ii) the prevention of pollution of water which any statutory water undertakers or the British Waterways Board are for the time being authorised to take;

contained in any deed, wayleave, agreement or other instrument.

In this paragraph—

“ apparatus ”, in relation to the Post Office, means any telegraphic line (as defined in the Telegraph Act 1878) belonging to or used by the Post Office and includes any works constructed for the lodging therein of apparatus;

“ operational land ” in the case of the Post Office has the same meaning as in paragraph 93 (4) of Schedule 4 to the Post Office Act 1969 and, in the case of any other statutory undertakers, has the same meaning as in section 222 of the Town and Country Planning Act 1971;

“ statutory undertakers ” means any company, body or person authorised by any enactment to supply electricity, gas or water and includes the Post Office, the British Railways Board and the British Waterways Board.

(13) In this section “ the appropriate Minister ” means the Minister of the Crown having power to authorise the compulsory purchase of the land for the purpose for which the Authority have acquired or agreed to acquire that land.

Power to improve amenities of inland waters

7.—(1) In addition to the powers conferred on the Authority by section 80 of the Act of 1963 the Authority may in connection with the performance of any of their functions carry out such works and do such things as may appear to them necessary or expedient for improving the amenities (including use for the purpose of any form of recreation) of any inland water in the Cornwall area and any adjoining land:

Provided that—

- (i) this subsection shall have effect only for the purpose of removing any limitation imposed by law on the Authority by virtue of its constitution and shall not authorise any act or omission on the part of the Authority which apart from this subsection would be actionable at the suit of any person on any ground other than such a limitation;
- (ii) nothing in this subsection shall authorise the carrying out of any work or the doing of any thing by the Authority in contravention of any byelaw made by the local fisheries committee for the Cornwall Sea Fisheries District and for the time being in force in accordance with the provisions of the Sea Fisheries Regulation Act 1966. 1966 c. 38.

(2) (a) Before providing any recreational facilities under this section the Authority shall obtain the consent of the local planning authority.

(b) The Authority may apply to the Secretary of State on the grounds that a local planning authority have unreasonably withheld such a consent and the Secretary of State, after affording to the local planning authority an opportunity of making representations, may if he thinks fit, direct the local planning authority to give the consent to which the application relates. A local planning authority shall comply with any direction given by the Secretary of State under this subsection.

(3) In this section the expression "inland water" shall not include any bay or arm of the sea other than a bay or arm of the sea which forms part of an estuary.

8. Nothing in this Act shall affect the application to any operation of sections 34 to 36 of the Coast Protection Act 1949 (which require the consent of the Board of Trade or the Secretary of State to certain operations and contain other provisions for the safety of navigation). Saving for Coast Protection Act 1949. 1949 c. 74.

9. In particular and without prejudice to the general law concerning the applicability of statutes to the Duchy of Cornwall, nothing in this Act shall extend to authorise the Authority to take, enter upon or interfere with any land (including land covered with water) or water, or take away or affect any rights, powers, privileges or authorities belonging to or enjoyed by Her Majesty in right of the Duchy of Cornwall or to or by the Duke of Cornwall for the time being without the consent in writing of some two or more of such of the regular officers of the said duchy or of such other persons as may be duly authorised under section 39 of the Duchy of Cornwall Management Act 1863, to exercise all or any of the said rights, powers, privileges and authorities by the said Act made exercisable or otherwise for the time being exercisable. Saving rights of Duchy of Cornwall. 1863 c. 49.

in relation to the said duchy or, as the case may be, the consent of the said duke testified in writing under the seal of the Duchy of Cornwall first had and obtained.

Power to borrow by issue of stock or bonds.

1933 c. 51.

10. The means by which the Authority may raise money which they are authorised to borrow shall include the issue of stock or 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.

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

Photographic copies of documents.

12. In the event of the passage during the present session of Parliament of any general Act relating to the functions of local authorities in England and Wales and containing provision as to the keeping and inspection of photographic copies of documents that provision shall for all purposes extend and apply to the Authority as if the Authority were a local authority to which that provision applies.

PRINTED IN ENGLAND BY OYEZ PRESS LTD.

FOR C. H. BAYLIS, C.B.

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

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

10½p net

SBN 10 512872 4



Cornwall River Authority Act 1972

CHAPTER xxviii

ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Interpretation.
3. Provision of substituted sites.
4. Power to reinstate occupiers of property.
5. Undertakings and agreements binding successive owners.
6. Suspension of restrictive covenants.
7. Power to improve amenities of inland waters.
8. Saving for Coast Protection Act 1949.
9. Saving rights of Duchy of Cornwall.
10. Power to borrow by issue of stock or bonds.
11. Consolidated loans fund.
12. Photographic copies of documents.